
SLEEP DEPRIVATION IN PRISON

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INTRODUCTION

Human beings need sleep. We all know this. When we do not get enough sleep or when the sleep we get is repeatedly interrupted, our ability to function—to focus, to treat others appropriately, to respond effectively to life’s daily challenges—will be severely compromised. And these are just the effects we notice. Over the past decades, advances in sleep science have made clear just how necessary adequate sleep is to every dimension of human health. A chronic insufficiency of sleep increases the risk of, among other medical conditions, “obesity, diabetes, cardiovascular disease, and infections.”¹ As noted sleep scientist Matthew Walker puts it, “Every major system, tissue, and organ of your body suffers when sleep becomes short. . . . [T]he shorter your sleep, the shorter your life.”² And persistent inadequate sleep takes an equally great toll on mental health, exacerbating “all major psychiatric conditions, including depression, anxiety, and suicidality.”³

For adults, the consensus recommendation is a minimum of seven hours of uninterrupted sleep per night; otherwise, the processes operating at each stage of the sleep cycle will be unable to perform their restorative work.⁴ It

1. NAT’L INST. HEALTH & NAT’L HEART, LUNG & BLOOD INST., U.S. DEP’T HEALTH & HUM. SERVS., PUB. NO. 11-5271, YOUR GUIDE TO HEALTHY SLEEP 1 (2011), <https://www.nhlbi.nih.gov/resources/your-guide-healthy-sleep> [https://perma.cc/ZZR6-QF25].

2. MATTHEW WALKER, WHY WE SLEEP: UNLOCKING THE POWER OF SLEEP AND DREAMS 164 (2018) (“Like water from a burst pipe in your home, the effects of sleep deprivation will seep into every nook and cranny of biology, down into your cells, even altering your most fundamental self—your DNA. . . . The leading causes of disease and death in developed nations—. . . such as heart disease, obesity, dementia, diabetes, and cancer—all have recognized causal links to a lack of sleep.”).

3. *Id.* at 3.

4. See Nathaniel F. Watson, M. Safwan Badr, Gregory Belenky, Donald L. Bliwise, Orfeu M. Buxton, Daniel Buysse, David F. Dinges, James Gangwisch, Michael A. Grandner, Clete Kushida, Raman K. Malhotra, Jennifer L. Martin, Sanjay R. Patel, Stuart F. Quan & Esra Tasali, *Recommended Amount of Sleep for a Healthy Adult: A Joint Consensus Statement of the American Academy of Sleep Medicine and Sleep Research Society*, 11 J. CLINICAL SLEEP MED. 591, 592 (2015).

is no secret that many Americans from all walks of life routinely fail to meet this target. Judging from the size of the sleep aid market—an estimated \$65 billion is spent annually in the United States alone⁵—access to financial resources is no guarantee of adequate sleep. Yet, as Keisha Ray observes, the more limited one’s access to the social determinants of health—including, among other things, “food security, stable housing,” and “the freedom to choose where and how we sleep”—the less well-slept a person is likely to be.⁶ Access to adequate sleep, in other words, exists along a continuum, on which those lacking socioeconomic power and control over their physical environment are likely to experience a greater measure of sleep deprivation than society’s more privileged members.

This Article focuses on a group at the extreme end of this spectrum of disempowerment: those incarcerated in American prisons. Drawing on original data collected through in-depth, semi-structured interviews with people who served time in prisons all over the country, this Article maps the myriad overlapping conditions that systematically prevent people in prison from getting adequate sleep. Whether through luck, privilege, or their own affirmative choices, some people sometimes manage to get reasonably adequate sleep inside.⁷ But as my interviews show, most people in prison routinely sleep far less per night than the minimum seven hours that public health experts recommend.⁸ And for just about everyone living in prison, the quality of the sleep they get is consistently poor. In this Article, I offer a detailed account of why this is so.

To my knowledge, this study represents the first systematic effort to understand a destructive and dehumanizing experience that, although an inherent feature of prison life, has gone almost entirely unnoticed even by those academics, advocates, and policymakers invested in ensuring humane carceral conditions.⁹ Its conclusions are unambiguous: for a host of reasons

5. See Nicole F. Roberts, *Despite \$65 Billion a Year Sleep Aid Market, Americans Remain Sleep Deprived*, FORBES (June 20, 2022, at 4:26 ET), <https://www.forbes.com/sites/nicoleroberts/2022/03/20/despite-65-billion-a-year-sleep-aid-market-americans-remain-sleep-deprived> [https://perma.cc/3AAC-6NBE].

6. KEISHA RAY, BLACK HEALTH: THE SOCIAL, POLITICAL, AND CULTURAL DETERMINANTS OF BLACK PEOPLE’S HEALTH 137 (2023). For example, parents of newborns or people with chronic insomnia will struggle to get sufficient sleep. But those who, in addition, lack access to a comfortable bed, adequate food, or the ability to control the ambient temperature will find it considerably harder.

7. See *infra* text accompanying notes 402–05.

8. See Appendix B, Table 6.

9. The matter of sleep deprivation in prison began to receive some limited attention in the early 2020s. See, e.g., MICHAEL L. WALKER, INDEFINITE: DOING TIME IN JAIL 191–96 (2022) (offering a brief but rich firsthand account of the multiple causes of sleep deprivation in jail, the substance of which lines up entirely with the findings reported here); Johanna E. Elumn, Gul Jana Saeed, Jenerius Aminawung, Nadine Horton, Hsiao-Ju Lin, H. Klar Yaggi & Emily A. Wang, *The Sleep Justice Study - A Prospective*

explored in these pages, the incarcerated are chronically, perpetually sleep deprived—a condition they endure every single day, for years and sometimes even for decades.

The consequences of this situation are dire. Sleep deprivation compromises prisoners,¹⁰ physical and mental health, making them age faster and die younger.¹¹ It leaves people brittle, prone to frustration and anger, and without the cognitive resources to make good decisions, thus promoting conflict and violence in already volatile environments. And it strips them of the ability to think deeply and to exercise reasoned deliberation, capacities that are necessary for personal growth and healthy interpersonal bonds. Sleep is a basic human need, as vital to human survival and proper functioning as food, water, shelter, and personal safety. Yet persistent sleep deprivation—the product of what might be termed *systematic sleep interference* by the actors and institutions charged with administering carceral penalties—is a constitutive feature of life in custody. It heaps hardship, injury, and all manner of suffering on top of the formal punishment. And it represents a key, underappreciated reason why American carceral facilities are so noxious and inhumane.

Recognizing chronic sleep deprivation as a standard feature of prison life sheds new light on aspects of the carceral experience that have long seemed fixed and inescapable, including the high level of interpersonal tension, the pervasiveness of mental illness, and even the seemingly illogical willingness of people inside to put themselves into debt—a dangerous posture to adopt in prison—for the sake of a few candy bars or a bag of

Cohort Study Assessing Sleep as a Cardiometabolic Risk Factor After Incarceration: A Protocol Paper, BMC PUB. HEALTH, Oct. 2023, at 1, 2 (mapping a research agenda for the study of sleep quality among a cohort of participants within three months of release from prison, to understand sleep quality and the risk factors for cardiovascular disease of long-term sleep deprivation in prison); Keri Blakinger & Shannon Heffernan, *What It's Like to Sleep in Prison: Moldy Mattresses, Bright Lights, Nonstop Noise*, L.A. TIMES (Dec. 12, 2024, 3:00 PT), <https://www.latimes.com/california/story/2024-12-12/sleep-dont-come-the-dangerous-problem-of-sleep-deprivation-behind-bars> [<https://perma.cc/S4DB-UCC3>] (initial report on the problem of sleep in prison, co-published with The Marshall Project).

10. In this Article I will at times refer to incarcerated people as “prisoners,” a term that squarely acknowledges the “extraordinary and dehumanizing exercise of state power known as imprisonment[,]” Justin Driver & Emma Kaufman, *The Incoherence of Prison Law*, 135 HARV. L. REV. 515, 525 (2021), and foregrounds the experience of being held against one’s will with no power to shape one’s own conditions of life. See Paul Wright, *Language Matters: Why We Use the Words We Do*, PRISON LEGAL NEWS (Nov. 1, 2021), <https://www.prisonlegalnews.org/news/2021/nov/1/language-matters-why-we-use-words-we-do> [<https://perma.cc/5LF8-ZZSP>] (“[When people are incarcerated, they] are forced into cages at gun point and kept there upon pain of death should they try to leave. What are they if not prisoners? They did not somehow magically appear there and they stay there based on violence and fear of violence . . . ”).

11. See *infra* Part I.

chips.¹² In prison, moreover, residents are not the only ones unable to get enough sleep. Thanks to shiftwork and overtime (whether mandatory or voluntary), correctional officers (“COs”) too are chronically tired.¹³ In short, in the often tense and high-octane environment of the prison, many if not most people in a facility at a given time, staff included, are wrestling with the debilitating effects of persistent sleep deprivation. This shared state of impairment cannot help but impact the functioning of the institution and poison interpersonal interactions between and among residents and staff.¹⁴

In future work, I will explore at greater length the implications of pervasive chronic tiredness on the character and operation of the modern American prison. I will also map the occupational health and safety effects on COs of a work schedule that often precludes anything close to sufficient sleep.¹⁵ Here, I focus on the basic phenomenon of sleep deprivation as a constitutive feature of the prison experience for those we incarcerate—a feature that, I argue, is as central to the punitive character of a prison sentence as is grossly inadequate medical and mental health care, the use of solitary confinement, the risk of physical and sexual assault, and the threat of excessive force by COs.

Two additional introductory points: First, this project focuses primarily on prisons, where time served is measured in years and decades. Yet sleep deprivation is also a problem in jail.¹⁶ If anything, it is worse. All my interview subjects did jail time before winding up in prison. And they

12. See *infra* Section III.B for more on the connection between hunger, sleep, and the importance of having access to commissary.

13. That correctional officers (“COs”) are also chronically tired was overwhelmingly confirmed in the forty-four interviews with current and former COs conducted as part of this study. See Sharon Dolovich, “Forever Tired”: Correctional Officers and Sleep (Jan. 6, 2025) (unpublished manuscript) (on file with the author) [hereinafter Dolovich, “Forever Tired”].

14. Sleep deprivation is not the only source of volatility and instability in carceral facilities. But tired people are less able to accurately read social cues, more likely to perceive threats, and more inclined to manifest the sort of irritation, frustration, and resentment that can spark aggression in others (who, being in prison themselves, are also likely to be tired). As a result, pervasive fatigue in prison is likely to undermine prospects for calm and mutually respectful interactions and enhance the likelihood of conflict. For more on this effect, see *infra* notes 419–27 and accompanying text.

15. See Dolovich, “Forever Tired,” *supra* note 13.

16. Prisons, run by the state, exclusively hold people who have been convicted of crimes and sentenced to imprisonment for more than one year. Jails, run by municipalities and typically sited adjacent to courthouses, primarily house pretrial detainees. They also house, among others, people who are serving misdemeanor sentences of less than one year, people who have been convicted and are awaiting sentencing, and sentenced offenders awaiting transfer to prison. For the most part, stints in jail are relatively short when compared with prisons. See DANIELLE KAEBLE, U.S. DEP’T OF JUST., NCJ 255662, TIME SERVED IN STATE PRISON, 2018, at 1 (2021), <https://bjs.ojp.gov/document/tssp18.pdf> [<https://perma.cc/5K9H-W2RE>] (average state prison sentence is 2.7 years); ZHEN ZENG, U.S. DEP’T OF JUST., NCJ 307086, JAIL INMATES IN 2022—STATISTICAL TABLES, at 1 (2023), <https://bjs.ojp.gov/document/ji22st.pdf> [<https://perma.cc/WT2W-X7PT>] (average jail stay is roughly thirty days).

universally reported that, however hard it was to sleep in prison, it was exponentially harder to sleep in jail. In jail, people may be detoxing. They are on average younger, more impulsive, and generally lack familiarity with the code of respect that can prevail in prison among people with long sentences. The constant churn means that people are always surrounded by strangers, a situation certain to exacerbate fear. The majority of those in jail at any given time are pretrial and understandably anxious about their cases. There is no programming to speak of, and mental illnesses will mostly go untreated. The combined result of these dynamics is a cacophony of noise and disruption in the housing units that, I am told, never stops.¹⁷ Among the troubling implications of this situation is that people detained pretrial routinely go to court exhausted, even to the point of falling asleep at counsel table during their trials.¹⁸ For most people, a stint in jail is relatively short. But even short periods of insufficient sleep can take a toll on physical and mental health. And for many people, a jail stay can last months or even years.¹⁹ For these reasons, much of what I say in this Article about sleep in prison should be taken to apply equally, if not more, to the context of jail.²⁰

17. As one person who spent time in county jail in Missouri explained: “Most jails are typically far more crowded than prisons. They are also less controlled than prison and allow for screaming and yelling at all hours of the day. I was in a single room that held 68 inmates and the lights never went off. There were always those that would stay up every night and cause a ruckus. The guards never intervened unless there was a fight or some other clear violation. In fact, the night shift seemed to openly encourage raucous behavior probably in an attempt to keep awake themselves.” Email from Erik McInnis to author (Jan. 7, 2023) (on file with author); *see also* Interview with FI.39 at 12 (“[T]he [L.A. County] jail was infamous for people banging on the bunks or . . . making music . . . [I]t was always constant yelling and screaming on the tier.”); Interview with FI.38 at 13 (“Rikers is . . . a madhouse. People are screaming all day.”); Interview with FI.17 at 15 (“The [D.C.] jail is like the wild, wild west. Anything goes.”); WALKER, *supra* note 9, at 191–96. *See infra* note 81 for an explanation of the codes used to designate each interview.

18. The fatigue many pretrial detainees exhibit in court is exacerbated by the schedules they are forced to follow on court days. In some jails, those going to court will be woken up in the middle of the night, as early as 2:00 a.m. or 3:00 a.m., to allow the time required to transfer everyone from the jail to the various courthouses in the jurisdiction. Consequently, people can struggle to stay awake in court. This issue ought to be of concern for anyone committed to the principle that people being prosecuted should be able to fully participate in their own defense. I thank Ilya Novofastovsky for helpful conversation on this point.

19. *See, e.g.*, Email from Erik McInnis, *supra* note 17 (reporting that “in Missouri, sitting in jail for more than three years on a felony charge is common for those who do not take the plea deal”).

20. *See* WALKER, *supra* note 9, at 191–96. From reports coming out of immigration detention, it is clear that sleep is also next to impossible in ICE facilities. Rümeysa Öztürk described the experience this way:

During my time in the ICE prison, we rarely got a proper night’s rest. . . . The constant glare of fluorescent lighting made it almost impossible to doze off. Many officers marched through the area loudly, their chains and keys clattering, waking us at night with the booming sound of their walkie-talkies (except one officer, whom we frequently thanked for holding her key and chains so the sound would not disrupt us). Some officers woke all of us up at odd hours—as early as 3:30 a.m.—when they were only calling one person for work, or to check someone’s blood sugar or blood pressure. All we wanted was uninterrupted, peaceful sleep. Many of us were

Second, that COs are also chronically sleep deprived equally demands our attention. As a basic ethical matter, we ought to care about the experiences of COs, fellow human beings tasked with doing an impossible and often traumatizing job under difficult and at times dangerous circumstances.²¹ The least we can do is ensure that they have the opportunity to get adequate sleep, and thus avoid the harms that may come to them and their families and communities if they do not. That staff routinely get insufficient sleep is also extremely salient for those living behind bars. When staff are sleep deprived, prisoners suffer.²² As noted, in future work, I will investigate sleep deprivation among staff both as a matter of occupational health and safety and for its impact on the prison environment. I flag this issue now so that, by focusing here on the experience of sleep deprivation among the incarcerated, I do not create the impression that I imagine the problem to be exclusive to prisoners.

The argument of this Article proceeds as follows. Part I offers a short overview of the sleep science, focusing on the physiological and psychological harms and cognitive impairments traceable to insufficient sleep. Part II briefly describes the study parameters and methodology.²³ Parts III and IV represent the sociological heart of the Article, offering a thick description of the experience of trying to sleep while incarcerated. Part III describes the impact of a set of concrete conditions that systematically prevent people in prison from getting adequate sleep: uncomfortable beds, hunger, extremes of temperature, noise, and excessive light. Part IV identifies a set of what I call “meta-conditions”—specifically, fear of violence, trauma, poverty, overly-intrusive rules enforcement, and daily humiliations. These conditions, which likewise routinely compromise sleep, are also products of institutional choices, but they have been so naturalized to the life of the prison as to leave us blind both to their destructive effects and to their ultimately contingent character. Part V begins to explore the normative implications of the phenomenon identified here, including what it

constantly on the verge of panic attacks and anxiety and had racing hearts. Yet many officers did not care about our sleep.

Rümeysa Öztürk, “Even God Cannot Hear Us Here”: What I Witnessed Inside an ICE Women’s Prison, VANITY FAIR (July 17, 2025), <https://www.vanityfair.com/news/story/rumeysa-ozturk-what-i-witnessed-inside-an-ice-womens-prison> [https://perma.cc/WM94-JF6Q].

21. See, e.g., EYAL PRESS, DIRTY WORK: ESSENTIAL JOBS AND THE HIDDEN TOLL OF INEQUALITY IN AMERICA 59–73 (2021) (describing the physical and psychological damage and moral injury experienced by COs as a result of the work they do); see also *id.* at 61 (reporting the impressions of Caterina Spinaris, a therapist who treats COs, who found that the “outpouring of unfiltered anguish” she heard from her CO patients “reminded her of her sessions with trauma victims”).

22. For example, I heard repeatedly that when COs are tired, even prisoners’ reasonable requests can be met with a hostile and punitive response.

23. A more detailed account of the study methodology can be found in Appendix A.

means for our understanding of prisons and of carceral punishment, the prospects for Eighth Amendment conditions claims grounded in sleep deprivation (and, very briefly, for claims of torture under international human rights law), and the policy challenges likely to confront efforts to address the problem. On each of these topics, there is much more that could be said. The goal here is to start the conversation.

I. A BRIEF OVERVIEW OF THE SLEEP SCIENCE²⁴

Over the past twenty-five years, the field of sleep science has exploded.²⁵ Although the discipline is still developing, more than two decades of research strongly attests to the profound negative health effects—physical, psychological, and cognitive—of less-than-optimal sleep. Total sleep deprivation—enforced wakefulness over days—is “understood to be particularly detrimental.”²⁶ But interference with sleep need not be total to compromise physical and psychological health. Even people who regularly sleep five to six hours per night—considered “short sleepers” in the literature²⁷—exhibit notable adverse health effects, in some cases after only a few nights of restricted sleep.

Perhaps the most jarring finding to date has been confirmed in three separate meta-analyses. Encompassing studies comprising 1.32 million, 3.58 million, and 5.17 million subjects, respectively, all three investigations found short sleep duration²⁸ to be associated with an increased mortality risk of 12–

24. Jack Stephens provided extensive research support for this portion of the Article, gathering and organizing the data and contributing immeasurably to the analysis. In terms of the sources relied on in the discussion, we prioritized studies appearing in the highest impact medical journals or in journals devoted exclusively to sleep. Where possible, we relied on studies with a high citation count written by leading researchers in the field. We also made a special effort to seek out meta-analyses. See Anna-Bettina Haidich, *Meta-Analysis in Medical Research*, HIPPOKRATIA, Dec. 2010, at 29, 29–30 (Supp. 1 2010) (Greece) (“Meta-analysis is a quantitative, formal, epidemiological study design used to systematically assess the results of previous research to derive conclusions about that body of research.”). Where no meta-analysis was available, we sought experimental studies with population samples with reasonable explanatory power for the prison context.

25. See David F. Dinges, Editorial, *The Growth of Sleep Science and the Role of Sleep*, 37 SLEEP 7, 7 (2014) (explaining that, between 2003 and 2012, the number of “original science articles with ‘sleep’ as a keyword” doubled “to a total of 6,081” in 2012 and that during the same period, “the number of scientific journals with ‘sleep’ in the title also more than doubled worldwide”).

26. Deena N. Sharuk, *No Sleep for the Wicked: A Study of Sleep Deprivation as a Form of Torture*, 81 MD. L. REV. 694, 724 n.194 (2022) (describing one study in which “ten lab rats [were subjected] to total sleep deprivation which led to the death or imminent death of all ten rats within eleven to thirty-two days”) (citing Carol A. Everson, Bernard M. Bergmann & Allan Rechtschaffen, *Sleep Deprivation in the Rat: III. Total Sleep Deprivation*, 12 SLEEP 13, 13 (1989)).

27. See *infra* note 28.

28. The studies on which these meta-analyses were based varied in their working definitions of short sleep, from a low of 4 hours per night to a high of 6.9 hours, with an average definition of 5.5 hours

13%.²⁹ No single driver of this mortality effect has been identified. Instead, the data shows significant associations between short sleep and a host of serious medical conditions, including heart attack,³⁰ hypertension,³¹ cardiovascular disease, coronary heart disease, and stroke.³² Short sleep and sleep disturbance have been associated with an increased risk of developing Alzheimer's disease,³³ as well as a host of metabolic disorders, including a heightened risk of insulin resistance,³⁴ obesity,³⁵ metabolic syndrome,³⁶ and Type 2 diabetes.³⁷ Insufficient sleep has also been found to cause imbalances

per night. *See, e.g.*, Itani et al., *infra* note 29, at 250 tbl. 1 (column labeled “Definition of Short sleep duration (h)”).

29. *See* Jiawei Yin, Xiaoling Jin, Zhilei Shan, Shuzhen Li, Hao Huang, Peiyun Li, Xiaobo Peng, Zhao Peng, Kaifeng Yu, Wei Bao, Wei Yang, Xiaoyi Chen & Liegang Liu, *Relationship of Sleep Duration with All-Cause Mortality and Cardiovascular Events: A Systematic Review and Dose-Response Meta-Analysis of Prospective Cohort Studies*, J. AM. HEART ASS'N, Sept. 2017, at 1, 5; Osamu Itani, Maki Jike, Norio Watanabe & Yoshitaka Kaneita, *Short Sleep Duration and Health Outcomes: A Systematic Review, Meta-Analysis, and Meta-Regression*, 32 SLEEP MED. 246, 249 (2017); Francesco P. Cappuccio, Lanfranco D'Elia, Pasquale Strazzullo & Michelle A. Miller, *Sleep Duration and All-Cause Mortality: A Systematic Review and Meta-Analysis of Prospective Studies*, 33 SLEEP 585, 591 (2010).

30. *See* Iyas Dagħlas, Hassan S. Dashti, Jacqueline Lane, Krishna G. Aragam, Martin K. Rutter, Richa Saxena & Céline Vetter, *Sleep Duration and Myocardial Infarction*, 74 J. AM. COLL. CARDIOL. 1304, 1304 (2019).

31. *See* Daniel J. Gottlieb, Susan Redline, F. Javier Nieto, Carol M. Baldwin, Anne B. Newman, Helaine E. Resnick & Naresh M. Punjabi, *Association of Usual Sleep Duration with Hypertension: The Sleep Heart Health Study*, 29 SLEEP 1009, 1009 (2006).

32. *See* Yin et al., *supra* note 29, at 1.

33. Omonigho M. Bubu, Michael Brannick, James Mortimer, Ogie Umasabor-Bubu, Yuri V. Sebastião, Yi Wen, Skai Schwartz, Amy R. Borenstein, Yougui Wu, David Morgan & William M. Anderson, *Sleep, Cognitive Impairment, and Alzheimer's Disease: A Systematic Review and Meta-Analysis*, 40 SLEEP 1, 1 (2017); Le Shi, Si-Jing Chen, Meng-Ying Ma, Yan-Ping Bao, Ying Han, Yu-Mei Wang, Jie Shi, Michael V. Vitiello & Lin Lu, *Sleep Disturbances Increase the Risk of Dementia: A Systematic Review and Meta-Analysis*, 40 SLEEP MED. REV. 4, 4 (2018).

34. Orfeu M. Buxton, Milena Pavlova, Emily W. Reid, Wei Wang, Donald C. Simonson & Gail K. Adler, *Sleep Restriction for 1 Week Reduces Insulin Sensitivity in Healthy Men*, 59 DIABETES 2126, 2126 (2010).

35. Gregor Hasler, Daniel J. Buysse, Richard Klaghofer, Alex Gamma, Vladeta Ajdacic, Dominique Eich, Wulf Rössler & Jules Angst, *The Association Between Short Sleep Duration and Obesity in Young Adults: A 13-Year Prospective Study*, 27 SLEEP 661, 665 (2004); *see also* Itani et al., *supra* note 29, at 249, 254.

36. Imran H. Iftikhar, Meredith A. Donley, Jesse Mindel, Adam Pleister, Sheryll Soriano & Ulysses J. Magalang, *Sleep Duration and Metabolic Syndrome: An Updated Dose-Risk Metaanalysis*, 12 ANN. AM. THORAC. SOC'Y 1364, 1364 (2015). Metabolic syndrome is a “cluster of conditions that occur together,” including “increased blood pressure, high blood sugar, excess body fat around the waist, and abnormal cholesterol or triglyceride levels.” *Metabolic Syndrome*, YALE MED., <https://www.yalemedicine.org/clinical-keywords/metabolic-syndrome> [<https://perma.cc/29HA-LFWS>]. Those with this condition face an elevated “risk of heart disease, stroke and type 2 diabetes.” *Metabolic Syndrome*, MAYO CLINIC, <https://www.mayoclinic.org/diseases-conditions/metabolic-syndrome/symptoms-causes/syc-20351916> [<https://perma.cc/JPC3-CSQ7>].

37. Zhilei Shan, Hongfei Ma, Manling Xie, Peipei Yan, Yanjun Guo, Wei Bao, Ying Rong, Chandra L. Jackson, Frank B. Hu & Liegang Liu, *Sleep Duration and Risk of Type 2 Diabetes: A Meta-*

in the autonomic nervous system, the indicia of which include increased heart rate,³⁸ elevated cortisol levels,³⁹ decreased heart rate variability,⁴⁰ and increased levels of norepinephrine.⁴¹ Among other adverse physiological effects, this collection of symptoms increases the risk of cardiovascular disease and represents a predictive marker for “sudden cardiac death.”⁴²

Sleep deprivation has also been found to generate adverse psychological effects. For example, sympathetic bias in the operation of the autonomic nervous system has been linked with conditions indicating “emotional dysregulation, such as anxiety, depression, and rigid attentional processing of threat.”⁴³ Persistent sleep disturbance is consistently associated with a heightened risk of developing major psychiatric disorders, including depression, anxiety, and suicidality.⁴⁴ Concerning depression, one

Analysis of Prospective Studies, 38 DIABETES CARE 529, 534 (2015); *see also* James E. Gangwisch, Steven B. Heymsfield, Bernadette Boden-Albala, Ruud M. Buijs, Felix Kreier, Thomas G. Pickering, Andrew G. Rundle, Gary K. Zammit & Dolores Malaspina, *Sleep Duration as a Risk Factor for Diabetes Incidence in a Large U.S. Sample*, 30 SLEEP 1667, 1670 (2007); Francesco P. Cappuccio, Pasquale Strazzullo, Lanfranco D’Elia & Michelle A. Miller, *Quantity and Quality of Sleep and Incidence of Type 2 Diabetes: A Systematic Review and Meta-Analysis*, 33 DIABETES CARE 414, 416 (2010).

38. *See* Julia Schlagintweit, Naima Laharnar, Martin Glos, Maria Zemann, Artem V. Demin, Katharina Lederer, Thomas Penzel & Ingo Fietze, *Effects of Sleep Fragmentation and Partial Sleep Restriction on Heart Rate Variability During Night*, SCI. REPS., Apr. 2023, at 1, 6.

39. *See* Karine Spiegel, Rachel Leproult & Eve Van Cauter, *Impact of Sleep Debt on Metabolic and Endocrine Function*, 354 LANCET 1435, 1438 (1999).

40. *See* Bonpei Takase, Takashi Akima, Kimio Satomura, Fumitaka Ohsuzu, Takemi Mastui, Masayuki Ishihara & Akira Kurita, *Effects of Chronic Sleep Deprivation on Autonomic Activity by Examining Heart Rate Variability, Plasma Catecholamine, and Intracellular Magnesium Levels*, BIOMED. & PHARMACOTHER., October 2004, at S35, S35 (Supp. 1 2004); *see also* Andrea N. Goldstein & Matthew P. Walker, *The Role of Sleep in Emotional Brain Function*, 10 ANN. REV. CLIN. PSYCH. 679, 683 (2014).

41. *See* Takase et al., *supra* note 40, at S37 (explaining that increases in norepinephrine are associated with “chronic stress”).

42. *Id.* at S37–S38.

43. Bradley M. Appelhans & Linda J. Luecken, *Heart Rate Variability as an Index of Regulated Emotional Responding*, 10 REV. GEN. PSYCH. 229, 237 (2006).

44. Numerous studies show a correlation between sleep disturbance and suicidal ideation and attempt. And at least one large study found that sleep disturbance was “predictive of suicidality in most cases even after controlling for diagnoses of depression, anxiety disorders, and substance use disorders.” Marcin Wojnar, Mark A. Ilgen, Julita Wojnar, Ryan J. McCammon, Marcia Valenstein & Kirk J. Brower, *Sleep Problems and Suicidality in the National Comorbidity Survey Replication*, 43 J. PSYCHIATRIC RSCH. 526, 528 (2009). This study found that “[m]ultiple sleep complaints particularly increased the risk of 12-month suicidality” and that people “with two or more types of sleep symptoms”—including “difficulty initiating sleep, maintaining sleep [and] early morning awaking . . . were about 2.6 times more likely to report a suicide attempt than those without any insomnia complaints.” *Id.* at 526–28. Another “large population based study” found that sleep problems could be an important marker for suicide risk and that “[s]leep disturbance appeared to have a stronger influence on suicide risk in people not taking sleep medication.” Johan Håkon Bjørnsgaard, Ottar Bjørkeset, Pål Romundstad & David Gunnell, *Sleeping Problems and Suicide in 75,000 Norwegian Adults: A 20 Year Follow-Up of the HUNT I Study*, 34 SLEEP,

major meta-analysis, incorporating research from twenty-one qualifying studies, found that “nondepressed subjects” who experienced “difficulties in initiating/maintaining sleep or non-restorative sleep”⁴⁵ have “a twofold risk to develop depression, compared to people with no sleep difficulties.”⁴⁶ Research also indicates a greater likelihood of mental health issues among those who experience sleep disturbance over time. One early study found that respondents with persistent sleep disturbance “had significantly higher rates of new cases of both major depression and anxiety disorders compared with those whose insomnia resolved.”⁴⁷ Other studies have begun to map the link between sleep disturbance and the symptoms of bipolar disorder.⁴⁸ There is even some evidence suggesting that sleep disturbance increases proneness to substance use disorder.⁴⁹

Inadequate sleep also compromises cognitive functioning—and the more sleep deprived a person is, the greater the cognitive effect.⁵⁰ Multiple well-controlled studies have demonstrated the impact of sleep deprivation on the capacity for vigilance, working memory, and sustained attention, with one experimental study finding that “chronic restriction of sleep to [six]

1155, 1158 (2011). Given that people in prison are virtually never prescribed medication promoting sleep, this latter finding may be especially significant in a prison setting.

45. Chiara Baglioni, Gemma Battagliese, Bernd Feige, Kai Spiegelhalder, Christoph Nissen, Ulrich Voderholzer, Caterina Lombardo & Dieter Riemann, *Insomnia as a Predictor of Depression: A Meta-Analytic Evaluation of Longitudinal Epidemiological Studies*, 135 J. AFFECT. DISORD. 10, 12 (2011).

46. *Id.* at 16; *see also* Daniel E. Ford & Douglas B. Kamerow, *Epidemiologic Study of Sleep Disturbances and Psychiatric Disorders: An Opportunity for Prevention?*, 262 JAMA 1479, 1479 (1989) (finding that “[t]he risk of developing new major depression was much higher in those who had insomnia at both interviews compared with those without insomnia”); Mariana Szklo-Coxe, Terry Young, Paul E. Peppard, Laurel A. Finn & Ruth M. Benca, *Prospective Associations of Insomnia Markers and Symptoms with Depression*, 171 AM. J. EPIDEMIOL. 709, 714 (2010).

47. Ford & Kamerow, *supra* note 46, at 1483; *see also id.* at 1484 (“[I]n this analysis the resolution of sleep disturbance was associated with decreased incidence of new psychiatric disorders.”).

48. *See, e.g.*, Allison G. Harvey, Adriane M. Soehner, Kate A. Kaplan, Kerrie Hein, Jason Lee, Jennifer Kanady, Descartes Li, Sophia Rabe-Hesketh, Terence A. Ketter, Thomas C. Neylan & Daniel J. Buysse, *Treating Insomnia Improves Mood State, Sleep, and Functioning in Bipolar Disorder: A Pilot Randomized Controlled Trial*, 83 J. CONSULT. & CLIN. PSYCH. 564, 565 (2015).

49. *See, e.g.*, Naomi Breslau, Thomas Roth, Leon Rosenthal, & Patricia Andreski, *Sleep Disturbance and Psychiatric Disorders: A Longitudinal Epidemiological Study of Young Adults*, 39 BIOL. PSYCHIATRY 411, 416 (1996) (finding that a history of either insufficient or excessive sleep (insomnia or hypersomnia) “signaled an increased risk for new onset of major depression, illicit drug use disorder, and nicotine dependence”); Kirk J. Brower & Brian E. Perron, *Sleep Disturbance as a Universal Risk Factor for Relapse in Addictions to Psychoactive Substances*, 74 MED. HYPOTHESES 928, 929 (2010) (noting that “[t]he evidence that sleep disturbance is linked to relapse is strongest for alcohol dependence,” but offering grounds for thinking the same dynamic holds for those addicted to other “psychoactive substances,” including amphetamines, cocaine, and opioids).

50. Paula Alhola & Päivi Polo-Kantola, *Sleep Deprivation: Impact on Cognitive Performance*, 3 NEUROPSYCHIATR. DIS. & TREAT. 553, 560 (2007).

h[ours] or less per night produced cognitive performance deficits equivalent to up to two nights of total sleep deprivation.”⁵¹ Sleep deprivation also slows reaction time and compromises performance in the completion of cognitive tasks.⁵² When sleep restriction is chronic, these cognitive defaults are cumulative,⁵³ and when people routinely sleep less than seven hours per night, the resulting cognitive impairments are as marked as in those experiencing “severe acute total sleep deprivation.”⁵⁴

Finally, sleep deprivation impairs one’s ability to successfully navigate stressful or frustrating situations. These effects are evident after just one night of inadequate sleep. As Andrea Goldstein and Matthew Walker put it in their survey of the field, even “one night of experimentally controlled sleep loss increases subjective reports of stress, anxiety and anger in response to low-stress situations and increases impulsivity towards negative stimuli.”⁵⁵ Insufficient sleep is also “associated with a lack of flexibility and capacity to respond to emotional challenges,” and thus with a decrease in emotional resilience.⁵⁶ Together, these emotional regulatory failures undermine the capacities necessary if one is to get along with others. In one study, researchers showed that sleep deprivation was “associated with increased outward expression of aggressive responses and a greater tendency to assign blame to others when confronted with frustrating situations.”⁵⁷ Subjects tended towards “antagonistic, self-serving, and uncooperative behavioral responses, such as increased blame and hostility, reduced

51. See Hans P.A. Van Dongen, Greg Maislin, Janet M. Mullington & David F. Dinges, *The Cumulative Cost of Additional Wakefulness: Dose-Response Effects on Neurobehavioral Functions and Sleep Physiology from Chronic Sleep Restriction and Total Sleep Deprivation*, 26 SLEEP 117, 117 (2003); see also Jeffrey S. Durmer & David F. Dinges, *Neurocognitive Consequences of Sleep Deprivation*, 25 SEMIN. NEUROL. 117, 123 (2005).

52. Julian Lim & David F. Dinges, *Sleep Deprivation and Vigilant Attention*, 1129 ANN. N.Y. ACAD. SCI. 305, 307–09, 313 fig. 4 (2008).

53. Siobhan Banks & David F. Dinges, *Behavioral and Physiological Consequences of Sleep Restriction*, 3 J. CLIN. SLEEP MED. 519, 522 (2007) (reviewing recent literature); see also S.M. Doran, H.P.A. Van Dongen & D.F. Dinges, *Sustained Attention Performance During Sleep Deprivation: Evidence of State Instability*, 139 ARCH. ITAL. BIOL. 253, 263 (2001) (Italy).

54. Banks & Dinges, *supra* note 53, at 526.

55. Goldstein & Walker, *supra* note 40, at 681 (citing Jared D. Minkel, Siobhan Banks, Oo Htaik, Marisa C. Moreta, Christopher W. Jones, Eleanor L. McGlinchey, Norah S. Simpson & David F. Dinges, *Sleep Deprivation and Stressors: Evidence for Elevated Negative Affect in Response to Mild Stressors When Sleep Deprived*, 12 EMOTION 1015, 1019 (2012); Clare Anderson & Charlotte R. Platten, *Sleep Deprivation Lowers Inhibition and Enhances Impulsivity to Negative Stimuli*, 217 BEHAV. BRAIN RSCH. 463, 463 (2011)).

56. Goldstein & Walker, *supra* note 40, at 683; see also Appelhans & Luecken, *supra* note 43, at 230.

57. Ellen T. Kahn-Greene, Erica L. Lipizzi, Amy K. Conrad, Gary H. Kamimori & William D.S. Killgore, *Sleep Deprivation Adversely Affects Interpersonal Responses to Frustration*, 41 PERS. & INDIVID. DIF. 1433, 1439 (2006).

willingness to make concessions and restitutions, and a general increase in atypical or impulsive responses, all of which are antithetical to harmonious interpersonal relations.”⁵⁸

The aim here is not to provide a comprehensive account of all relevant findings related to the negative health effects of sleep deprivation. The field is too vast to make such a goal workable. The point is rather to make clear that interference with sleep is not simply a matter of losing access to the “creature comforts” widely considered inconsistent with carceral penalties. Chronic sleep deprivation carries an increased risk of physiological harm, early mortality, and a range of psychopathological effects. It takes a toll on cognitive functioning and on a person’s capacity for prosocial interpersonal interaction. To the extent that prison systematically impedes a person’s ability to sleep over months, years, and even decades, this feature of a prison sentence can inflict substantial long-term damage. This brings us to the central question of this Article: How much and how well do people sleep in prison?

II. THE STUDY⁵⁹

In prison, it is virtually impossible for people to get the recommended minimum seven hours of uninterrupted sleep. On most nights, most people inside will get only four to six hours⁶⁰ of light sleep punctuated by frequent interruptions—a pattern that persists night after night, for years.

This is the unmistakable conclusion that emerged from over seventy-four hours of interviews I conducted in 2023 with thirty-nine people⁶¹ formerly incarcerated in American prisons nationwide.⁶² Of these thirty-nine interviews, thirty-five were formal, semi-structured interviews based around a questionnaire with roughly 200 questions,⁶³ with the average

58. *Id.* at 1440.

59. For a more detailed description of the study methodology, see Appendix A.

60. *See infra* Appendix B, Table 6.

61. Collectively, my interview subjects spent a total of 645 years in prison and jail. For more detail, see Appendix B, Table 3.

62. All but one of these interviews took place in two waves in 2023, from January 10 to March 17, and from June 10 to July 24. The exception is one ad hoc interview I did on November 1, 2024. In this Article, I also cite to several interviews with COs conducted as part of this study. I did my first CO interview on December 20, 2022, and my last CO interview on January 14, 2024. The remainder took place in 2023, again in two waves, from January 21 to February 8 and from June 12 to July 19. I personally conducted all the FI interviews, which form the backbone of this Article. Of the forty-four interviews with COs, I personally conducted thirty-three. The remaining eleven CO interviews were conducted, after a period of training, by my research associate Ginny Oshiro. I am deeply grateful to her for her help with this key part of the project.

63. The questionnaire is available upon request. For a more detailed account of the research methodology, see Appendix A.

interview lasting just under two hours.⁶⁴ Subjects were asked about their experiences of sleeping/trying to sleep in prison, the factors that may have prevented them from getting adequate sleep inside, and the ways their own persistent sleep deprivation—or that of staff or other residents—may have affected their daily lives while incarcerated. In addition, I conducted four somewhat more freeform on-the-record conversations (labeled “ad hoc” or “AH” interviews to distinguish them from the more formal interviews) with subjects who were outside the study parameters for the formal interviews, but whose insights and experiences promised to provide valuable perspective and context. During these conversations, I asked many of the same questions I asked during the formal interviews. In the end, much of what I heard in all my interviews, ad hoc interviews included, proved remarkably uniform. As a result, I wound up drawing on all thirty-nine interviews when analyzing the data.⁶⁵

With one exception, each interview subject had spent at least four years in prison.⁶⁶ The average length of incarceration among my interviewees was thirteen and a half years,⁶⁷ with fourteen individuals in the sample having served more than twenty years and eight serving more than twenty-five years. In terms of jurisdictional diversity, eighteen interviewees served time in four states: California (five), New Jersey (five), New York (four), and Louisiana (four). Between them, the remaining twenty-one participants had experience of prisons in fourteen other geographically diverse states plus the federal Bureau of Prisons.⁶⁸

Everyone I interviewed was incarcerated in multiple prisons over the course of their confinement. This broad experience proved valuable in two ways. First, it allowed me to learn about conditions in many more facilities than I had interview subjects. Collectively, my interview subjects did time in at least 185 separate institutions,⁶⁹ including 126 state prisons, 18 federal

64. The average interview length was one hour and fifty-six minutes. For more detail, see Appendix B, Table 6.

65. The ad hoc interviews covered much of the same ground as the more formal interviews, and where relevant, I have included excerpts from these interviews in the body of this Article. When quoting from these interviews, I signal the difference via the codes randomly assigned to each person: FI.# for those in the formal group, and AH FI.# for the ad hoc interviews. (FI stands for “formerly incarcerated.”).

66. The exception was one ad hoc interviewee who had served three years.

67. See Appendix B, Table 6.

68. For the jurisdictional breakdown of my sample, see Appendix B, Table 3.

69. Among these facilities were eleven privately-run prisons situated in six states. See Appendix B, Table 3.

prisons, 33 jails,⁷⁰ and 8 youth detention centers.⁷¹ By speaking to thirty-nine people, I was thus able to hear firsthand about conditions in 8.5% of all prisons in the United States, including 8% of state prisons and 18% of federal prisons.⁷² Second, it meant that virtually everyone was able to compare conditions among institutions. Although the interviews revealed some notable regional variation, perhaps most striking was just how nationally uniform were experiences bearing on sleep—with any jurisdictional differences for the most part proving more a matter of degree than kind.

In terms of race, my interview sample self-identified as follows: 15 Black (38%), 13 White (33%), 7 Hispanic (18%), 1 Asian (3%), 1 Native American (3%), and 2 mixed race⁷³ (6%). The goal was to replicate as nearly as possible the racial distribution of the American prison population, and in the end, I came close.⁷⁴ As for gender, four of my thirty-nine interview subjects were housed in women's prisons, comprising 10% of the total,⁷⁵ with the remainder doing their time in men's prisons.⁷⁶ These numbers also came close to the gender breakdown of the American prison population overall.⁷⁷

It would be impossible to reproduce in full the richness of the narratives the interviews yielded. Instead, in what follows, I distill the key points that emerged around the experience of sleeping in prison and the conditions that impede sleep. In part, the power of the methodology employed—the long-

70. All members of my sample spent time in jail, some in more than one. But in some cases, they did not name the facility, so those institutions are not included in this calculation.

71. I did not set out to interview people with experience in juvenile detention (although my guess is that youth facilities exhibit many of the same dynamics as those catalogued in this Article, and likely to an even greater degree). The youth facilities I heard about in the interviews were described by interview subjects who volunteered that they had spent time in juvenile detention, in some cases in jurisdictions with separate facilities for people who, although below the age of eighteen when they committed their crimes, were tried and convicted as adults. In those cases, the individuals I spoke to eventually aged out and were transferred to adult facilities to serve the remainder of their sentences.

72. As of March 2025, there were 1,566 state prisons and 98 federal prisons in the United States. See Wendy Sawyer & Peter Wagner, *Mass Incarceration: The Whole Pie 2025*, PRISON POL'Y INITIATIVE (Mar. 11, 2025), <https://www.prisonpolicy.org/reports/pie2025.html> [https://perma.cc/MYX3-526J].

73. These two participants self-identified as White/Asian and Hispanic/Italian.

74. See Appendix B, Table 1.

75. See Appendix B, Table 2.

76. This group included one trans woman, who did her time in facilities for men. When she was sentenced, it was standard practice to house people according to their genitalia, which meant that trans prisoners who had not yet had gender reassignment surgery would automatically be housed according to the gender assigned to them at birth. In 2012, the U.S. Department of Justice promulgated regulations directing corrections agencies to make housing determinations for trans prisoners on a case-by-case basis, giving "serious consideration" to the individual's "own views with respect to his or her own safety." 28 C.F.R. § 115.42(c), (e) (2012). Despite this change, my interview subject served her full sentence in men's facilities.

77. See Appendix B, Table 2

form, semi-structured interview—is the degree of confidence it can afford in the accuracy of what one hears when the same thing is reported by multiple subjects in a diverse sample.⁷⁸ On this measure, confidence is warranted as to many of the topics covered in my interviews, which yielded a high degree of consistency despite the diversity of the sample across, among other factors, race, gender, jurisdiction, housing configuration, and security level.⁷⁹ Where my interviews revealed variation as to a particular issue or experience, I indicate as much in the text.

To my knowledge, this is the first study to attempt to capture what it is like to try to sleep in prison in the United States. The goal here is to begin to excavate a phenomenon that has to this point eluded scrutiny, despite the centrality of sleep—and, it appears, sleep deprivation—to the American carceral experience. Inevitably, some relevant aspects will remain unaddressed. One central contribution of this work is to provide an initial account that may be built out through future research.

III. FINDINGS I: CARCERAL CONDITIONS IMPEDING SLEEP IN PRISON

In this Part, I describe specific, discrete conditions persistently impeding the ability of people to sleep in prison. Representing features of the physical plant (e.g., lighting, HVAC, beds, and bedding) and institutional operations (e.g., housing configurations, methods of conducting count and security checks, mealtimes), they are of the sort typically considered appropriate targets for more conventional policy reform. Of these sleep-compromising conditions, two categories—beds and bedding, and food and hunger—appear from my interviews to be experienced across the board by pretty much everyone, regardless of security level, jurisdiction, or any other factors. A further set of conditions—those salient during periods of extreme heat or cold—impact people differently depending on region and time of year. Finally, two other issues—noise and excessive light—are experienced differently depending on a range of factors, including housing configuration, security level, staff behavior, and the happenstance of the unit in which one is housed and where one’s bunk is located.

78. See ASHLEY T. RUBIN, *ROCKING QUALITATIVE SOCIAL SCIENCE: AN IRREVERENT GUIDE TO RIGOROUS RESEARCH* 150 (2021) (discussing the idea of saturation in interview-based studies, a threshold that is reached when, “[e]ven though [the group is diverse], most people are answering a particular question—one that you really care about—pretty much the same way,” and explaining that, at this point, “the consistency is pretty clear” and “you might have enough data [to speak confidently on that point and what it suggests]”).

79. See Appendix B, Tables 1–5.

In what follows, I explore each factor in turn, describing how each impacts the ability of people to sleep in prison. But this approach carries a risk, as it makes it seem as if the culprit is exclusively poor system design. To some extent this is so, and for this reason, implementing changes on the ground is one obvious policy response to the findings reported here. At the same time, this focus on concrete institutional arrangements risks obscuring a deeper, more pernicious truth, one that I address in more detail in Part IV. There, I explore a second set of carceral conditions—termed “meta-conditions”—which more directly reflect the prison’s toxic moral foundations and COs’ consequent blindness to the humanity of those in their custody. If prison officials cannot see the people in the beds at night as human beings who need sleep to survive and properly function, they will not act, or run the prisons, in ways that protect and promote adequate sleep. And sure enough, in American prisons, they do not.⁸⁰

A. UNCOMFORTABLE BEDS/BEDDING/MATTRESSES

In prison, the construction and nature of the beds and bedding alone would be enough to keep most people from getting decent sleep. The beds are rock hard—typically just a metal or concrete slab—and so narrow and short that people who are taller or heavier than average often will not fit. “Mattresses” are nothing more than thin pads covered with a rubbery plastic that is sticky in the heat and cracks in the cold. But equally if not more disruptive of sleep is the construction of the bunkbeds, the main sleeping configuration for people in prison. Bunkmates feel and are disturbed by every slight movement, which, depending on how people get along, can make sleeping a stressful experience for those afraid to spark conflict simply by turning over. For this reason, or simply out of respect for a bunkmate’s sleep, those on top bunks may hesitate to leave their beds at night even to urinate. Not only do those who try risk waking frustrated bunkmates who are themselves desperate for sleep, but the high likelihood of disrupting their neighbor’s personal property as they try to get in and out of their bunks in the dark while half asleep generates further stress and potential conflict. None of this is conducive to enabling sleep.

80. These moral blinders among prison administrators and line staff have multiple causes, including the normative design of American prisons, which systematically demonize and dehumanize people in custody, and sleep deprivation among COs themselves, which compromises their ability to recognize the humanity and thus the basic human needs of the incarcerated. See Sharon Dolovich, *Excessive Force in Prison*, 114 J. CRIM. L. & CRIMINOLOGY 415, 425–35 (2024) (mapping the psychological process by which COs come to regard and treat the incarcerated as subhuman); Dolovich, “Forever Tired”, *supra* note 13 (making the case that, thanks to the demands of shift work and mandated overtime, COs too are often chronically sleep deprived).

In prison, the beds are “rock hard.”⁸¹ For the most part, the design is the same: metal frames with a solid concrete or metal pallet—a “large . . . piece of sheet metal with four legs bolted to it.”⁸² They are also narrow, so “[y]ou[‘ve] got to train yourself to sleep in this small space and not roll over . . . onto the floor.”⁸³ People who are bigger or taller than average have an especially hard time. For those who are overweight, it can be “hard to turn over . . . because the beds are small.”⁸⁴ One person, who at one point weighed 330 pounds, described how he needed to “lift up and flop” to turn over “[b]ecause you can’t roll. If I roll, I’m going [to wind up on] the floor.”⁸⁵ Those who are tall have a different problem. One especially tall person “had to sleep on the bottom bunk with his feet on the toilet.”⁸⁶ Another “big guy,” the cellmate of an interviewee, “had to sleep [in] reverse [of] the normal way so his feet could hang off the edge of the bed.”⁸⁷ To do this, “he had to tuck his head underneath the shelf” which would ordinarily be at the foot of the bed.⁸⁸

Were the mattresses sufficiently thick and springy, the concrete or metal pallets might not cause problems. This, however, is not the case. Each time I asked about mattresses, I was treated to the same visual representation,⁸⁹ with people using thumb and index finger to indicate roughly three to four inches, or five inches at most. And this was when mattresses were new. As one person explained, “at one point they were about four or five inches thick, but then . . . as time[] went on, the middle part bec[ame] smaller . . . [and] at some points, it can become nothing more than two pieces of fabric.”⁹⁰ The thinness of the mattresses was an issue for everyone: “you’re sleeping pretty

81. Interview with FI.28 at 16. Each interview subject was assigned a random code number, and each interview transcript is designated as FI.#, with FI standing for “formerly incarcerated,” and the # indicating the randomly assigned code. Throughout this Article, when quoting from interviews, I follow the standard practice of deleting placeholder words (such as “you know,” “like,” and “um”) and words repeated twice (unless intended for effect), as well as correcting grammatical infelicities. In cases where I insert words for readability, I indicate as much by bracketing any added text.

82. Interview with FI.14 at 18.

83. Interview with FI.34 at 22.

84. Interview with FI.20 at 24; *see also* Walker v. Schult, 717 F.3d 119, 121 (2d Cir. 2013) (raising, among other conditions in a complaint alleging prolonged sleep deprivation, the fact that Walker, who was “6’4” tall and weigh[ed] 255 pounds, was assigned” to a top bunk “only twenty-eight inches wide . . . which forced Walker to sleep on his side; rotating back and forth” (internal quotation marks omitted)).

85. Interview with FI.27 at 39.

86. Interview with FI.23 at 59.

87. Interview with FI.19 at 4.

88. *Id.* This caused problems because “if anything happened real quick,” he would “bump[] his head on the shelf.” *Id.* at 4–5.

89. Recall that the interviews were on Zoom.

90. Interview with FI.21 at 18.

much on metal,”⁹¹ and “you’re gonna feel that iron underneath you every frickin night.”⁹² Many people reported experiencing perpetual discomfort, with each night an ordeal of tossing and turning. The hardness of the mattresses was “difficult on your back, so you wind up with back problems”⁹³ or “sciatic nerve damage.”⁹⁴ In some cases, people reported such problems persisting after release.⁹⁵

The mattresses’ material also causes problems. The covers are a plastic, rubbery substance to which bodies stick, especially on hot nights.⁹⁶ One person described preferring to “sleep on the middle piece of steel,” because on the mattress he “would feel the heat and the sweat.”⁹⁷ Even on temperate nights, the rubbery material was unpleasant to the touch. One could cover the mattress with a sheet, but the “vinylized rubber” material “will [still] make you very hot and sweaty.”⁹⁸ And as the mattresses age, “the plastic [gets] all cracked and ripped,” and “the person who slept in it before you [was] sweating [so] it gets moldy—the foam holds the mold, and you can smell it.”⁹⁹ Replacing bedding, including mattresses, is at the COs’ discretion. As one person put it, “[y]ou could request a new mattress, and depending upon the officer . . . on duty at the time, he’ll put your request through, or he’ll just toss it into the garbage can or run it through the shredder.”¹⁰⁰

Blankets are generally thin: “[S]ummer blanket[s]” are “the lowest quality of . . . cotton”¹⁰¹—“more like fish nets, . . . maybe crocheted or

91. Interview with FI.16 at 6.

92. Interview with FI.35 at 25; *see also* Interview with FI.13 at 25 (“[T]he quality of the mattresses didn’t let you get a good night’s rest . . .”).

93. Interview with FI.12 at 21.

94. Interview with FI.14 at 21.

95. *See, e.g.*, Interview with FI.17 at 43 (“I think I’m still suffering joint damage. . . [In prison,] I used to lay on my left side all the time . . . [and now] I have bad circulation on my left side.”); Interview with FI.19 at 8 (“Your body is just so sore, your shoulders, your hips. Even to this day, on a perfectly fine mattress, my hips go numb because that’s what would happen in prison all the time. So I feel like it’s caused . . . lasting damage.”).

96. In my CO interviews, I asked one person why she thought the mattresses were like this. Her answer: “[S]ecurity. [The mattresses are covered with] this really thick, kind of rubbery [material], like canvas. And I think that’s so you can’t open them to . . . hide anything inside of them.” Interview with AH CO.11 at 28.

97. Interview with FI.23 at 23.

98. Interview with FI.28 at 19.

99. Interview with FI.19 at 9; *see also* Letter from Freddie Fernando Wortham to the author (Apr. 24, 2025) (on file with author) (including, among a list of “obstacles to getting adequate sleep” while incarcerated, “bedding: mattress size, old, stench, as well as the fact that we are subjected to sleeping on a steel slab”).

100. Interview with FI.24 at 10.

101. Interview with FI.7 at 44.

something but . . . they weren't solid, so air can go through it."¹⁰² Whatever the ambient temperature, people tend to be allocated one blanket only.¹⁰³ As for pillows, most prisons appear not to supply them. In many places, the best one might get is a pillowcase, which allows for handmade pillows stuffed with "hoodies and sweatpants."¹⁰⁴ This approach does not afford a comfortable sleep. If pillows are supplied, they "could be hard as a rock or . . . flat as a pancake."¹⁰⁵ As one person with a gift for metaphor put it: "[T]he pillows you're sleeping on . . . might as well stack a couple sheets of paper together and put your head on that."¹⁰⁶ In some prisons, the mattresses came with "a little bump at one end that was supposed to be a pillow. . . . [A]n inch high or something."¹⁰⁷ When I asked if that did the trick, people just scoffed.

Then there is the fact that people largely sleep on double bunks that share a metal frame.¹⁰⁸ It is hard to overstate how much this arrangement compromises sleep. When the beds are connected this way, you feel every movement the other person makes. Being "crummy old metal bunks," they "move and squeak a lot," which means "you're going to wake up when your bunkmate gets up or even just moves around."¹⁰⁹ When people put their weight on the bed, it is not unusual for the flat metal of the pallet to dip slightly and then make a loud pop when the weight is lifted.¹¹⁰ People described strategizing ways to shift position in bed that would not make noise, and even staying put rather than, say, getting up to urinate, out of a desire not to disturb their cellmate. Even the ordinary movement of a restless sleep could prevent a bunkmate from sleeping. One person described an instance when he was in terrible pain from a toothache, "I would wake up in the middle of [the] night, I'm like [makes a face like in pain, moving head around], but I would make sure I wouldn't toss and turn too much [out of]

102. Interview with FI.10 at 12.

103. In some facilities, people with means are able to purchase their own sheets and blankets, and in some cases even their own mattresses. *See* Interview with FI.28 at 16–17. For more on the interaction between sleep and poverty in prison, see *infra* Section IV.C.

104. Interview with FI.38 at 36; *see also* Interview with FI.33 at 37 ("I used to have to put my clothes up under my [head as a] handmade pillow.").

105. Interview with FI.24 at 12.

106. Interview with FI.16 at 6–7.

107. Interview with FI.9 at 19.

108. Some dorm settings may have single beds, as do some in administrative segregation ("ad seg") units. But most people in prison sleep on double bunks.

109. Interview with FI.9 at 20.

110. Interview with FI.27 at 40 (explaining that, when the steel bed buckles under a person's weight, "when the person rolls over up there, the part . . . where the weight was . . . [is] gonna pop back up. Boom!").

respect for my cell[mate] . . . so he gets his sleep.”¹¹¹ Disturbing a cellmate or neighbors in the dorms at night can be a serious source of friction “[s]o it was very important to be quiet.”¹¹² The burden on sleep here is twofold: people hesitate to make adjustments that would help them fall (back) asleep, and they experience stress at the thought of disturbing a frustrated, sleep-deprived cellmate. The physiological effects of this stress alone can cut against achieving the relaxed state that sleep requires.

In some prisons, bunks are not attached to one another but only to the wall. Although these bunks “weren’t as sensitive, they definitely still connected through the ladder and everything. So . . . one hundred percent you could feel it” when the other person moved in bed.¹¹³ And with beds connected to the wall, the bed of “the person in the cell next to you” may be connected through the same wall, “so when that person moved, your bed moves.”¹¹⁴ If that person happened to be “a very deep and robust snorer . . . you could actually feel the wall and your bed vibrate when they snore[d].”¹¹⁵

Whatever the structure of the bunks, the person on the top bunk is typically forced to find some creative way to get in and out of bed. There are small ladders attached to the beds—really just “a couple of rungs attached to the bunk”¹¹⁶—but if you use them, “your bottom bunkmate is going to feel the bed move.”¹¹⁷ So people descending from top bunks may instead step on the desk, commode, or other available surface, which might lead them to jostle or even displace the property of their cellmate. The risk this operation entails is particularly elevated in the middle of the night. For this reason too, those on the top bunks might forbear from getting out of bed at night to relieve themselves, even if the need were pressing, simply to avoid

111. Interview with FI.23 at 34–35.

112. Interview with FI.21 at 20; *see* Interview with FI.33 at 31 (“If I had to go to the bathroom and then this dude [was] down here [on the bottom bunk] asleep, I would try to be more careful on getting down and not waking him up.”).

113. Interview with FI.19 at 26.

114. Interview with FI.1 at 27. As FI.30 explained, “[I]magine . . . you have two cells. . . . [In] the left-hand cell, the bunk beds are on the right-hand side, [and] [i]n the right-hand cell, the bunk beds are on the left-hand side. . . . [T]hey’re actually attached . . . somehow through the wall. So whenever . . . neighbors will be playing dominoes and smashing dominoes on the bunk bed or jumping up and down, . . . you’d feel it on your bed, even though they’re in totally different cells.” Interview with FI.30 at 33.

115. Interview with FI.1 at 27.

116. Interview with FI.9 at 22.

117. Interview with FI.19 at 25. The ladders, comprised of “little metal rungs,” were also “devastating on your feet unless you keep tennis shoes on to climb ‘em.” Interview with FI.27 at 40; *see also* Interview with AH FI.2 at 23 (“[W]hen you’re coming off that top bunk down the stairs, the ladder doesn’t go all the way down, you hop the last, like three feet. So the bunk is going to shake.”).

provoking conflict.¹¹⁸ Bottom bunks are widely preferred, although people on bottom bunks also need to take care that in moving, they don't disturb their bunkmates. One person reported that "in the middle of the night, when [he would] go to turn over, if [he] was on the bottom bunk, [he would] make sure to keep [his] hands down low, so [he] won't accidentally hit [the top bunk]."¹¹⁹ And bottom bunks present their own issues. More than one person described the jarring impression of waking from sleep to find a dark shadow looming over them. By the time they realized it was just their cellmate using the commode, they were wide awake, the effect of an adrenaline rush sparked by fear.¹²⁰

Just about everyone tries in some way to increase the comfort level of their sleeping arrangements. The most common approach is to angle for a second mattress, blanket, or pillow, usually by being the first to snag one left behind by someone being transferred or released. But in every facility, having anything beyond what was issued by the prison—generally one mattress, one blanket, two sheets, and possibly a pillow or pillowcase—is a clear rules violation and could result in a write-up.¹²¹ In many cases, COs won't bother writing the ticket, but they will likely confiscate the extra items—"if you get caught with doubles, they'll take it."¹²² Those who manage to procure an extra mattress might pursue a more effective (if more audacious) approach: stuffing one mattress inside the other. As one person explained, "[T]here's a seam on the mattress, so I unstitched it and slid the other one in it and then sewed it back up."¹²³ These measures could make a difference on the margins: after a while, one's "mattress would be like pancakes. . . . [T]here's a difference between two mats and one mat for sleeping."¹²⁴ Still, the difference is only a matter of degree, and even doubled

118. See *Walker v. Schult*, 717 F.3d 119, 122 (2d Cir. 2013) ("There were no ladders to climb up to the top bunks; Walker had to climb onto a chair and then onto another inmate's locker to reach his bed. . . . If, when climbing up to his bed, he knocked another inmate's property off a locker, it 'would lead to arguments and possibly fights.'").

119. Interview with FI.3 at 20.

120. On the sleep-impeding effects of fear of violence, see *infra* Section IV.A. Those on the bottom bunk may also be on the receiving end of a steady rain of bodily detritus extruded from the person on the top bunk. See Interview with FI.19 at 28 ("When you're on the bottom bunk, everything from the top bunk falls down, [for example], dead skin particles, [or], if you have a gross bunkie, fingernails and hair [will] fall[] in[to] your bed, or food that they're eating somehow finds its way onto your bed."). To the extent that feelings of disgust can impede sleep, this feature of bottom-bunk living would certainly do so.

121. For discussion of rules enforcement related to measures taken to improve sleep, see *infra* Section IV.D.

122. Interview with FI.3 at 23.

123. Interview with FI.19 at 11.

124. Interview with FI.33 at 36.

up, “it’s still bad.”¹²⁵ As one mattress-doubler put it, “I was limiting the amount of damage that the regular mattress was doing to me by a small percentage. But when you’re gasping for air, you’ll take any air you can get.”¹²⁶

B. HUNGER

Three basic aspects of food in prison contribute to the hunger that, according to my interviews, universally impedes sleep: quality, quantity, and timing. The quality of the food is so poor that people often have to force it down and will often opt not even to try. The quantity is frequently insufficient to induce satiety. And most significantly, the timing of the meals is such that there is typically a gap of at least five or six hours without food between “dinner” and lights out. Every single person I spoke with affirmed that if you have no money on your books for food from commissary, you will go to bed hungry, a condition that makes it difficult if not impossible to sleep. Those with family support will usually have food to eat before they go to sleep. The rest scramble to make money with side hustles (e.g., cleaning cells, making and selling food, doing legal work), or resort to less salutary strategies that could put them at risk (e.g., stealing, gambling, selling sex). The desperate desire not to go to bed hungry appears to be a driver of some of the most dangerous and pathological behaviors adopted by people in prison.

The other obstacle to sleep universally attested to in my interviews relates to food. Together, three food-related issues—quality, quantity, and timing—ensure that those able to eat only what the prison serves will routinely go to bed hungry, a condition that can make it hard to fall or stay asleep. First, the quality of the food served in prison is notoriously poor and often inedible.¹²⁷ One person I spoke to, capturing the general sentiment, described prison food as “garbage, . . . like what they feed a pig. If you put [slop] in a bucket and throw it in a pig’s face . . . [t]hat’s what it looks

125. Interview with FI.3 at 24.

126. Interview with FI.19 at 13.

127. It is well-documented that prison food may at times be moldy, rancid, or otherwise not fit for human consumption. The Federal Reporter and Federal Appendix are full of cases that are summarily dismissed despite involving spoiled food, dirty trays, foreign objects in the food, and other indicia of gross indifference regarding the food people are served in prison. *See, e.g.*, Hamm v. DeKalb Cnty., 774 F.2d 1567, 1575 (11th Cir. 1985) (holding that food “occasionally contain[ing] foreign objects” and falling below food preparation standards “does not amount to a constitutional deprivation”); Meyers v. Clarke, 767 F. App’x 437, 439 (4th Cir. 2019) (per curiam) (holding a prisoner’s allegations of “stale and moldy” food insufficient to state an Eighth Amendment claim); Oliver v. Fuhrman, 739 F. App’x 968, 969–70 (11th Cir. 2018) (per curiam) (holding that allegations of “toxic” food served on dirty dishes failed to state an Eighth Amendment claim); Williams v. Berge, 102 F. App’x 506, 507 (7th Cir. 2004) (per curiam) (holding that allegations that food served was “stale,” “moldy,” and “rancid” did not state an Eighth Amendment claim).

like.”¹²⁸ So unappetizing is the food served that those with other options will choose to forgo the prison fare altogether. The quantity is also frequently insufficient, and, as a result, even people who eat everything served to them still may not get enough to feel sated.¹²⁹ One person reported losing “thirty or forty pounds just on the food. . . . It was just very, very, very small portions.”¹³⁰

But in terms of impact on sleep, the most consequential issue is the timing of meals. At some point, I began asking when meals were served. As to breakfast, answers varied from as early as 3:00 a.m. to as late as 8:00 a.m., with the majority reporting breakfast times between 4:00 a.m. and 7:30 a.m.¹³¹ Of still greater significance in terms of sleep is the timing of dinner. Here, answers ranged from 2:00 p.m. to 6:30 p.m., with the overwhelming majority reporting a dinner time between 4:00 p.m. and 5:00 p.m., or earlier.¹³² In most prisons, people appear to be locked in for the night around 9:00 p.m. or 9:30 p.m., with the lights dimmed for sleep around 10:00 p.m. Even those who go immediately to sleep at 10:00 p.m. will have gone at least five hours without eating, and for those who stay up later, the delay without food will be correspondingly longer—what one person called “intermittent fasting before it became fashionable.”¹³³

Those with the good fortune to work in the kitchen have “access to extra food left over.”¹³⁴ Otherwise, thanks to the timing of dinner, “[a] whole lot of people went to sleep hungry.”¹³⁵ To avoid this situation, people try to have food on hand to eat before going to sleep. In facilities with a central dining area, although “you’re not supposed to,” people would “bring the food out [of the chow hall] Might be rice and beans. I’ll bag that up and bring that back.”¹³⁶ In facilities where food is served in cells or day rooms, people might keep back food from their trays. But in many prisons, being caught

128. Interview with FI.14 at 23.

129. Interview with FI.20 at 51 (explaining that “the portions are poor, and then you have the inmates serving the food. So if the certain person that[’s] serving don’t like you, you’re gonna get half your portion, [not] your whole state issue”).

130. Interview with AH FI.2 at 9.

131. Nineteen people answered this question vis-à-vis breakfast. Of these, eight people named a breakfast time between 4:00 a.m. and 6:00 a.m., and eight named a time between 6:00 a.m. and 7:30 a.m.

132. Nineteen people answered this question vis-à-vis dinner. Of these, fourteen named a dinner time between 4:00 p.m. and 5:00 p.m.

133. Interview with AH FI.2 at 24.

134. Interview with FI.13 at 43; *see also* MICHAEL GIBSON-LIGHT, ORANGE-COLLAR LABOR: WORK AND INEQUALITY IN PRISON 37 (2023) (“There’s perks to working in the kitchen—you get to eat before everyone else, and then [again] after. So, you get extra meals!”) (quoting an incarcerated kitchen worker as part of a study on prison labor).

135. Interview with FI.44 at 31.

136. Interview with FI.27 at 46.

with prison-issued food in one's cell is a rules violation and "sometimes, you're going to get caught."¹³⁷ When that happens, even if you are not written up, the food will be confiscated, leaving the problem of nighttime hunger unaddressed.

There is, however, one thing that allows people to stave off hunger: access to commissary (also known as "canteen" or "store"). In every prison, people can purchase a range of items from what is in effect a virtual prison shop, which typically sells a mix of food, personal hygiene products, and other miscellaneous items.¹³⁸ Each facility has an approved vendor, and people fill out forms indicating what they want to buy, with the funds coming out of the purchaser's prison account. As in society in general, there are all kinds of reasons to want money in prison.¹³⁹ But judging from my conversations—which again, involved people from all regions of the country, diverse as to race, gender, jurisdiction, housing configuration, and security level¹⁴⁰—the single biggest reason is that having money or its equivalent¹⁴¹ allows you to get the food you need so that you do not go to bed hungry. As one person recalled, "When I first [got to prison], I didn't have as much money coming to me. So there were nights where I would go to bed starving. And you just couldn't sleep because of how hungry you were, or [you would] wake up early waiting for breakfast . . . just because you're so hungry."¹⁴² People described "nights that you would be tossing and turning because your stomach was hurting" from hunger;¹⁴³ "nights of not having food," when "you [were] so hungry, you['d] take your hands and push in on your stomach to make [it] tighter, and try[] to fall asleep like that";¹⁴⁴ and nights of "being so hungry to the point where you can't even sleep."¹⁴⁵

137. *Id.*

138. Most food sold through prison commissaries is highly processed junk food. There are many reasons to be concerned about the unhealthy quality of the available options. But when people are hungry, it does the trick.

139. For more on the way poverty interferes with sleep in prison, see *infra* Section IV.C.

140. *See* Appendix B, Tables 1–5.

141. Accepted currency varies across institutions, with stamps and soups (usually, packets of ramen noodles sold in the commissary) representing the most frequent form of payment. People may also pay for things inside by buying and transferring commissary items of the creditor's choice. *See* GIBSON-LIGHT, *supra* note 134, at 105 (explaining that ramen packets were the going currency in the prison he studied).

142. Interview with FI.3 at 27.

143. Interview with FI.41 at 28.

144. Interview with FI.19 at 29.

145. *Id.*

In prison, commissaries typically price goods close to or even higher than market rates,¹⁴⁶ yet people who work in prison will earn well below \$1 an hour.¹⁴⁷ A key determinant of a person's ability to buy items from the store is thus whether someone on the outside is putting money on their books or whether they have some other way to make money while inside. I spoke to one person who had a relatively well-paying job with a private company run with prison labor.¹⁴⁸ But in most cases, people who received no funds from family found some side hustle in the prison.¹⁴⁹ People would "make and sell wine,"¹⁵⁰ "homemade . . . cards,"¹⁵¹ or "prison burritos"¹⁵² crafted from ingredients bought from commissary or kitchen workers and sold for a markup.¹⁵³ Or they might "wash other people's clothes" or "bowls [as a] kind of dishwasher," "sell their phone time," "do legal work for people," or "type

146. See Elizabeth Weill-Greenberg & Ethan Corey, *Locked in, Priced out: How Prison Commissary Price-Gouging Preys on the Incarcerated*, THE APPEAL (Apr. 17, 2024), <https://theappeal.org/locked-in-priced-out-how-much-prison-commissary-prices> [https://perma.cc/43BU-5S3B] (analyzing commissary pricing schedules for 46 states, and finding that, although "[o]ne package of ramen"—"widely considered a universal staple of the prison diet"—"goes for about 35 cents at Target, . . . many commissaries charged over 40 cents per packet[.]" and that "Maruchan-brand ramen noodles cost 57 cents [per packet] in Missouri prisons . . . but \$1.06 in Florida prisons—about three times more expensive than at Target"). But see Stephen Raher, *The Company Store: A Deeper Look at Prison Commissaries*, PRISON POL'Y INITIATIVE (May 2018), <https://www.prisonpolicy.org/reports/commissary.html> [https://perma.cc/7E22-9B64] (analyzing commissary prices for three states—Illinois, Massachusetts and Washington—and finding that "prices for some common items were lower than prices found at traditional free-world retailers," and that "[o]ther commissary prices were higher, but only by a little bit").

147. See Interview with FI.28 at 22 ("[W]ith the pay scale in the prison, you make forty-eight cents a day. And it costs one dollar for a ramen soup, so you work three days to have one ramen noodle soup."); Interview with FI.13 at 24 ("They pa[id] us anywhere from twenty-five cents up to forty-five cents . . . , and we had to pay retail for our commissary. Plus, some of it was even higher than retail."). On the pay of incarcerated workers, see Wendy Sawyer, *How Much Do Incarcerated People Earn in Each State?*, PRISON POL'Y INITIATIVE: BRIEFINGS (Apr. 10, 2017), <https://www.prisonpolicy.org/blog/2017/04/10/wages> [https://perma.cc/2QA5-HK5Z]; see also *infra* text accompanying notes 338–45.

148. This individual had a job training fellow prisoners as call center agents. He reported making \$285 a month (including bonuses), compared with the kitchen workers, who made "about \$30" a month. Interview with FI.29 at 27.

149. See GIBSON-LIGHT, *supra* note 134, at 109–10 (labeling this category of work in the prison as "shadow labor," which is defined as "compensatory subsistence strategies that are fashioned . . . in the shadow of more conventional work . . . because participation in those markets fails to provide a living wage") (quoting DAVID A. SNOW & LEON ANDERSON, *DOWN ON THEIR LUCK: A STUDY OF HOMELESS STREET PEOPLE* 146 (1993)).

150. Interview with FI.27 at 44.

151. Interview with FI.1 at 35.

152. Interview with FI.28 at 22.

153. *Id.* at 23 ("You can get the ingredients off the commissary. . . . And of course, you can subsidize your ingredients through the kitchen [because] everybody has their little hustle. You could get fresh onion, . . . some fresh cheese, or some hamburger meat . . . I actually created a burrito empire. At one point, I was selling close to [fifteen] to [twenty] dozen a day.").

papers” for those in school.¹⁵⁴ One person I spoke to “fixed all electronics like headphones, fan, Walkman, TV, radio, anything. . . . Even the officers would bring [him] broken fans and watches and stuff.”¹⁵⁵ Like others with side hustles, he took his payment “[i]n commissary, in food.”¹⁵⁶

Those without family support or some effective way to earn money found other ways to get food or the money to buy it. One person I spoke to, who “didn’t have [any money] for a long time, . . . started gambling and stealing . . . to provide for [her]self.”¹⁵⁷ People “sold drugs to make ends meet”¹⁵⁸ or exchanged “sex for food”¹⁵⁹ or “g[o]t jobs in the kitchen so they could steal.”¹⁶⁰ Others would “panhandle, ask your neighbors, your buddies,”¹⁶¹ or they might resort to a more general appeal:

[T]here were people who had no money and they would stand out by where we get our trays. And they’re asking people, you know, “Oh, do you want the rest of that?” and they’re collecting it, and putting it into a bowl to try to have what they need for that night.¹⁶²

However one does it, the main goal is to have provisions available so that, when 10:00 p.m. rolls around, a person has something to eat before they try to sleep.

Even people with the resources for commissary may sometimes go to bed hungry. People may run out of food before the next canteen day. Or they might have had extra expenses that ate into their stash for the month. COs

154. Interview with FI.38 at 48.

155. Interview with FI.19 at 21.

156. *Id.* at 31.

157. Interview with FI.20 at 20. For further discussion on the risks of this strategy, see *infra* Section IV.C.

158. Interview with FI.23 at 28. Drugs are easy to get inside carceral facilities. Prison gangs tend to control flow and sales and will use many pathways to get the product inside, the most common being bribing staff to serve as couriers. The pages of *Prison Legal News* are replete with reports of COs from around the country being caught smuggling drugs into the facilities where they worked. See, e.g., *News in Brief*, PRISON LEGAL NEWS (Aug. 1, 2025), <https://www.prisonlegalnews.org/news/2025/aug/1/news-brief> [<https://perma.cc/9BH9-5N8V>] (reporting that “former South Carolina [CO] Kevin Leroy Howard, 37, was arrested in July 2023 while attempting to bring drug-filled cylinders into the lockup with his dinner”); *id.* (reporting that former Tennessee CO Kyle Buss was sentenced to three years in prison “for smuggling fentanyl, methamphetamine, and tobacco into the Trousdale Turner Correctional Center . . . in 2022); *News in Brief*, PRISON LEGAL NEWS (May 1, 2025), <https://www.prisonlegalnews.org/news/2025/may/1/news-brief> [<https://perma.cc/NN3F-GRUP>] (reporting that Florida Department of Corrections CO Jakaleb Cahree Thomas was arrested “in a scheme to smuggle narcotics into the Suwannee Correctional Institution” after Thomas received a delivery of “approximately a half-pound of illegal drugs, including 42 grams of methamphetamine and 211 grams of marijuana”).

159. Interview with FI.33 at 59.

160. Interview with FI.27 at 45; see GIBSON-LIGHT, *supra* note 134, at 37; *supra* note 157.

161. Interview with FI.5 at 29.

162. Interview with FI.19 at 31.

might have tossed their cell, and in the process rendered whatever food they had inedible—tearing open packages, contaminating their provisions, and so on.¹⁶³ A rules violation sometimes carries the penalty of loss of canteen privileges. People are often transferred between facilities, and it can take time for the finances to catch up, which can mean missing several cycles of commissary while you wait.¹⁶⁴ One person reported being transferred to “a very restrictive facility,” where “you come in [and] you can’t get commissary for the first thirty days.”¹⁶⁵ And perhaps most notably, access to property is contingent on remaining in general population. When people are sent to solitary (a.k.a. administrative segregation or “ad seg”), whether for discipline, protective custody, or suicide watch, they are not permitted to bring any property with them and are highly restricted in what they can get while they are there. Generally, in ad seg, people “don’t have any access to commissary,”¹⁶⁶ so people are completely dependent on whatever food is served. As one person explained, people in ad seg will “get fed [dinner] around 3:30 or 4:00 [p.m.], and they don’t get anything [else] [un]til about 6:30 [a.m.]”¹⁶⁷ To make matters worse, in ad seg, you can’t even “save food from your evening meal to try to hold it [t]o have something to eat in the morning or in the middle of the night”¹⁶⁸ because doing so is a rules violation—“if they find you with that, then they add extra time to the time that you stay in seg.”¹⁶⁹ Whatever the obstacles to accessing commissary, when people are unable to buy food to supplement prison-issue meals, they

163. See *id.* at 38 (see *infra* quoted text accompanying note 398). One CO I spoke to for this study acknowledged the way cell searches can compromise people’s food supplies. But, at the same time, he explained, this is a necessary part of his role of ensuring prison security. As he put it,

I have to do it as part of my job. I’m sorry, I have to do it. I’ve got to open up all your coffee, . . . your soups, and stuff . . . to look for drugs. Yeah, you can still eat it. But it’s not going to last you as long as you intended to. And [so] there’s a lot of frustration.

Interview with CO.1 at 40. Still, he conceded, not every CO is as respectful of prisoners’ property as he believed they ought to be when conducting these searches. He described seeing colleagues doing cell searches “and they’ll open up all your bags of chips and everything and just spill it all over the floor. If I open it up, I’ll . . . check it respectfully [so] that you’ll still be able to use it. Some people will open it and you have to throw it away.” *Id.* at 41. This CO was notable for the extent to which he seemed attuned to the experiences and perspective of the incarcerated. This disposition appeared traceable to his connection with an uncle who “used to be locked up. And he’s always telling me, ‘Do not abuse the inmates; . . . they’re humans, too. Don’t abuse them because you’ve got the power.’” *Id.* at 12. Judging from our conversation, CO.1 took this advice to heart.

164. See Interview with FI.11 at 17 (“[T]ransferring your money from prison to prison, is like, when is it gonna hit? . . . There’s usually a two-week period or something whe[n] your money isn’t coming in, and then . . . you can only [get commissary] once a month. . . . [One time,] I had to wait almost a month and a half before I could get anything.”).

165. Interview with FI.38 at 11.

166. Interview with FI.2 at 69.

167. *Id.*

168. *Id.*

169. *Id.*

go to bed hungry, which makes it hard to sleep—even assuming a sleeping environment that is temperate, quiet, and dark, which, as will be seen, prison environments frequently are not.

C. EXTREMES OF HEAT AND COLD

To get adequate sleep, the body needs to be at ease. Yet for months every year, people in prisons nationwide are forced to try to sleep in sweltering heat or freezing cold. Predictably, this leads to conflict. Men in dorms fight over where to direct the few available fans—battles generally won by those whose threats of violence are most credible. People struggling to get comfortable in their bunks toss and turn, drawing the ire of bunkmates whose own efforts at sleep are thereby disturbed. And cellmates with different sleeping preferences clash over whether to close windows or block vents. It would be too simple to put this down to changing climate. The ambient temperature in carceral facilities is an operational choice. Although average annual temperatures continue to climb, most prisons have no air conditioning in the housing units (even while providing air conditioning in the spaces where COs congregate, including staff lounges and officers' booths). And in the coldest months, poorly maintained physical plants—broken windows, ineffective or broken heating systems, and so on—leave people too cold to sleep.

In prison, the ability to sleep is greatly impacted by the ambient temperature. In society in general, people who have control over their sleeping environments will adjust their thermostats to a comfortable setting. When two or more people share living space, there may be competing preferences as to the best temperature for sleeping. But it is rare that, given the choice, people would opt to sleep in the freezing cold or in sweltering heat. The reason is obvious: to get adequate sleep, the body needs to be at ease. In conditions of extreme heat or cold, the physical relaxation necessary to fall and stay asleep becomes unattainable.

Apart from those few fortunates who did their time in facilities with air conditioning, functional heating systems, and well-maintained physical plants,¹⁷⁰ my interviewees consistently reported long stretches each year when extremes of heat or cold greatly impeded sleep. Consider first excessive heat. Multiple interviewees from across the country described

170. Air conditioning in prison should be considered a necessity as global temperatures continue to rise. But even air conditioning is no guarantee of a reasonably comfortable ambient temperature during the hottest months. As one person explained,

they turn the air conditioning on at a set date, and they turn the heat on at a set date, regardless of the outside temperature. . . . [O]ur AC wouldn't come on until June 1. So [in the middle of April] there were days where the heat is pumping, and it's ninety degrees outside, and trying to sleep in those conditions [is] insane.

Interview with FI.19 at 20.

enduring many months every year when it was too hot to sleep, when it got “so hot and humid that the walls are sweating [and] [t]he floors constantly have that dewiness on them,”¹⁷¹ when you “sweat so much, [i]t wears you out,”¹⁷² “your shirts would be dripping wet. You actually could wring your shirts out.”¹⁷³ As one person succinctly put it: “In the summer, it’s so hot, it’s like you’re in a blowtorch.”¹⁷⁴

Because heat rises, those on the top tiers suffer most. One person described “working in the infirmary,” and “hav[ing] to respond to guys that were living up there. And as you walked up five flights of stairs, it was like . . . [you were] in a sauna all of a sudden, . . . like [a] forty to fifty degree temperature change sometimes. It was ridiculously hot.”¹⁷⁵ In the summer months, the dorms can also get “exceedingly hot”: “If it’s 100 degrees outside, it’s gonna be 110 degrees in the dormitories.”¹⁷⁶ When it was this hot, no one was sleeping. “[All that] body heat. . . . Everybody’s tossing and turning.”¹⁷⁷ One person I spoke to described being “up all times a night.”¹⁷⁸ He would “get up soaking wet. Go to the bathroom, get a cold towel, wipe my skin off. Go lay back down. Wake up an hour and a half later [and] can’t sleep.”¹⁷⁹ Even outside the South, this situation was hardly rare; one person in a federal facility in the Northeast described being “super-duper hot and miserable” during the height of summer.¹⁸⁰ In the South, heat this intense could last six months or more each year.¹⁸¹

Predictably, this degree of discomfort sparks frustration and even threats of violence. In the dorms, prison officials sometimes set up industrial-strength fans, but their placement and direction can provoke anger and even lead to fights as people desperate for sleep struggle to get or retain access to the relief the fans provide. As one person described it, “[e]verybody’s fighting for the fan. The fan has been cocked this way, cocked that way. You got guys waking up in the middle of the night, ‘Man, don’t turn that fan no

171. Interview with FI.1 at 25.

172. Interview with FI.20 at 23.

173. Interview with FI.18 at 15.

174. Interview with FI.30 at 28.

175. Interview with FI.29 at 19–20.

176. Interview with FI.35 at 22. The problem of excessive heat in prison has emerged as an issue for Eighth Amendment litigation. In both Texas and Louisiana, district courts have found constitutional violations stemming from excessive heat and ordered remedial relief. *See infra* note 186 and text accompanying notes 186–90.

177. Interview with FI.35 at 22.

178. *Id.* at 42.

179. *Id.*

180. Interview with FI.44 at 29.

181. *See* Interview with FI.35 at 23 (explaining that, in the South, where he was incarcerated, the heat was frequently intense starting in late March and running through at least the end of September).

more,’ which caus[es] a fight [and] now everybody waking up. ‘Man, listen, leave the fucking fan alone.’ ”¹⁸² If tensions did not run as high in the cells, periods of extreme heat still sparked issues. In the heat, people who are unable to sleep find themselves shifting in their bunks trying to get comfortable. The mattresses, as we have seen, are typically wrapped in a kind of rubber¹⁸³ to which bodies would stick in the heat. And as we have also seen, when people are double-bunked, every move one person makes can be heard and felt by the other, especially when the bunks share a single frame.¹⁸⁴ Out of respect, people try to minimize movement as much as possible. But the cost of this courtesy is being forced to remain immobile even amidst the great discomfort excessive heat creates, making sleep even more elusive.

It is not that prison officials are unaware of the heat. More than one person I spoke to described housing units so hot that staff avoided coming inside. One interviewee noted that COs would “sit outside in an air conditioned booth all night, and they would come inside of the dormitory, make their rounds, . . . and then go back into an air conditioned booth while we stayed in the dormitory.”¹⁸⁵ The lack of air conditioning in Southern prisons in particular has already become the subject of constitutional litigation, with Eighth Amendment challenges to excessive heat grounded in the substantial risk of serious harm posed to people with certain medical conditions, the symptoms of which are exacerbated by heat exposure.¹⁸⁶ In *Ball v. LeBlanc*, a case concerning excessive heat on death row at the Louisiana State Penitentiary (a.k.a. “Angola”), the district court appointed outside experts to monitor the temperature over three weeks in July and August.¹⁸⁷ During that time, the heat index in the facility rose as high as 107.78 degrees Fahrenheit and remained over 100 degrees for a full week.¹⁸⁸ The district court ordered the Louisiana Department of Corrections (“DOC”) to install air conditioning, but the Fifth Circuit vacated that part of the order.¹⁸⁹ In 2018, the case settled, with the DOC committing to providing a minimum of fifteen minutes of shower time each day, ice machines and ice

182. Interview with FI.35 at 22.

183. *See supra* Section III.A (discussing the nature of prison mattresses).

184. For more on the way the design of the bunks impacts sleep, see *supra* Section III.A.

185. Interview with FI.8 at 10; *see also* Interview with FI.31 at 23 (“[A]ll the officers [would be] hanging in the foyer with the AC central air, while all of us in the [housing units] are hot and the walls are even sweating.”).

186. *See Cole v. Collier*, No. 4:14-CV-1698, 2017 U.S. Dist. LEXIS 112095, at *13–14 (S.D. Tex. July 19, 2017); *Ball v. LeBlanc*, 988 F. Supp. 2d 639, 684–85 (M.D. La. 2013).

187. *Ball*, 988 F. Supp. 2d at 652.

188. *Id.* at 659.

189. *Ball v. LeBlanc*, 792 F.3d 584, 600 (5th Cir. 2015) (per curiam).

containers, fans, water, icy breeze units, and diversion of cool air from the guard's pod to the area of the plaintiffs' cells on any day when the heat index in the plaintiffs' cells exceeds 88 degrees.¹⁹⁰ Judging from what I heard, whatever else these half-measures might accomplish, they are unlikely to do much to improve the sleep of people in Louisiana prisons during the hot summer months.

Being too cold can also obstruct sleep. Virtually all facilities have heating systems for cold winter months, yet judging from my interviews, excessive cold remains a pervasive issue. In many cases, the problem stems from a poorly maintained physical plant. One person incarcerated in the Northeast told me that, in his prison, the windows had no glass, so “[w]hen it snowed, it snowed [directly into the] room.”¹⁹¹ It was like “sleep[ing] on a bench in Central Park in the wintertime.”¹⁹² Likewise, in one Midwestern prison, thanks to broken windows in the cells, people would wake up “with snow on [their] blankets.”¹⁹³ In a prison in New England, “a lot of windows were broken out” and people resorted to using newspapers to cover windows and block the draft coming in under the doors.¹⁹⁴ In one Southern prison, “the place was so old and rundown” that the “window closing mechanism . . . was just broken.”¹⁹⁵ This meant that “in January and February, the windows were literally stuck open and it was against the rules to stuff blankets or towels in the windows . . . so it was freezing in there all the time.”¹⁹⁶ In a facility on the West Coast, “you could almost see your breath in the air,” and in some cells, “you could even see ice forming on the wall.”¹⁹⁷ One person in the Northeast reported having actual “icicles . . . forming inside the room.”¹⁹⁸

Plainly, under such extremity, it is very difficult to sleep. I asked one person how he slept in the cold he was describing. His answer: “You didn’t. . . . [W]e were bundled up—we put our sweatsuits on. You put [on] your full tans [i.e., the prison-issued uniform] and you’d have your jacket on with your hat and your gloves, and you’d sit there and try to get as warm as

190. Settlement Agreement at 2–3, Ball v. LeBlanc, 988 F. Supp. 2d 639 (M.D. La. 2013) (No. 13-CV-368).

191. Interview with FI.14 at 15.

192. *Id.* at 16.

193. Interview with FI.18 at 17.

194. Interview with FI.2 at 15.

195. Interview with FI.9 at 15.

196. *Id.* In another Southern prison, “the industry heaters would be on but the window panes [we]re broken . . . so [it would be as] cold as Russia in the dormitory.” Interview with FI.25 at 24.

197. Interview with FI.13 at 20.

198. Interview with FI.3 at 25.

you could.”¹⁹⁹ Others painted a similar picture: “[B]asically you’re laying there with this wind that’s blowing constantly through into your cube, and you’re just trying to stay warm. . . . Not very good [quality of sleep]. Because you’d wake up in the morning . . . frozen.”²⁰⁰

As with extreme heat, conditions of extreme cold can spark tensions among people frustrated by their inability to sleep. One person who lived in a dorm in a Southern prison described

power struggles with the older generation [who] wanted the heater on [while] the younger generation didn’t. Sometimes . . . the older generation would win [and] the heater would stay on, . . . which would make it warm in there. So some guys would open their window, but the gust from the cold is coming through the window and [now] you’re cold. . . . [and you’re] trying to convince him, “Hey, man, I’m cold, could you close the window?”,²⁰¹ which could lead to a fistfight.²⁰²

Excessive cold was frequently a problem for people in ad seg. One person explained that, in ad seg, “you don’t get [any] blankets,” even though “it was freezing”—so cold, in fact, that he “had to cut [his] mat open and . . . go to sleep inside [the] mat.”²⁰³ This move did not keep him warm enough to sleep, but “it kept [him] a lot warmer than it would have been otherwise.”²⁰⁴ For those on suicide watch, the discomfort is intensified by the fact that they are typically forced to wear nothing but tear-resistant gowns known as “suicide smocks.” While these garments are made of durable fabric, they are entirely lacking in warmth. People on suicide watch are also denied standard blankets, sheets, and mattresses (although they may receive so-called suicide blankets). The justification for these deprivations is the need to prevent people contemplating suicide from accessing anything they might use to hang themselves. But the combined impact of these conditions leaves people too cold to sleep—a counterproductive effect, given that sleep deprivation appears to exacerbate suicidality.²⁰⁵

199. Interview with FI.14 at 16.

200. Interview with FI.12 at 17. One person reported being able to sleep in the cold once he tucked his coat over his blankets, “but just with the sheets and the blankets, I’m still shivering, I’m still cold.” Interview with FI.44 at 28.

201. The norm in prison is that those closest to the windows have the prerogative to decide whether to keep them open or closed.

202. Interview with FI.8 at 15. In a bid to keep warm, one person resorted to a creative—if risky—strategy: “You know those little clip-on lamps that you have for college with the little clip? . . . I slept with one of those on under my blanket because I was so cold.” Interview with FI.1 at 24.

203. Interview with FI.16 at 17–19.

204. *Id.* at 19.

205. On the connection between sleep disturbance and suicidal ideation and attempt, see *supra* note 44.

D. NOISE

Prisons are extremely noisy places. Although the nature and extent of the noise varies by housing configuration, having one's sleep disrupted by noise is a standard part of the carceral experience. Sources vary widely. The regular nighttime soundtrack may include loud voices, music, televisions, toilets flushing, the alarm clocks of night workers, or people "screaming and hollering."²⁰⁶ Dorms, housing as many as eighty or a hundred people, are especially loud and chaotic. Some housing units have an ethos of nighttime quiet, maintained by mutual respect (as in honor dorms) or threats of violent reprisal (as in some maximum-security cellblocks). But some pathological sources of noise are not so easily quelled. People with mental illness can be loud at all hours. Some screams may come from victims of violence. And by far the most persistent and resented source of nighttime noise comes from staff who move through housing units at regular intervals doing count or security checks. Some COs try to do their checks without waking people up. But too often, COs on the night shift conduct themselves as if completely oblivious to the fact that they are surrounded by fellow humans desperately trying to sleep.

Prisons are extremely noisy places. In the daytime, the cacophony can be deafening. Although the decibel level drops considerably once people are locked in for the night, the nighttime soundtrack is still far from peaceful. This is especially so in dorms, where as many as eighty or a hundred people may live together in one cavernous room. One person compared it to "being outside at a parade" or "on [a] construction site," with "a lot of guys having a nightmare, screaming and hollering."²⁰⁷ In a dorm "people are moving around, people are going to work even in the middle of the night," and "almost never would there be a night with nobody shouting or nobody making noise."²⁰⁸ There were times when "people would stay up all night, and they'[d] leave their radio [or TV] on kind of loud, . . . or somebody [would be] partying, drinking, and making a lot of noise, up all night with the music playing."²⁰⁹ Although the rule—and the strong norm—is that headsets must be worn by anyone watching TV or listening to music, in practice, this rule is often ignored. If only one or two people in a dorm flout the norm, everyone's sleep is disrupted. And even when people wear headsets, those close by may hear enough of the sound—"like a fly buzzing

206. Interview with FI.25 at 11.

207. *Id.*

208. Interview with FI.9 at 11. As FI.9 put it, the constant noise, being surrounded by people who do not care "how whatever it is they're doing affects the people around them . . . is part of the hell of jail or prison." *Id.*

209. Interview with FI.23 at 16.

in your ear all night”²¹⁰—to make it hard for them to fall or stay asleep. One person mentioned sometimes using earplugs to try to cut the noise. But as he explained, “[E]arplugs are tricky in prison. It’s a little easier if you’re in a cell [and] especially fine if you’re in your own cell. But in a dorm, it’s not that comfortable to not know what’s going on around you.”²¹¹

In some dorms, the bathroom is connected to the living space, so people whose beds are nearby may be disturbed all night by others going back and forth, or by flushing toilets and running water. As one person put it, “imagine eighty-seven people going to the restroom at all different times of the night. And sometimes it’[s] just one person going to the restroom starts a chain reaction, because they hear the water flow and everything. And so if you’re by the restroom, it’s not fun.”²¹²

In more orderly dorm communities, there may be less of a problem with other people making noise at night. In one dorm setting I heard about, “there was this common respect that everyone [had] to go to work call in the morning and if you make[] noise in [the] dormitory, somebody’s going to get up and say something and tell you something.”²¹³ This ethos is especially evident in the honor dorms,²¹⁴ where people do their best to avoid disturbing others, creating an environment that can be more “peaceful” and “laid back” with “less drama.”²¹⁵ Yet even still, people invariably move around at night, especially older residents, who tend to be overrepresented in honor dorms and who may need to visit the restroom multiple times a night, creating frequent disruption.

A similar ethos of keeping noise creation to a minimum also appears to prevail in at least some high-security cellblocks housing people serving long sentences. In these units, there is a particular premium placed on displays of mutual respect, and making noise while others are sleeping is considered a

210. Interview with FI.16 at 15.

211. Interview with FI.9 at 4. Earplugs are also expensive in prison. *See Email from Ethan Corey, Rsch. & Projects Ed., The Appeal, to author (Sep. 29, 2025) (on file with author)* (reporting that, according to the prison commissary price lists that he and his colleagues at *The Appeal* collected and analyzed, “few [prison] commissaries offered ear plugs for sale,” and that “[t]hose that did often sold them only as single-use packages,” with prices per pair ranging from “\$0.12–\$0.65”). For more on the cost of various tools people use in prison to try to improve the quality of their sleep, see *infra* Section IV.C.

212. Interview with FI.5 at 19.

213. Interview with FI.35 at 10.

214. “Honor” units typically house people with clean disciplinary records, who are known as people who avoid conflict and other disruptive behaviors. In most cases, people have to earn their way in, and those classified to these units have a strong interest in remaining—“people want[] to stay”—and so make every effort to stay out of trouble. As a result, people in honor housing tend to get better sleep. Interview with FI.28 at 33.

215. Interview with FI.41 at 6–8.

strong show of disrespect.²¹⁶ In such units, people may be quieter at night “because they don’t want to have to deal with the [violent] consequences.”²¹⁷ Certainly, even in high-security facilities, extant norms will vary. And outside maximum security, no such collective enforcement is likely, especially when people may have “a release date . . . within five years” and are “more likely to be on [their] [best] behavior because [they] can see the door.”²¹⁸ If others are disruptive at night, “somebody might say something to them [and] at worst it would be a fight. . . . But more likely, it would[] be nothing. . . . People don’t want to risk it by stabbing some guy for being noisy.”²¹⁹

Viewed normatively, threats of violence against noisemakers are hardly desirable. But where no anti-disruption norm operates, a cellblock at night can be extremely loud. One person described trying to sleep in a housing unit with five galleries—a hundred men to a tier—where “individuals [would be] yelling from one gallery to [another] all night.”²²⁰ Another spoke of “people . . . banging on the door, yelling through the doors, talking to each other.”²²¹ Or “[t]here are guys who will have radio battles all night long.”²²² And in “open tiers, . . . you take all that [exposure to people’s sound] and you multiply it, so there’s probably a small window of time at night where there is no noise.”²²³ Other sources of noise may add to the din. One person described “big industrial fans” in his housing unit that “would just blow and make so much noise.”²²⁴ Another spoke of air blowing through the vents so loudly that it sounded like “a jet engine going off.”²²⁵ Some nighttime noise in prison mirrors the ordinary soundtrack of life in any setting. You might hear “different things fall[ing] in the middle of the night” (which “is gonna ring”), “other people’s alarm clocks going off,”²²⁶ “their TVs when they’[re]

216. Note that even in units where extant norms lead people to remain as quiet as possible, it may take until 11:00 p.m. or midnight before things get relatively quiet. With the lights coming on at 5:00 a.m. or 6:00 a.m., the very best people can hope for would be five to seven hours of sleep, assuming they fall asleep immediately at the first available opportunity and stay that way until the lights come on in the morning.

217. Interview with FI.19 at 23.

218. Interview with FI.27 at 21.

219. *Id.* at 21–22.

220. Interview with FI.31 at 13.

221. Interview with FI.27 at 20.

222. Interview with FI.7 at 27.

223. Interview with FI.1 at 13.

224. Interview with FI.16 at 12.

225. Interview with FI.23 at 22.

226. *Id.* at 18. Many people in prison work shifts. Kitchen workers in particular must rise early to begin preparing breakfast. Their schedule inevitably disturbs those around them, most of whom keep more regular hours. One of my interview subjects worked in the kitchen and described how, in the facility in which she did most of her time, “at 10:00 p.m., you have to be up out of your bed standing on your

up at night,” or—in facilities with “stronger flushes”—people flushing their toilets.²²⁷ This is only to be expected in places where people live. But multiplied by hundreds of people, the effect is constant, pervasive interference with sleep.²²⁸

Other sources of nighttime noise reflect the deepest pathologies of American prisons. For example, even where some norm of respectful nighttime silence obtains, people with untreated mental illness may be unable to comply with or even process expectations around noise. As a result, those trying to sleep may find themselves disturbed by screams or other vocalizations coming from those unable to remain quiet. One person described being housed in her first months in prison with someone who was “schizophrenic and [who] was up all night, having . . . arguments with herself . . . like really heated arguments.” As a result, she “could not sleep.”²²⁹ And people with mental health issues need not scream or yell to disturb the sleep of those around them. Another woman spoke of how, in her dorm of 150 people, “there were the people who would get up super early and make noise . . . cook in the microwave, or get their breakfast ready, or be the first ones to shower.”²³⁰ These, as she explained it, were “people with mental illness” who “didn’t want to be bothered at 6:00 a.m. [when the lights came on]” and were rigid about “doing everything before [others woke

feet to be counted, but then you report to the kitchen at two in the morning,” so that, at best, she and her colleagues in the kitchen were getting four consecutive hours of sleep a night. Interview with FI.28 at 34. Even when the kitchen workers’ call is later, the commotion can be disruptive of others’ sleep. As one person explained it, the kitchen workers had a 5:30 a.m. call, “probably ten to twenty [people] in a building.” Interview with FI.30 at 19. And with that movement came “door slamming . . . people calling, people running by your cell window forgetting something, or the CO yelling at them to hurry up because they’re late.” *Id.*

227. Interview with FI.23 at 18–19. Every prison is a congregate living facility, intended as a place where hundreds of people will sleep in close quarters. Yet in most facilities, there is little by way of effective sound absorption. As one person put it, “in a closed tier, everything is concrete, and so when people are yelling or talking, . . . there’s nothing to dampen or break up that sound . . . and so it just kind of bounces off the walls and goes right into your cell. . . . [It’s] like a funnel, and it just amplifies.” Interview with FI.1 at 12.

228. More than one person reported that the disruption was especially pronounced during basketball season. One person in a Northeastern prison described sports-related noise as a problem, not only during the “championship,” but even “just regular games. You’d have people banging on the doors after a game or somebody makes a shot or goal and banging on the doors. I hate basketball season.” Interview with FI.3 at 17. And someone in the Midwest, who described the low-security facility where he did most of his time as “a very tame place”—he called it “Camp Cupcake”—said his dorm “was really quiet,” except “during the NBA Playoffs,” when “guys would stay up and be screaming about basketball games.” Interview with AH FI.2 at 17, 25. For this reason, he “came to hate the Lakers. Go Knicks, go Boston, go Miami, because the games [on the East Coast are] earlier.” *Id.* at 17.

229. Interview with FI.11 at 7.

230. Interview with AH FI.1 at 22–23.

up].”²³¹ Although this was “an issue of inconvenience” to others, people “just learn[ed] to tolerate that stuff,” because “that’s how they are.”²³² This realization may have alleviated resentment, but it did not help reduce the disturbance at a time when everyone else was trying to sleep.

Mental illness among residents is also one reason why some solitary confinement units can be so unremittingly loud. Judging from my interviews, ad seg can vary from extremely noisy to extremely quiet. Those who experienced the former reported that people would be “screaming [and] . . . kicking the doors,”²³³ or “yelling from door to door, talking to the homeboys down the hall, [and if] somebody thinks they can sing—they wanna sing.”²³⁴ “Everybody’s making noise, can’t nobody sleep.”²³⁵ If it was not the other residents, it was the doors: “[T]he [Secure Housing Unit] was always loud because the doors . . . are metal [and] they slam. Anytime anybody comes through—nurse, counselors, whatever—it’s always a bunch of noise.”²³⁶ As one person vividly described it, “There were these automated doors that would make this loud ‘ahhhh’ slam.”²³⁷ Depending on the location of your cell or who was working, “all night long, you[’re hearing] ahhh clang, ahhh clang, ahhh clang.”²³⁸

Then there are the sounds—the yells, the cries, the screams—produced by victims of violence. Based on my narrow sample, it is impossible to know how frequently this occurs. I did, however, hear it enough to credit that it happens. When asked about nighttime noise, people mentioned “cellies fighting each other,”²³⁹ or “[s]omebody might be attacking somebody [or] somebody might be screaming and hollering in the shower.”²⁴⁰ One person described being awakened one night by the harrowing sounds of a man who, it transpired, was being killed in a nearby cell.²⁴¹

But by far the most persistent, intrusive, and resented source of nighttime noise is that made by staff. In every prison, whatever the housing configuration, COs are expected to come through each unit multiple times a night—as frequently as every fifteen or thirty minutes—to scan each cell and

231. *Id.* at 23.

232. *Id.*

233. Interview with FI.6 at 23.

234. Interview with FI.27 at 23.

235. Interview with FI.14 at 35.

236. Interview with FI.27 at 23.

237. Interview with FI.6 at 7.

238. *Id.*

239. Interview with FI.31 at 14.

240. Interview with FI.25 at 11.

241. Interview with FI.30 at 20. Violence, along with the fear of violence and the trauma it generates, interferes with sleep in other ways as well. I return to this point in Sections IV.A–B.

bed and see that all is well. The intended purpose of these rounds (known as “security checks”) is to prevent assaults and suicides, to break up fights, to have staff available for anyone who may need medical attention, and so on.²⁴² In addition, at certain set intervals,²⁴³ COs fan out through the facility to conduct “count,” an event occurring several times over the course of the day—and night. At these designated times, COs count every person in the facility to make sure the number of people inside corresponds to the official tally.

COs’ performance of these rituals means constantly interrupted sleep. Virtually everyone I spoke with recalled being woken up repeatedly at regular intervals by those staff members doing rounds who chose to conduct this task by banging on the doors or bars of their cells, kicking their bunks, or shining flashlights in their eyes, seeking (and sometimes loudly demanding) some indication from the sleeping person that they are still alive.²⁴⁴ People told of COs who would “deliberately pound on the door or flash the light in our face until we move,”²⁴⁵ or who might “take their stick, or . . . the chirp thing for their rounds [i.e., the wand some COs must use to electronically record the completion of mandated security checks], and bang it on the bar or bang it on the door until you move.”²⁴⁶ As one person described it,

[E]very two hours or three hours . . . the officers do security check[s]. . . . They can just kick your door, boom, boom, boom, say, “Move your legs! Move your legs! Let me see you alive!” . . . So any given day, the officers . . . will wake you up . . . [And] if you sleep with a cover over your head or something, the police will hit your window, boom, boom, boom, “let me see something.”²⁴⁷

242. Whether regular nighttime security rounds are justified on these grounds is an open question. For more on this issue, see *infra* text accompanying notes 513–15.

243. Exact count times vary by institution. Typically, count takes place at least once in the middle of the night and once first thing in the morning when the lights come on around 5:00 a.m. or 6:00 a.m. I tried analyzing my data to establish a more exact sense of how often nighttime counts happen, but it was not amenable to this analysis. Efforts to get this information directly from corrections agencies via public records requests also largely failed, with most states claiming that this data was confidential for security reasons. This notion is patently specious: presumably, people incarcerated in a given facility already know the timing of count, so even assuming this information could be put to nefarious purposes, it is hard to see how making this information public would augment any existing risk.

244. In one prison, COs conducting nighttime counts would loudly call out “sitting or standing!” reflecting “this new rule [the prison enforced] . . . which meant you either had to sit up [in bed], or you had to be standing” beside it during count—even in the middle of the night. “You could get write-ups for not sitting or standing.” Interview with FI.6 at 24–25. The implication of these phrases is that staff must confirm that each person is present and alive. But the systematic interference with sleep is self-evident.

245. Interview with FI.5 at 8.

246. Interview with FI.7 at 31–32.

247. Interview with FI.17 at 5–6.

Often, people are woken up long before the COs reach their cells—whether because the officers “just slam the doors” when they walk through,²⁴⁸ “walk around with their walkie-talkies or radios turned all the way up,”²⁴⁹ or “have a bunch of different big, humongous keys on their belt, on a keychain that jangle[s] all the time when they come by.”²⁵⁰ In prisons not generally designed for effective sound absorption, when COs “knock on someone else’s door . . . you can hear the echoes from the whole hallway. . . . So you have to cover your ears because there’s always [constant] noise.”²⁵¹

In the dorms, in addition to flashlights in eyes, the kicking of bunks, and the shouts of “let me see you move,” several people described CO behavior reflecting seeming obliviousness to the sleeping people around them. They might “stand by your bunk and just start talking in the radio . . . extra loud,”²⁵² or “bang[] [keys] on that corner of the bed [to wake someone up], . . . [which] pretty much wakes the whole dorm up.”²⁵³ Or a pair of COs “may just come to the dormitory talking to one another. One would be on one side of the dormitory and the other one would be on the other side. And they’re screaming across people while they’re making rounds.”²⁵⁴ One person reported that, rather than counting quietly, some staff would yell out the numbers: “[yells] 12345678!”²⁵⁵ As a result, “you could never get a deep sleep there . . . because there was always noise.”²⁵⁶ And it is not only during rounds that staff on the night shift conduct themselves in ways that interfere with sleep. People also described COs in the officers’ booth laughing and joking without making any effort to keep the noise down. They would be in “their bubble, and they’d have a [fellow officer] come over, and then they [would] talk . . . so loud that you can hear them inside the dorms, you know, and they’re telling the funniest stories [and] [a]ll you hear is them laughing.”²⁵⁷

248. Interview with FI.10 at 21.

249. Interview with FI.9 at 30.

250. Interview with FI.27 at 7.

251. Interview with FI.11 at 9–10.

252. Interview with FI.16 at 44.

253. *Id.* at 11.

254. Interview with FI.8 at 5.

255. Interview with AH FI.2 at 18. Some readers might wonder (as I did) whether people having their sleep perpetually interrupted in these ways ever complained and asked COs to try to be quieter. When I asked this question in my interviews, everyone said the same thing: those who tried it would be courting serious retaliation. This exchange made the point succinctly: “[Did anybody [ever] say, *count a little quieter, we’re sleeping?*] You want to go off to seg?” Interview with AH FI.2 at 18.

256. Interview with FI.8 at 5.

257. Interview with FI.12 at 34.

In fairness, when officers conducting security checks insist on evidence that a person is present and alive, they are only following policy. As one CO I spoke to²⁵⁸ explained,

For me to be able to do my job confidently, I have to see flesh or body movement. So . . . that requires me . . . to knock on the door and wake them up. “Hey, are you alright?” “Yeah, man, can’t you see me?” “No, your bed sheets are up. I have to be able to see you, man. It’s nothing personal. I’m just trying to do my job.”²⁵⁹

And notably, COs’ intrusive behavior on the night shift may also arise in part from their own struggles with chronic exhaustion arising from sleep deprivation.²⁶⁰ As my research has shown, COs too are often sleep deprived, and this is especially true of those on the graveyard shift (typically 10:00 p.m. to 6:00 a.m.).²⁶¹ The resulting fatigue appears to drive at least some of the behaviors that disturb prisoners’ sleep. For example, “most [COs] are constantly talking to [co-workers] to get them through the night.”²⁶²

Even still, the degree of disruption repeatedly described by my interviewees appears excessive, even accounting for institutional requirements and COs’ own exhaustion. Some considerate COs prove this point nightly by making affirmative efforts not to wake people up while doing rounds (with the proportions varying widely depending on the

258. See *supra* note 62 (noting that COs were also interviewed as part of this study). For an in-depth look at COs’ experiences of sleep deprivation, see Dolovich, “Forever Tired,” *supra* note 13.

259. Interview with CO.38 at 34–35.

260. Some people I interviewed also connected COs’ conduct during count to COs’ own fatigue. In one Southern prison, COs

work [a standard shift of] twelve hours a day. [And then] some of them will work overtime [and] work sixteen hours a day. And they will come back the next day and do twelve more hours. And you can see the ugliness in their personality. And we’re saying [to the COs], “[Y]ou need some sleep man. You come in here with all that yapity yap at the mouth, waking everybody up, all that screaming and hollering. Go get you some sleep man. You’ve been working overtime for four days.”

Interview with FI.35 at 46.

261. As one CO I spoke to put it, those who “work [a] 10:00 [p.m.] to 6:00 [a.m. shift], always say we’re forever tired. We’re never well rested.” Interview with CO.7 at 17. For more on sleep deprivation among COs, see Dolovich, “Forever Tired”, *supra* note 13.

262. Interview with CO.18 at 33; *see also* Interview with CO.37 at 18 (“Sometimes it gets to be a struggle to just try to keep your eyes [open], so you just try to find anything you can to occupy your mind [including] talking to a fellow coworker, . . . trying to keep each other awake.”). In some cases, COs’ fatigue may even explain why they make so much noise when coming through the dorms or cellblocks at night. When COs are tired, they are especially disinclined to get saddled with the hassle of paperwork. One person explained that

You’d have [COs] who would walk, jingling their keys [or the] change in their pocket, . . . to make themselves loud and unmissable because [o]n the off chance the prisoners are doing something they’re not supposed to be doing, or talking about what they’re not supposed to be doing, you want them to know you’re coming so hopefully they’ll stop by the time you get there [so you won’t have to deal with more paperwork].

Interview with CO.15 at 37.

facility),²⁶³ thus showing it is possible to do so. These courteous COs do not yell or bang the bars or kick the bunks or shine their flashlights directly into people's eyes. They instead "hold their keys as they're doing count and . . . put the light up toward the ceiling"—using the ambient light to establish that people are present and breathing—" [s]o it's not really affecting our sleep. And they kind of walk on by, . . . come by real quick, [look in], and take off"²⁶⁴ or they might "just tap real gently enough to make you move subconsciously."²⁶⁵ Such efforts were not always successful, but they were always appreciated. At least some people reported that, when COs approached count in this way, they were able to sleep right through it. And respectful behavior by COs conducting count had a second sleep-promoting effect: when a CO makes an obvious effort not to disturb, those who are nonetheless woken up are at least spared the feelings of resentment, frustration, and anger so often provoked when COs seemed to be gratuitously inconsiderate—feelings that would in turn impede efforts to fall back asleep.²⁶⁶

E. LIGHT

In some units in some prisons, the lights stay on 24/7. In such environments, deep, restorative sleep can be impossible. In most cases, the lights are dimmed at night, but they never fully go off, leaving it "dark, but . . . not . . . sleep dark."²⁶⁷ Those who suffer most are people on top bunks, especially those stuck directly below the lights. But the perpetual glow makes it hard for everyone to sleep, leading many to attempt creative strategies for blocking the light. Unfortunately, most such strategies are only marginally successful and quickly run up against several pathological features of the prison environment. In this way, exploring the phenomenon of excessive nighttime light effectively illustrates the way

263. At some point, I began asking people to estimate the percentage of COs who, when conducting count or security rounds at night, made no effort to keep the noise down while people were sleeping. Estimates ranged widely. *See, e.g.*, Interview with FI.16 at 32 ("Eighty percent would go out of the way to disturb you."); Interview with FI.17 at 35 ("Probably a ten percent minority."); Interview with FI.18 at 11 ("I'd say fifty percent . . . mostly the younger COs."); Interview with FI.23 at 40 ("The ones that are considerate and [have] compassion [are] very slim . . . I would say, it's eighty percent that are looking to disrupt your sleep."); Interview with FI.35 at 15 ("I won't say one hundred percent [but] I will say ninety-seven percent."); Interview with AH FI.1 at 5 ("I would say a good fifty-fifty"); Interview with AH FI.2 at 19 ("I would say seventy-five percent were loud."); Interview with AH FI.12 at 15 ("I would say that a solid thirty-five percent willfully made noise. . . . [H]onestly, some of them would walk through talking on their cell phones.").

264. Interview with FI.5 at 37.

265. Interview with FI.19 at 40.

266. For more on the way gratuitously disrespectful treatment by staff impedes sleep in prison, see *infra* Section IV.E.

267. Interview with FI.44 at 24.

that, in prison, the causes of sleep deprivation are never only about a single isolated factor.

Excessive light also impedes sleep in prison, although, as with noise, the effects vary depending on housing configuration. In the worst cases, people are housed in units where the lights are on full blast 24/7. This is so in some ad seg units, where “very bright lights are on twenty-four hours a day.”²⁶⁸ In general population, in some instances, prison administrators may decide that certain units are too dark at night. One person told me that, in one facility he was in, “they used to cut the lights out” at night, but then there was “a fight and [the COs] really couldn’t pinpoint who did what, . . . so the sergeant actually made us keep the lights on . . . in the dorm. . . . Full strength. All night.”²⁶⁹ Whatever the reason, when the lights stay bright all night, sleep eludes pretty much everyone.

In most housing units in most prisons, the standard practice is to dim the lights, usually an hour or so after everyone is locked in for the night. If this situation is far preferred to round-the-clock brightness, for many people it still remains too light to sleep. This is especially an issue in dorms, in which several lights stay on all night and “it [is] never anything other than like twilight in that big space”²⁷⁰—“it’s dark, but it’s not . . . sleep dark.”²⁷¹ It is worse for people with bunks close to lighted areas of the dorm, typically those near “the guard booth and bathrooms.”²⁷² Cells generally have light switches that turn off the cell lights completely. But the hallway lights, while dimmed, remain on. In at least some places, rather than all the lights being dimmed to the same degree, the lights are calibrated, with some portion remaining at full strength. It might be “half a tube that would still be on, and that could be directly in front of your cell”; understandably, those cells “are the least coveted.”²⁷³ “[E]ven if they turned off the big light, the small light was still there. And so it was never ever dark at all,”²⁷⁴ still “[t]oo bright to sleep.”²⁷⁵ Multiple people reported cellblock night lighting “bright enough

268. Interview with FI.21 at 27; *see, e.g.*, *Grenning v. Miller-Stout*, 739 F.3d 1235, 1237 (9th Cir. 2014) (finding that the plaintiff stated an Eighth Amendment claim when challenging the prison practice of maintaining “continuous twenty-four hour illumination” in ad seg unit). Lighting policy seems to vary widely across different solitary confinement units. While some people I spoke with who did time in solitary described bright lights that remained on constantly, others reported ad seg units that were “pitch black,” Interview with FI.16 at 2, or in which the light “didn’t go all the way off—it was a dim light.” Interview with FI.27 at 29.

269. Interview with FI.14 at 13.

270. Interview with FI.21 at 13.

271. Interview with FI.44 at 24.

272. Interview with AH FI.12 at 14.

273. Interview with FI.1 at 19.

274. Interview with FI.21 at 13.

275. Interview with FI.19 at 19.

to read by.”²⁷⁶ Hallway night lighting was especially a problem for those with cell bars rather than a solid door, because with this setup “[there’s] nothing filtering the light.”²⁷⁷ And even those with solid doors could find their sleep disturbed, because the “lights that stay[] on at night . . . still have a tendency of coming in through the window and shining something in your room.”²⁷⁸

In both dorms and cells, those on bottom bunks have an advantage when it comes to light. Depending on the angle of the bed, “if you’re on the bottom bunk, the top bunk would shed some of the light off,” while “if you’re on the top bunk, you get all the light.”²⁷⁹ People on bottom bunks have an additional advantage: the configuration allows them to “put a sheet under the [top bunk] mattress” to make a tent.²⁸⁰ And assuming the COs on duty are not sticklers,²⁸¹ this move may afford “some type of shade, to shade your face from the actual light.”²⁸² But putting up such tents is against the rules²⁸³ and if the COs are unwilling to look the other way, the tents must come down, letting in light even for those on the bottom bunks.

Those on top bunks suffer most from excessive nighttime light. This is especially so in the dorms, in which some have the bad luck to be in beds directly under lights that remain on all night—so-called “bad bunk[s].”²⁸⁴ People likened the experience of a bad bunk to feeling “like you’re [a] cockroach [under] the light . . . and [you] can’t get away,”²⁸⁵ or like a “rotisserie [chicken]” sleeping under “rotisserie lights.”²⁸⁶ In terms of lighting, the worst moment—mentioned by several people I spoke to—is when all the lights come on first thing in the morning, often as early as 5:00

276. Interview with FI.28 at 8.

277. Interview with FI.31 at 18.

278. Interview with FI.24 at 24.

279. Interview with FI.33 at 26.

280. Interview with FI.44 at 24.

281. *See* Interview with FI.24 at 25 (“Sometimes the officers would let you hang a towel that doesn’t block their entire view of you. Again, it would all depend upon who . . . because, you know, every officer is so different.”).

282. Interview with FI.14 at 14.

283. For more on the way the enforcement—or even just the existence—of prison rules can compromise sleep, see *infra* Section IV.D.

284. Interview with FI.12 at 16.

285. Interview with FI.5 at 14.

286. Interview with FI.30 at 23; *see id.* (“I would joke with people that I feel like a fucking rotisserie chicken. [I]n the morning . . . [people would] be like, . . . you look like shit. And I’m like, well, what do you think? I’m sleeping under a light like a bloody deli chicken.”).

a.m. or 6:00 a.m. Especially for those on top bunks, once that happens, further sleep becomes impossible—“like trying to sleep with the sun on your forehead.”²⁸⁷

Although the intensity of the intrusion varies, pretty much everyone must find a way to block the light in order to sleep. In the cells, people have somewhat more control over their environment and may employ hacks that involve tweaking the physical plant. When the lights themselves are easily reachable, the most common move is to make paper light covers and place them directly over the lights to cut the brightness.²⁸⁸ Sometimes these efforts could be very involved. One interviewee explained that he would use

a cardboard box—like a Ritz cracker box—you open it and flatten it out. [Y]ou would get three or four of those [boxes . . . and use] tape. Or . . . if you don’t have tape, you could get toothpaste [as an adhesive] and get paper, and that will dim [the light] out a lot. . . . I used to order art supplies . . . like construction paper [to] make a light block at night.²⁸⁹

Another person described an even more audacious approach: “In max facilities, if the light is directly in front of the cell, people have gone so far as to actually paint that side panel [of the light itself] to block out as much [light] as they can.”²⁹⁰

These strategies are not open to people in dorms, where the lights will generally be too high to cover or paint. Even if someone succeeded in getting at the lights to cover them, the COs would spot it immediately. As one person put it, his frustration apparent, “[T]here were nights [in the dorm] whe[n] I *literally* had to put my coat over my face, just to get some darkness.”²⁹¹ Sleeping with something covering the face appears to be the primary way people try to block the light. Various strategies are employed to this end, but none is without downsides. If you use a T-shirt or a towel, it is likely to fall off in the night. When this happens, the sudden light exposure will wake you up. As one person described it, using a towel “would block the light, but when you’re sleeping [and] moving around, the towel comes off, and you are dreaming about light and then you open your eyes to see just why [and find] it’s not a dream.”²⁹² And if one’s T-shirt or towel falls from a top bunk, there

287. Interview with FI.16 at 16.

288. One person reported an approach that both cut the brightness of the light and allowed expression of gang loyalty: “[W]e would use colored paper to, . . . well because I was associated with [a gang whose color is red] we had red colored paper, [which] would turn the light red. And that would kind of help with the lighting.” Interview with FI.5 at 18.

289. Interview with FI.19 at 19.

290. Interview with FI.1 at 23.

291. Interview with FI.24 at 19.

292. Interview with FI.16 at 14.

is no way to retrieve it without disturbing the occupant of the bottom bunk, who will feel the bed shifting as you get down and get back up.²⁹³ As we have seen, such maneuvers can create conflict that is best avoided. So, unless you have something else to hand, you are out of luck. If instead you try to cover your head with a blanket, you are likely to be woken up the next time a CO does rounds and insists on seeing your face: “If you slept with a sheet or a blanket [*motions with hands over his face/head*] . . . to cover your face, [*makes knocking motion and imitates CO saying,*] ‘I can’t see you. I can’t see you.’ ”²⁹⁴ Some people try to forestall this disruption by sleeping with one bare foot outside the blanket, but during the winter this approach may leave one too cold to sleep. And even should a person find an effective way to cover their face, it won’t necessarily do the trick, because you “could still feel the light.”²⁹⁵

In some facilities, enterprising craftspeople make eye masks—a homemade version of the type people get when flying first class. They may even sell eye masks to others. Using an eye mask appears to be the best way for people on top bunks to reduce the intrusive effects of the lights when they are trying to sleep. But this strategy too has its challenges. One problem is that, in many cases, the masks are made from materials taken from items issued by the prison: fabric from T-shirts, cotton from pillows, elastic from boxer shorts. In every facility, destruction of state property is a rules violation, which means that the mask you may rely on if you are to have any hope of sleeping may also be the basis for a write-up.²⁹⁶ Then there is the

293. On the sleep-negating effects of sharing a two-person bunkbed, see *infra* Section III.A.

294. Interview with FI.23 at 15–16. Again, in fairness, COs who wake up people when they can’t see them are only doing their job. As one CO explained it,

Y^{ou} have to look at each cell [and] make sure the[re’s] somebody in there and make sure they’re moving or breathing. [*Did you use a flashlight?*] Yeah. [*Do you think that would have been disturbing for the people who are trying to sleep?*] Some, because we had to see something, a body. [I]f they weren’t covered up all the way . . . —a lot of them [would] leave their foot out underneath the sheet or something like that, and move it—[so we did not have to wake them] . . . [B]ut . . . if we couldn’t see any[thing], we’d knock on the door, and get them up so we can see him.

Interview with CO.12 at 30; *see also supra*, text accompanying note 259 (quoting CO.38 at 35). But there is no denying the sleep-compromising effects of the process.

295. Interview with FI.28 at 13.

296. The impossibility of sufficiently mitigating the intrusiveness of excessive light through any available means of self-help makes a mockery of one line of reasoning found in Eighth Amendment cases addressing claims of excessive light: that plaintiffs’ ability to cover their eyes with a towel or article of clothing negates their claim. *See, e.g.*, *Stewart v. Beard*, 417 F. App’x 117, 120 (3d Cir. 2011) (affirming dismissal of excessive lighting claim in part because “inmates are permitted to cover their eyes with a pillow or pillowcase”); *King v. Frank*, 371 F. Supp. 2d 977, 985 (W.D. Wis. 2005) (determining that a “nine-watt fluorescent light that remains lit at all times” did not constitute a violation in part because “inmates are allowed to cover their eyes [with cloth] while sleeping”); *Isby v. Brown*, 856 F.3d 508, 518 (7th Cir. 2017) (affirming dismissal of an excessive lighting claim, in which the district court found “that

fact that, in prison, fully covering one's eyes (or blocking one's ears) while asleep can impede a person's ability to quickly recognize danger. As one person put it,

Sleep is great, but [in prison,] what you don't want to be is unaware. So . . . wearing earplugs or putting an eye mask on—and actually I did use an eye mask . . . made out of socks—is not a good idea. [P]rison's a place where you want to be aware of your surroundings, and especially if you're in a dorm environment.²⁹⁷

All this goes to show how, as prisons currently operate, something as simple as trying to block the light to enable sleep quickly collides with many pathological aspects of prison life, including the delicate dance of conflict avoidance, overly intrusive nighttime CO rounds, the perpetual fear of violence, and the enforcement of what prisoner-turned-criminologist John Irwin labeled “chickenshit” rules.²⁹⁸ As with all the causes of sleep deprivation explored in this Part, the sleep-compromising effects of excessive light in prison go well beyond those experienced by nonincarcerated people who may face this issue in their own lives.

IV. FINDINGS II: META-CONDITIONS IMPEDING SLEEP IN PRISON

The conditions discussed in Part III are specific and concrete, of the sort typically considered appropriate targets for more conventional policy reform. But it is also possible to identify a number of what might be called “meta-conditions”²⁹⁹ that also tend to impede sleep in prison. By “meta-conditions,” I mean aspects of the carceral experience that are institutionally pervasive and highly constitutive of life inside, yet so deeply embedded in the life of the prison—so wholly naturalized—that it can be hard to recognize either their destructive impact or the institutional role in their production. In this section, I highlight the sleep-compromising effects of five such conditions: fear of violence, trauma, poverty, overly intrusive rules enforcement, and daily humiliation. As will be seen, there is some thematic overlap here with the discussion in Part III, a function of how, in prison, all aspects of the experience are fundamentally interconnected.

any Eighth Amendment concern implicated by twenty-four hour lighting in the [secure housing unit] was negated by the fact that [the plaintiff could] cover his eyes with clothes or towels”).

297. Interview with FI.9 at 4.

298. JOHN IRWIN, THE WAREHOUSE PRISON: DISPOSAL OF THE NEW DANGEROUS CLASS 161–62 (2005).

299. I owe this term to Sasha Natapoff.

A. FEAR OF VIOLENCE

In prison, the fear of violence is endemic. It compromises sleep in many ways, most profoundly when people are forced into close quarters with others not of their choosing. Whether in a cell or a dorm, it takes time to feel comfortable enough around strangers to fall asleep. People in dorms, who live in company with scores of others, are especially at risk and thus especially apprehensive when arriving in a new environment or when new people enter their unit. But rarely is anyone—even a long-time cellmate with whom one has a good relationship—ever fully trusted, and people pretty much always sleep “with one eye open.”³⁰⁰

It might be imagined that, in prison, a perpetual fear of assault would keep people awake 24/7. This is not the case. At the same time, in all but the most functional lowest-security facilities,³⁰¹ the fear of violence is real, and undermines sleep in numerous ways.³⁰² In my interviews, I asked: *Did you ever have difficulty sleeping because you were in close proximity to someone you didn’t know or trust?* In response, everyone said pretty much the same thing. In double cells, people sleep little when first encountering a new cellmate; it takes time to be comfortable enough to be able to sleep in close quarters with someone who is basically a stranger. “If you’re just entering a cell with somebody new that you don’t know, if this person moved, or you heard the mattress twitch or *anything*—any slight movement at all—your eyes are *wide open*.³⁰³ But eventually, “you kind of get comfortable with the person you’re with.”³⁰⁴ As one person described it, when assigned to a cell with “a roommate that [he] did not know,” at first all he could think was, “I do not want this guy to go crazy and try to kill me in my sleep [or] to take my stuff in my sleep.”³⁰⁵ It took “a few days to a week to really feel like okay [signals with hand lowering]; the tension is okay and I can sleep.”³⁰⁶ It is not

300. Interview with FI.7 at 14.

301. In low-security facilities, people will make every effort to stay out of trouble so as not to be transferred out. This incentive reduces overall tension along with the fear of violence. *See* Interview with AH FI.1 at 11 (“I never really worried about my safety per se, because there was no tolerance for any violence at the camp, and everybody wanted to be at the camp. . . . [N]obody fought because if you fought you leave.”); Interview with AH FI.2 at 26 (“[B]ecause [it was] a minimum security place, there were very, very few incidents of violence. I can count the number of fights I saw on one hand . . . because people by and large didn’t want to get transferred out.”).

302. *See also* Letter from Freddie Fernando Wortham, *supra* note 99 (“Sleep deprivation comes in many forms here in prison. . . . [M]y worries have always stemmed from the possibility of being sexually assaulted, physically hurt[,] or being stabbed under the politic[s] playing out at the time . . . and [so] not making it out upon one[’s release date.”]).

303. Interview with FI.41 at 33.

304. Interview with FI.5 at 31.

305. Interview with FI.23 at 14; *see also* Interview with FI.33 at 60 (“[You might be] up all night worrying about, ‘Is this person going to try to rape you?’ or ‘Is somebody going to break in your box?’ ”).

306. Interview with FI.23 at 14.

unusual for people to spend years in the same cell with the same bunkmate. In these instances, this initial interference with sleep is brief enough not to be especially significant. But it is also not uncommon for people to be frequently transferred between cells, units or institutions, or to have a rotating series of cellmates. For those in this situation, the disruption to sleep from being in close quarters with others neither known nor trusted can be considerable.

In dorm settings, any influx of new people generates an even greater sense of insecurity.³⁰⁷ Because of the open setup, “you had to watch your back”³⁰⁸ because “most people know that when a person is asleep, that’s his most vulnerable time because he can’t see the attack coming. And there have been a lot of guys who have been attacked in their sleep.”³⁰⁹ New arrivals are thus always viewed with suspicion, and people will be hesitant to sleep deeply until they can be sure of their own safety:

You’re sleeping with one eye open and one eye closed because you don’t know who you’re in a dormitory with [I]f a new guy is coming to [the] dorm, everybody’s kind of leery of who this cat is. Everybody’s watching him [to] see how he’s moving, what he’s about. And then it doesn’t happen until you begin to talk to him. You realize, okay, he’s cool. I can go to sleep.³¹⁰

Depending on the character of the dorm, people may never feel secure enough to give in to deep sleep. Or they may band together with trusted associates and sleep in shifts, taking turns to watch over each other to ensure that all is well. I heard of this strategy from two people housed in dorms in two very different jurisdictions, one in the Northeast and one in the South. As one person who did his time in the South described it:

[I]n a dormitory setting, so you have a lot of chaos going on. So you might have four guys [who are] really close. And they’ll be like, “Man, look, we’re gonna go take a nap [so] keep an eye out on things,” [which] means, watch over us. So they do for a certain amount of time. . . . [a]nd then . . . the guys [who were watching] are going to go to sleep, and [the] other guys [will] stay up.³¹¹

The fear of violence also compromises sleep in other ways. In prison, particularly in high-security facilities, people who are perceived as weak are

307. Honor dorms appear to be the notable exception here. See, e.g., Interview with FI.29 at 15–16.

308. Interview with FI.18 at 6.

309. Interview with FI.8 at 31.

310. Interview with FI.35 at 34.

311. Interview with FI.25 at 36.

especially vulnerable to being victimized.³¹² In dorm settings, where people must sleep out in the open, the stress of feeling oneself to be at risk from innumerable potential assailants can make it very hard to sleep. I asked people this question: *Did you ever have trouble sleeping because you felt physically vulnerable or were afraid for your safety?* In response, several told the same story: they had gone into prison young or physically diminutive and were only able to gain a sense of security by showing they could fight. As one person described their experience, “I went into prison at 18 years old, 185 pounds, and a very effeminate male. So . . . I was beaten up pretty badly a couple of times [but then] I learned how to very quickly overcome that by becoming the person that nobody wanted to mess with, whether I could back it up or not.”³¹³ For those who did not manage to build a reputation of this sort, the ongoing sense of vulnerability would make it very hard to sleep.

Then there are the sleep-disrupting effects of knowing that others around you may be targeted for violence. One man I interviewed lived for twelve years in a dorm setting in a Midwestern prison. Although he did not feel himself to be at risk,³¹⁴ he described being assigned a bunk adjacent to that of a “young kid” who was repeatedly sexually assaulted after lights out.³¹⁵ Even if one were not inclined to come to the defense of someone being attacked (and in prison, there are many good reasons not to intervene, including the desire to avoid becoming a target oneself), people need to be able to achieve some measure of physical relaxation in order to sleep. In environments where such violations are possible, the fear of victimization will be a perennially disruptive force, whether the potential victim is you or someone in your vicinity.

For those in two-person cells, even when you know someone well, trust in a cellmate can only ever be provisional. “In a double cell, even if you become friends with a person, there is still that unsurety of safety. So even the heaviest sleeper [is] sleeping with one eye open.”³¹⁶ This is because “no

312. See Sharon Dolovich, *Strategic Segregation in the Modern Prison*, 48 AM. CRIM. L. REV. 1, 15–18 (2011) (describing the gendered power dynamics in men’s prisons, in which “anyone who can be perceived as at all feminine is assigned the subordinate ‘woman’s’ role” and “regarded as available for emasculation,” making people who, for whatever reason, “come[] across as weak and defenseless,” especially vulnerable to victimization).

313. Interview with FI.28 at 28–29.

314. Interview with FI.18 at 32 (explaining that, early in his incarceration, he “had a couple guys that tried to pressure [him] and [he] would fight back, so . . . [he] earned that respect”).

315. *Id.* at 32. During his interview, this subject recounted that one night he intervened to protect his neighbor and that, after that, “especially if I see a young kid get attacked, I had to get involved, every time I had to get involved.” *Id.* at 32, 56. I have no way of knowing whether this account of his response is accurate. It is equally possible that he only wished he had intervened.

316. Interview with FI.7 at 14.

matter how high of a level of trust you may have for somebody inside prison, you don't ever [fully] trust them. So if you hear somebody moving in the middle of the night, you're paying attention, whether it's consciously or subconsciously.”³¹⁷

Although most of the time, most people in prison will not be assaulted while they sleep, the fear of violence, including sexual violence, remains pervasive and never wholly disappears.³¹⁸ Living with such insecurity, in an environment where violence is an ever-present possibility, means that when people sleep, they sleep “light”: “In prison, there is no way in hell you should ever sleep [so] hard that a man can come in the cell and leave and you not know.”³¹⁹

This is especially the case for those who are gang-involved or who have affiliations with groups that may require them to engage in collective violence at a moment’s notice. When people in prison talk about “sleeping with their shoes on,” this is what they mean. For example, in the federal system, your state of origin may dictate who you “run with” and thus on whose behalf you may be expected to fight. As one person who spent years in a federal penitentiary explained, for those in this situation, there is no sleeping until the cell doors lock for the night: “[Y]our homeboys, everybody’s on duty. You gotta keep your boots on and just sit there until the CO says it’s time to go lock the doors.”³²⁰ And in the morning, the moment “the doors pop, you *have* to be awake because somebody might run in the cell [and attack you] because something happened in another unit with somebody from the same state you’re [from].”³²¹ Those committed to this arrangement learn not to let themselves sleep deeply so they can always be ready to act quickly if need be.

Those who lack such commitment but who are nonetheless expected to participate in collective violence can lose sleep for different reasons: the stress of being unsure whether to respond when the moment comes, and the

317. Interview with FI.28 at 31. One subject, a trans woman prisoner who did her time in men’s facilities, described a particular fear related to cellmates. She described how she “was on hormones [and] had breasts, then all of a sudden they would just randomly throw some person in [her] cell who [she didn’t] know”—the implication being that, in addition to everything else, she faced a fear of sexual assault when locked in a cell with a stranger. *See* Interview with FI.28 at 26.

318. Discussing the pervasive fear of sexual assault in prison, noted prison psychologist Craig Haney describes hearing “[o]ver the years” from “countless prisoners . . . that they can ‘feel’ the threat of rape ‘in the air’ around them, or have heard frightening accounts of it having taken place, even if they have not seen it themselves or been directly victimized.” Craig Haney, *The Perversions of Prison: On the Origins of Hypermasculinity and Sexual Violence in Confinement*, 48 AM. CRIM. L. REV. 121, 129 (2011).

319. Interview with FI.6 at 39.

320. Interview with FI.27 at 59.

321. *Id.* at 16.

fear of retaliatory violence if they opt not to join in. One of my interviewees described exactly this conundrum:

I had some friends in gangs. . . . They would get into situations where it's like, "Yo, we're about to move on this dude. . . . [Y]ou a Blood just like we Blood[s] [so] you gotta move with us." And I see my friends sleep uncomfortable. Because it's like, man, I'm going to school. I got something good going on. I'm trying to leave that [and] change my life. But if I don't move with them, . . . I become one of the enemies. There [are] so many different factors . . . to this life in [prison] that sleep is not something that comes by easy.³²²

As this person explained it, given all the stresses of life in prison—including the pressure from the gangs and the dangers people may face if they try to remain unaffiliated—"If you're able to sleep in [prison], you're almost looked at as [an] extra-terrestrial. You must be [an] alien. No seriously, something is wrong with you if you're able to sleep [inside]."³²³

B. TRAUMA

People in prison are exposed to countless traumatic events, whether experiencing them directly or as witnesses to them. In my interviews, people described seeing people stabbed or beaten to death, flayed open, burned alive, or committing violent acts of self-harm. Experiences like these can leave people terrified for their own safety and may also interfere with sleep as people struggle to process psychologically and emotionally what they have witnessed. Not everyone has this reaction to witnessing senseless violence; many reported becoming inured to the brutality around them. This desensitization may serve a protective function, allowing people to survive impossible circumstances—and perhaps to sleep a little more easily. At the same time, it reveals a core mechanism by which the carceral experience alienates people from their own humanity.

Judging from my interviews, the experience of trauma further compromises the quality and quantity of sleep that people get inside. This dynamic, moreover, is self-reinforcing, as those who sleep poorly after traumatic experiences appear to be more likely to develop post-traumatic stress disorder ("PTSD") and other mental health conditions³²⁴—conditions

322. Interview with FI.14 at 28.

323. *Id.*

324. Anne Germain, *Sleep Disturbances as the Hallmark of PTSD: Where Are We Now?*, 170 AM. J. PSYCHIATRY 372, 376–77 (2013) ("To date, published studies have consistently demonstrated that poor sleep and nightmares occurring soon after trauma exposure predict the onset and persistence of PTSD and other stress-related disorders, including other anxiety disorders, major depression, and addictive disorders." (footnotes omitted)).

that, among other unwelcome effects, may in turn impede sleep. True, poor sleep is a diagnostic component of many mental health disorders,³²⁵ sometimes raising the question of which came first. But in the case of PTSD, the evidence suggests that sleep disruption itself—in particular, disrupted REM sleep—may provoke the development of PTSD following trauma exposure.³²⁶ This possibility is especially concerning given that both persistent trauma exposure and systematically disrupted sleep are hallmark features of the prison experience.

In my interviews, I heard countless stories from people who witnessed deeply disturbing events while incarcerated. These included seeing “somebody get beat to the point where they’re laying in a puddle of blood and they have to be carried away because they can’t walk”,³²⁷ seeing “a kid get slammed on his neck and, then you see him getting a white sheet over his body and he’s getting carted off the unit. Or somebody leaking, somebody’s white T-shirt is now red”,³²⁸ seeing “one man that was literally cut open from the bottom of his chin to the top of his hips, cut and flayed wide open because they were looking for something they assume that he had swallowed”,³²⁹ and seeing “another guy running down the tier with his eyeball bouncing off of his cheek.”³³⁰ At some point, trying to process the weight of all these accounts, I began asking some version of this question: *Did you ever find it hard to sleep because you were traumatized by things that you had seen?*

For those who responded in the affirmative, the answers suggested two ways that witnessing traumatic events can interfere with sleep. First, there was the sleep-disrupting effect of the fear engendered by exposure to terrible violence. Seeing the awful things that happened to others made it hard to sleep, “knowing that any given time somebody can choose me as their

325. See Ruth M. Benca, William H. Obermeyer, Ronald A. Thisted & J. Christian Gillin, *Sleep and Psychiatric Disorders: A Meta-Analysis*, 49 ARCH. GEN. PSYCHIATRY 651, 651 (1992) (“It has long been recognized that abnormal sleep patterns are prominent in virtually all major psychiatric disorders [and] a significant percentage of individuals with subjective sleep complaints have primary psychiatric disorders.”).

326. See Matthew P. Walker & Els van der Helm, *Overnight Therapy? The Role of Sleep in Emotional Brain Processing*, 135 PSYCH. BULL. 731, 740 (2009) (“Subjective and objective sleep disturbances occurring early after trauma exposure, as well as heightened sympathovagal tone during REM sleep, are associated with an increased risk of meeting criteria for PTSD at subsequent assessments conducted up to 1 year later.”); see also Thomas A. Mellman & Maria Mananita S. Hipolito, *Sleep Disturbances in the Aftermath of Trauma and Posttraumatic Stress Disorder*, 11 CNS SPECTR. 611, 612 (2006) (finding it “likely that disturbed sleep contributes to the development and maintenance of PTSD and healthy sleep facilitates the resolution of traumatic distress”).

327. Interview with FI.14 at 32.

328. Interview with FI.16 at 28.

329. Interview with FI.28 at 29.

330. *Id.* This is just a small sample of the violent incidents I heard about in my interviews.

victim.”³³¹ This effect is of a piece with the fear of violence previously explored. But there was also a second theme that emerged in the answers: the sleep-disruptive effects of the psychological or emotional processing triggered by exposure to trauma, as when “you just keep seeing that same image over and over and over.”³³² One person, recounting a particularly vivid and distressing event, effectively captured how the brain’s need to process can make it hard to sleep:

[S]ee[ing] guys have . . . padlocks put on their doors, flammables thrown in on [them], and one guy had been burnt alive. I witnessed this man, that’s gone from someone 6’1”, 6’2” . . . [to] not even eighteen inches long, you know, charcoal, just burnt alive. . . . [W]hen you’re seeing all of these things . . . [s]leep is hard. . . . [Y]ou’re trying to sleep, but you have all these things going on in your head, and any little sound that you hear, you[’re] coming out of this sleep.³³³

Not everyone connected the trauma they experienced to difficulty sleeping. But it is hard to imagine that the quality of one’s sleep would remain unaffected in an environment where such exposure is common.

At the same time, many people reported that the distressing things they saw while they were in prison did not affect their ability to sleep. Over time, they instead became inured to the violence and abuse to which they were exposed:

[While in prison] I saw a lot of violence. But it became, when you see it, you just see and you don’t see, you just sort of get out of the way . . . [and] you keep it moving. Prison teaches you to literally stay in your lane. . . . If it doesn’t affect you, oh well.³³⁴

Whatever the example may be—seeing somebody cut, seeing somebody stabbed, seeing an officer beat on somebody, break their arm, or whatever it may be, you get so desensitized that this is natural.³³⁵

Eventually you get numb to all the stuff that happens.³³⁶

It may be that these individuals remained genuinely unaffected emotionally by what they saw and experienced. But the terms they used to describe their state of mind, which included becoming “numb” and “desensitized,” suggested their recognition of the defense mechanisms they were relying on to get through. To experience a state of equanimity in such

331. Interview with FI.14 at 32.

332. Interview with FI.16 at 28.

333. Interview with FI.41 at 10–11 (emphasis added).

334. Interview with FI.6 at 38–39.

335. Interview with FI.7 at 55.

336. Interview with FI.19 at 34.

a traumatizing environment, the level of denial would have to be considerable. If one's sleep is thereby protected, it may also indicate an alienation from one's own moral core, a feature of prison's dehumanizing effect that carries its own psychic and emotional costs.

C. POVERTY

Having money in prison does not guarantee a good night's sleep. But it helps. There are innumerable items that those with money can procure, many directly from the commissary, that may enhance sleep inside: fans to drown out noise, extra clothes for cold nights, high-quality eye masks, softer sheets, and warmer blankets, not to mention sleep-inducing drugs available on the prison's black market. And those with money can stock up on commissary items, ensuring they will not go to bed hungry. We have already seen that people who lack family support or are otherwise unable to earn what they need may opt to engage in survival strategies that put them in danger, including stealing, gambling, or selling sex or drugs. The official practice of paying incarcerated workers nominal wages—in those jurisdictions that pay them at all—can leave the least well-off people in prison forced to choose between forgoing items that might improve sleep or adopting strategies that could put them at risk of serious physical or sexual harm.

Most people enter prison without financial means.³³⁷ Although most institutions require prisoners to work, the hourly wage—when paid at all³³⁸—is a pittance: on average, between \$0.14 and \$0.63 an hour.³³⁹ Depending on the prison, some people may secure positions with the private industries that operate behind the walls. But even in such cases, although the hourly wage may be considerably higher than the standard prison wage, it will remain far lower than the federal minimum wage³⁴⁰—typically

337. See, e.g., ADAM LOONEY & NICHOLAS TURNER, THE BROOKINGS INST., WORK AND OPPORTUNITY BEFORE AND AFTER INCARCERATION 7–8, 13 (2018), https://www.brookings.edu/wp-content/uploads/2018/03/es_20180314_looneyincarceration_final.pdf [<https://perma.cc/MB2L-WC22>] (finding that average earnings among those who worked in the two years prior to their incarceration was \$12,780 and that 40–50% of the prison population, across almost all states, grew up in families in the bottom quintile of the income distribution); LAUREN G. BEATTY & TRACY L. SNELL, U.S. DEP'T OF JUST., NCJ 255037, PROFILE OF PRISON INMATES, 2016, at 6 tbl. 2, 19 tbl. 12 (2021), <https://bjs.ojp.gov/content/pub/pdf/ppi16.pdf> [<https://perma.cc/HPK3-LGN7>] (reporting that 61.7% of incarcerated persons reported having less than a high school degree, 6.3% reported being homeless in the thirty days before arrest, and 13.5% reported homelessness in the year before arrest).

338. Several states pay incarcerated workers nothing. See Sawyer, *supra* note 147 (listing Alabama, Arkansas, Georgia, Mississippi, South Carolina, and Texas as paying incarcerated workers no hourly wage at all, and Florida as paying no wages for at least some positions).

339. See Sawyer, *supra* note 147.

340. See Fair Labor Standards Act, 29 U.S.C. § 206(a)(1)(C) (setting the federal minimum wage at \$7.25 an hour).

somewhere between \$0.33 and \$1.41 an hour.³⁴¹ Some fortunate few can make even more: one person I spoke to trained call center agents for a private company. He reported making \$285 per month (roughly \$1.80 an hour), in contrast to the kitchen workers in his facility, who made around \$30 per month (roughly \$0.19 an hour).³⁴² But these relatively well-paid opportunities are rare,³⁴³ and as we have seen,³⁴⁴ if people are to have access to money while in prison, they must either get it from loved ones outside³⁴⁵ or find off-the-books ways to earn it.

Although everyone in prison, regardless of financial status, faces serious obstacles to getting adequate sleep, access to money can help improve one's odds. Many people mentioned buying fans from the commissary, "the whole point [of which is] to drown out the noise from the tier."³⁴⁶ As one person explained, echoing an experience shared by many, "I could not sleep without my fan. I pretty much set it up right by my head . . . to help drown out the other ambient noise . . . outside the cell."³⁴⁷ But fans that do the trick do not come cheap in prison—the most durable of them can cost up to \$40.³⁴⁸ Given the extremely low wages paid to incarcerated workers, a fan could cost almost a month's earnings.³⁴⁹ And if a person still chooses to

341. See Sawyer, *supra* note 147.

342. Interview with FI.29 at 27.

343. Even when paid work is available, it is not open to everyone. Some people, most notably those with disabilities, may be unable to work at all.

344. See *supra* Section III.B.

345. Even for those family members on the outside who are well-resourced, supporting someone doing a long bid is an expensive proposition. *See, e.g.*, Interview with FI.9 at 17 ("I had help coming from outside, . . . probably . . . a couple hundred bucks a month coming from family. Add that up over six years, it's a lot of money.").

346. Interview with FI.19 at 15.

347. Interview with FI.3 at 9.

348. See Weill-Greenberg & Corey, *supra* note 146 (finding, in an analysis of prison commissary pricing, that in "Delaware, an 8-inch fan at Sussex Correctional Institution cost almost \$40," in "Georgia, where most prison labor is unpaid, a 10-inch electric fan was marked up more than 25 percent and cost about \$32," and in "Mississippi, an 8-inch fan was sold for \$29.95"). At the same time, according to Ethan Corey, co-author of the study *Locked in, Priced out*, an "investigation into prison commissary prices across the country" published by *The Appeal* in 2024, found that "many prison systems do not make electric fans available for sale in their commissaries." Email from Ethan Corey, *supra* note 211. When Corey analyzed the data collected by *The Appeal* for their report, he found that "[o]f the 46 states that responded to [their] records requests, only 30 offered electric fans for sale. The omissions included several states lacking air-conditioning in most or all facilities, despite being in areas that experience extreme heat during the summer (e.g., Arkansas, Maryland, and Florida)." *Id.* For a compilation of air-conditioning and heat mitigation policies by state, see Elizabeth Weill-Greenberg, *As Climate Change Worsens, Deadly Prison Heat Is Increasingly an Everywhere Problem*, THE APPEAL (Aug. 29, 2024), <https://theappeal.org/prison-heat-deaths-climate-change> [<https://perma.cc/YS4E-QVC6>].

349. See Weill-Greenberg & Corey, *supra* note 146 (reporting that "Indiana prisons charged about \$33 for an 8-inch fan, even though a similar item sells online for about \$23 at Lowe's," and noting that

buy one—which they well might, if it means the difference between sleeping and not sleeping—they would have little left over for other necessities like food or basic hygiene products.³⁵⁰

Money, or the lack thereof, impacts sleep in other ways. Those with resources to spare can buy extra clothes—sweatshirts, warm socks, etc.—to help keep themselves warm on cold nights.³⁵¹ They can buy softer sheets³⁵² and warmer blankets. They can buy marijuana, heroin, Seroquel, or other sleep-inducing substances on the prison’s black market,³⁵³ as several of my interviewees reported doing.³⁵⁴ If they are not themselves skilled with a needle, they can pay someone to make them a top-shelf eye mask.³⁵⁵ They can buy a second fan to cool their bodies on hot nights. And if they use a CPAP machine, assuming power strips are allowed, they can buy one³⁵⁶ to guarantee themselves access to a plug without risking getting into a fight over control of the wall sockets with a cellmate or others in the dorm. These advantages may seem minor. But for people in prison, they may mean the difference between eking out a few solid hours of sleep or being consigned to sleepwalking through another day.

Still, when it comes to being able to sleep, the primary reason to want money or its equivalent is to ensure you have ready access to food. As we have seen, “if you don’t have the money, you can’t eat, and . . . you can’t

prisoners in Indiana “can earn as little as 30 cents an hour, meaning it could take more than 100 hours of work to afford the fan”).

350. Unless they had friends who would feed them and share soap, shampoo, and other necessities, this situation would leave them both hungry and feeling dirty and unclean—two conditions that can make it hard to fall asleep.

351. Of the 46 state DOC commissary lists analyzed by the authors of the report *Locked in, Priced out*, only “13 states offer[ed] extra blankets for sale in their commissary.” Email from Ethan Corey, *supra* note 211. But where they are available, they are expensive. In Indiana prisons, “thermal blankets [sell] for about \$13 [and] [i]n Oklahoma [prisons], a blanket can cost as much as \$50.57 (2023 prices).” *Id.*

352. *See* Interview with FI.7 at 44 (“[I]f you can afford to purchase them or if your family sends you—you are allowed to have two personal sets of sheets other than the allotted.”).

353. People would also barter for prescription drugs. *See, e.g.*, Interview with FI.29 at 26. (“I do know a lot of guys that would trade medication for certain types of pills that would allow them to sleep.”).

354. *See, e.g.*, Interview with FI.33 at 48 (marijuana); Interview with FI.5 at 11 (heroin); Interview with FI.23 at 30 (marijuana, heroin); Interview with FI.35 at 31(heroin, Seroquel).

355. *See* Email from Ethan Corey, *supra* note 211 (“[M]ost states do not offer sleep masks/eye masks for sale in their commissaries. Only 6 of the 46 states that responded had eye masks on offer. Prices ranged from \$0.94 to \$6.45.”).

356. *See, e.g.*, Interview with FI.16 at 9 (“[How do you get a power strip? Do you get them from the commissary?] “Yeah, you’ve got to buy them, they’re like [exaggerating to make the point] \$8000 for four little plugs.”).

sleep if you're hungry.”³⁵⁷ As one person explained, if he didn't have much money on his books,

I might not have been able to buy as much canteen [as I needed], so I would go through it. . . . When you're hungry it's hard to budget it and make it through. Like one night . . . I'm trying to go to sleep and I'd be hungry so that I would go in and eat some [food items that had been] budgeted for later on [in] the week. But I just I had to eat it then. . . . Eventually, though, when I started getting more money, [hunger interfering with sleep] wasn't a factor.³⁵⁸

The lengths to which people will go to get money for food are a testament to the urgency of the need. One person I spoke to, who had no family support, “started gambling and stealing while [she] was in there to provide for [herself],” because “[o]nce you[’re] full, you can sleep better.”³⁵⁹ It is hard to overstate the desperation that would drive a person in prison to engage in either of these strategies. Someone caught stealing may earn a violent reprisal from the victim of the theft.³⁶⁰ And gambling is equally risky. It is a sure-fire way to get into debt, and in prison, the penalty for nonpayment of debts is often physical violence or forced sexual servitude.³⁶¹

Another risky, last-resort strategy is “two-for-one,” the prison loan-sharking practice whereby someone with a load of commissary will provide you with something you want—say, a candy bar, a bag of chips, or a soup. The catch is that, when the next day for canteen rolls around, you have to pay back double what you borrowed—two candy bars, two bags of chips, or two soups. If you can’t, the quantity owed doubles again. This is another way people in prison can get into debt, which, again, can result in violence or pressure for sex. “[Y]ou have dudes who are wealthier than others who max out every canteen . . . , and they sell stuff to guys. ‘Well I’ll give you one for two back.’ ”³⁶² Or “[t]hey won’t tell you it’s two-for-one. [T]hey’ll say, ‘Here’s a box of [cookies].’ Then . . . [the] next week you owe double, . . . they’d say, ‘[W]ell, we could exchange it for sexual favors.’ ”

357. Interview with FI.20 at 32.

358. Interview with FI.3 at 33.

359. Interview with FI.20 at 20.

360. In prison, there is enormous pressure on victims of theft to respond with violence, else they convey the impression that they are an easy mark, inviting further victimization. See Sharon Dolovich, *Two Models of the Prison: Accidental Humanity and Hypermasculinity in the L.A. County Jail*, 102 J. CRIM. L. & CRIMINOLOGY 965, 1041 n.310 (2012) (explaining that, in prison, “any show of disrespect that is not answered with force can make a person look weak and tempt others to test him with ever more extreme shows of disrespect,” and that therefore “any show of disrespect, however minor, is treated very seriously and will frequently be met with violence”).

361. See *id.* at 984–85 & 984 n.71.

362. Interview with FI.14 at 24.

That's how they were trapping these young kids coming in.”³⁶³ According to my interviews, the desire to avoid going to sleep hungry is a major reason why people risk putting themselves in this position. Note that at least some of this felt pressure to access commissary, which can drive people to act in ways that could put them in serious danger, would be alleviated if prisons simply made decent food available to everyone in the evenings before lights-out.

These dynamics mean that those without money—the prison’s poorest, who lack outside support or the ability to accrue funds while inside—experience appreciably worse conditions than those with means. To some, this situation may seem unproblematic, just how the world is. But as the example of sleep makes clear, what is at stake is not simply differential access to luxury items. Sleep is a basic human need, and insufficient sleep causes considerable harm to physiological, psychological, emotional, and cognitive health. To the extent that poverty leaves some people less able to mitigate the sleep-disrupting aspects of the prison environment, poor people are experiencing a harsher, more destructive punishment than that experienced by those with access to funds.

D. OVERLY INTRUSIVE RULES ENFORCEMENT

In prison, virtually every aspect of a person’s life is governed by rules enforced by COs. Many of the strategies people adopt to try to improve the quality of their sleep run afoul of these rules. This situation leaves people forced to choose between breaking the rules—and possibly getting written up, but perhaps eking out slightly improved sleep—or following the rules and forgoing small comforts (an extra mattress, a light cover, some food held back from a tray to eat before lights out) that might help them sleep. The stress involved in making this choice itself compromises sleep, especially for those who opt to roll the dice and break the rules. Compounding the problem is the fact that penalties for minor rule violations of the sort at issue here often include loss of commissary or yard privileges, thus depriving people of access to food and exercise—two pathways for improved sleep available to those in prison.

Pretty much every aspect of a prisoner’s life is governed by rules.³⁶⁴ Enforcement authority belongs to line officers, who, when they witness a rules violation, may issue a ticket (also known as a “shot”). The most extreme violations, which generally involve physical violence, may earn the

363. Interview with FI.18 at 28.

364. See KITTY CALAVITA & VALERIE JENNESS, APPEALING TO JUSTICE: PRISONER GRIEVANCES, RIGHTS, AND CARCERAL LOGIC 73 (2015) (explaining that, in prison, regulation “governs every aspect of [prisoners’] behavior and scrupulously rations the goods that supply their daily needs”).

perpetrator delayed release and even additional charges. In cases involving less serious offenses, penalties are less severe but still deeply undesirable. They may include time in ad seg, lockdown in one's own cell, or temporary loss of yard time, commissary, phone privileges, or even shower access. As with law enforcement on the outside, COs have considerable discretion when enforcing prison regulations. As one person put it, discussing light covers, “[M]aybe when you go to sleep at night, the CO doesn’t care [so] they let you do it. But then the next shift comes on, and then they’ll bang on the door, [and] you’ll take that down.”³⁶⁵ If the violation involves possession of contraband—which generally means any item not directly issued by the prison or purchased directly from the commissary—a CO may choose only to confiscate the offending item, or they may confiscate it and issue a write-up, potentially exposing the offender to some form of penalty.

Many rules enforced through this system serve valid institutional purposes; few people would quarrel with prison prohibitions on physical violence or the distribution of narcotics. But innumerable other “chickenshit rules” penalize conduct that is less obviously necessary to maintaining institutional order.³⁶⁶ As Irwin has observed, “[M]any of [the facility’s] rules intrude into prisoners’ ordinary practices and significantly interfere with their attempts to carry on their already excessively reduced life routines.”³⁶⁷ In other words, people inside may find themselves at risk of punishment simply for trying to make intolerable conditions slightly more bearable.

This effect is certainly evident in the context of sleep. One person I spoke to clearly captured this dilemma. As he explained, “[I]f the light was right in front of my window, I would cover it up. And then that’s usually when the CO would bang on the window, . . . but then I would just take it down and put it right back up. . . . I was basically being forced to break the rules to be able to sleep.”³⁶⁸ The use of light covers is only one example of a

365. Interview with FI.3 at 18–19.

366. IRWIN, *supra* note 298, at 161–62.

367. *Id.* at 161.

368. Interview with FI.30 at 25.

standard strategy for improving sleep that violates prison rules and can expose people to sanctions should they get caught.³⁶⁹ Among other things, it is generally against the rules to:

- Drape a sheet from the top bunk to curtain off one's bottom bunk (a.k.a. make a "tent"),³⁷⁰
- Cover the vents³⁷¹ or windows,³⁷²
- Shower outside designated hours (especially on cellblocks);³⁷³
- Possess an extra mattress;³⁷⁴
- Possess an extra blanket or sheet;³⁷⁵
- Destroy state property (including the shorts, T-shirts, or stuffing from mattresses or pillows used for making eye masks);³⁷⁶
- Remove food from the dining hall;³⁷⁷

369. It was an altercation over a refusal to remove a light cover that sparked the use of force at issue in *Kingsley v. Hendrickson*, in which the Supreme Court established "objective unreasonableness" as the standard governing Fourteenth Amendment excessive force claims arising from jail. *See Kingsley v. Hendrickson*, 576 U.S. 389, 396–97 (2015). For a detailed analysis of the *Kingsley* facts, see Dolovich, *Excessive Force in Prison*, *supra* note 80, at 439–44.

370. Interview with AH FI.12 at 24 ("[E]ven if you were on the lower bunk, you couldn't do anything to deliberately block the light because . . . guards would claim that you were blocking their view of seeing you.").

371. Interview with FI.30 at 26–27 (explaining that in his facility, the wind coming out of the vents was "like a tornado" and as loud as "a jet engine. . . . It literally would blow stuff off the shelf on the other side of the cell," so everyone would cover the vents with plastic bags, but if you got caught, it was a "mandatory . . . rule violation report").

372. Interview with FI.9 at 15 (explaining that, in one facility he was in, "in January and February, the windows were literally stuck open. And it was against the rules to stuff blankets or towels in the windows. . . . [The] window closing mechanism was broken. . . . so it was freezing in there all the time").

373. *See infra* note 392.

374. Interview with FI.21 at 18 ("Oh my god, you'd be in solitary for evermore if you had [an extra mattress] because you'd have had to st[eal] [it] from somebody—there wouldn't have been a place to get one.").

375. Interview with AH FI.1 at 7–8 ("They always had the air conditioning super high[;] it was always cold. And we're only allowed to have like two blankets. So . . . we would steal or try to hide extra blankets just because it got so cold. [And what would happen if you got caught with an extra blanket?] You could get written up and get privileges taken away.").

376. Interview with FI.5 at 21 (explaining that, during periods of intense heat, "you'd be sweating . . . so most people . . . would wrap their mattress with a blanket, or sheet [to] . . . separate [them] from the heat of the plastic on the mattress. But [some people] would just tear the cover off and sleep on the foam itself. But . . . [the COs] would write you up for that and nobody wants to get charged for destruction of state property").

377. Interview with FI.27 at 46 ("You're not supposed to . . . bring the food out [of the chow hall]. Sometimes, you're gonna get caught."); Interview with FI.38 at 41 ("I'd smuggle out the sugar from

- Store food from the dining hall in one's cell;
- Hold back food from trays.

Rules thus prohibit precisely the strategies that many people use to try to improve the quality and quantity of their sleep in the face of excessive light, excessive heat or cold, uncomfortable beds or inadequate bedding, and insufficient food. To compound the problem, the penalties for such violations may include loss of commissary privileges and loss of yard time. Yet, as we have seen, without access to food, people will often be forced to go to bed hungry, a state that considerably impedes sleep. And for many people, vigorous exercise is a way to "exhaust themselves, [so it's] that much easier to go to sleep at night."³⁷⁸ Without access to the yard, this strategy is more difficult to operationalize, and sleep becomes that much harder.³⁷⁹

The perverse structure of this arrangement tells us everything we need to know about the moral orientation of the carceral system toward those inside. First, the prison operates in innumerable ways to undermine prisoners' ability to sleep. Then, COs police the housing units to ferret out any items beyond each person's allotment—items they may have expended considerable effort to assemble to try to improve their sleeping environment and perhaps increase their chances of getting a little more sleep. These items are then confiscated, a move that strips the possessor of the benefits, however slight, the seized items may have offered. COs are then empowered to impose penalties likely only to compromise still further a person's ability to sleep. It is tempting to call this system Kafkaesque, except that, for Kafka, the bureaucracies that outrage and dehumanize are so infuriating in part because their procedures have no moral valence and are simply manifesting their own internal imperatives. In the prison, the cruelty of the process just sketched is of a piece with the callous indifference with which the institution and its COs seem to regard the daily hardships faced by those in their custody.

For those on the receiving end, COs' interference with their efforts to improve the sleep they get may seem spiteful and even sadistic. And in some instances, this impression may be apt. It does, however, bear noting that COs' decisions as to how to exercise their considerable discretion vis-à-vis rule violations may also be shaped to some degree by the institutions' own

breakfast—which is against the rules too, right? You could get in trouble, that's smuggling—so I could have a sweet bread at night. And I'd wait as late as possible, like 9:00, 10:00, 11:00 when I was gonna go to sleep and then just put bread and sugar and eat it.").

378. Interview with FI.1 at 33.

379. Interview with FI.8 at 7 (explaining that, to improve his chances of sleeping at night, he would "work all day, then come back and jog or play basketball . . . [to try to] wear [him]self out").

pathological impact on the COs themselves—including, ironically, the chronic sleep deprivation that is a standard comorbidity experienced by those in the role.³⁸⁰ When COs are sleep deprived—a condition almost certainly exacerbated by the host of other comorbidities to which COs are disproportionately prone, including depression, alcohol overuse, PTSD, and suicidality³⁸¹—they become less able to treat the incarcerated with consideration and sympathy.³⁸² To the extent that prisoners' sleep is compromised by exposure to rules unevenly and unpredictably enforced by people who at times seem incapable of basic human sympathy and understanding, the resulting frustration may be less a product of individual spite than the broader operational logic of a system that is blind to the humanity of all parties, incarcerated and COs alike.

Yet however incapacitated COs may be by the hours they must keep and the conditions in which they work, it is the prisoners who are forced to daily navigate a challenging context in which any efforts they make to alleviate conditions of extreme discomfort are liable at any moment to be nixed by those COs who for whatever reason are not inclined to look the other way.³⁸³ As a consequence, not only do people in prison expend considerable energy strategizing how they might improve their sleeping environment, but a good part of this effort turns out to involve a constant process of weighing the benefit to be gained from a rules violation against the odds of getting caught and incurring a penalty. As I wrote in my field notes after one interview, “even if you weren’t going to get written up, even if the staff weren’t going to give you a ticket for an extra blanket or an extra mattress or whatever, there’s always the stress of knowing they could do it.”³⁸⁴ In this situation, “you were always trading the ability to be slightly more relaxed and not able to sleep”—because, in a bid to reduce stress, you

380. See Dolovich, “Forever Tired,” *supra* note 13.

381. See *id.*; Sharon Dolovich, *No Walking Away: How Paying Attention to Correctional Officers Will Help Us Understand the Harms American Incarceration Causes*, MARQ. LAW. 24 (Fall 2025) (this article is an edited text of the George Barrook Lecture in Criminal Law).

382. As one officer I interviewed put it, when COs are tired from lack of sleep, “Your attention span gets shorter, your fuse gets shorter, [as does] your ability to accept the fact that that they’re a person trying to live their life in there. And you don’t care . . .,” because in the moment, all you can see is that “they’re the inmate, you’re the CO, [and] they [must] do what you tell them to do.” Interview with CO.25 at 19.

383. In interviews undertaken with COs as part of this study, I asked some version of this question: *Are COs more likely to write people up because they are tired from lack of sleep?* Some said yes, “because they don’t want to deal with the inmates so the fastest way to get them off the housing unit is to write them up [and] send them to [seg].” Interview with CO.1 at 50. Others said no, because writing people up “involves paperwork,” and “it’s going to take up more time [to do that] than if they just let them go.” Interview with CO.12 at 31.

384. Interview with FI.19 at 1 (field notes). It was only after I had stopped recording that this individual raised the issue about the nature of rules enforcement and what it meant for sleep. For the procedure I followed in instances of this sort, see Appendix A.

opted not to avail yourself of the strategies that might help make sleep possible—against “put[ting] yourself in a position where you were stressed about whether you were going to get into trouble just to improve [your] sleep a little bit.”³⁸⁵

The stress this situation occasions can be both considerable and relentless. For example, as one interviewee reported, there were days when, as frequently happens, the people on his tier were not able to shower:

And you don’t want to go to sleep sweaty and dirty [because] that really impedes the ability to sleep. [So] you would have to find a way to sneak out of your cell to get a shower just so you would be able to sleep. So how would you do that? Well, if there was a time when tier 1 was supposed to be on the floor and the mezzanine, [and] tier 2 is supposed to be in their cells, you might sneak out of your cell even when you were supposed to be in it. Or you would try to get them to open your cell door for some reason and then grab a shower.

In other words, “it was hard to sleep when you weren’t clean and [there was] also stress involved in trying to get a shower when there is no time available for you to do it.”³⁸⁶

Note that the goals driving this stressful negotiation of prison rules—sleeping, eating, keeping warm, showering—are at once basic requisites of human functioning and integral to maintaining one’s own humanity and sense of self. And, of course, the frustration occasioned by the enforcement of what are widely experienced as petty rules is also likely to interfere with the ability to get restful sleep.

E. DAILY HUMILIATIONS

Every day, people in prison receive multiple reminders that the system regards them as undeserving of consideration and respect. At night, as we have seen, staff members conduct count and security rounds often without seeming to care whether they wake up the people sleeping around them. And similar demonstrations of callous disregard persist all day long: the incarcerated find their health problems minimized, their reasonable requests peremptorily denied, and their valid grievances ignored by prison officials at all levels. These routine humiliations understandably leave people frustrated, humiliated, resentful, and outraged. These feelings do not simply dissipate once an interaction is over. They persist and fester, making it even harder for people already coping with countless sleep-impeding obstacles to fall or stay asleep at night.

385. *Id.*

386. *Id.*

On a daily basis, people in prison are treated in myriad ways as if they are morally worthless. One manifestation of this attitude recurs nightly, when many COs appear to make no effort to do their rounds quietly. Instead, many behave as if the beds around them are empty, as if they are not surrounded by human beings who are trying to sleep—as if, as one person put it, “[T]hey don’t see you [or] your head right by the pillow that [they]’re standing next to.”³⁸⁷

Nighttime noise by staff doing rounds wakes people up, thereby directly interfering with prisoners’ sleep. But there is a second, more subtle sleep-disrupting effect of this intrusive conduct: it forces the incarcerated to perpetually confront the disdain in which they are held, an experience that can spark feelings of helplessness, frustration, and rage that themselves impede sleep. Imagine how hard it would be to fall asleep if, every night, thoughts like these were swirling around in your head:

So on top of already fighting to get some type of sleep, those little couple of hours that you may get, then it’s interrupted by [the COs] . . . [A] lot of them . . . have no type of empathy at all. . . . [Y]ou’re asleep [and] they don’t care. You’re an animal. This is the[ir] house [so] you got to do what they say, when they say, how they say.³⁸⁸

[F]rom the officer’s perspective, they were . . . told like, “[H]ey, look, your job, and the way this job is supposed to be done, is more important than any of these inmates’ sleep.” W]e were . . . pieces of trash. We were manipulators, and we weren’t to be trusted so who cared what we thought and . . . that’s what [we] get for being in prison.³⁸⁹

It’s a power issue. You ask them to keep it down or something like that, they’re gonna look at you like, . . . ‘[W]ho the hell are you? Yeah. Right.’ And they’ll spite you [by being] even louder. . . .³⁹⁰

As one person I spoke to observed, “[S]leep is more than just laying down and resting your body. [To] sleep, your mind needs rest as well—being able to actually go to sleep and not have to worry about anything, [to] just be comfortable in that moment and let your body and . . . mind rest.”³⁹¹ Far from promoting a restful mind, daily humiliation seems far more likely to

387. Interview with FI.16 at 32.

388. Interview with FI.14 at 49.

389. Interview with FI.5 at 15–16.

390. Interview with FI.22 at 13.

391. Interview with FI.14 at 10.

achieve the opposite. Compounding this effect is the way those in this position must swallow these feelings—however justified—because to express them would be to court retaliation that among other hardships would only guarantee still further sleep disruption.³⁹²

The ethos of contempt and callous disregard reflected in the behavior of many COs on the night shift also manifests in multiple ways during the day. Staff ignore the needs of those in their custody, refuse their reasonable requests, and target them for abusive treatment, whether out of malevolence, caprice, or poor judgment sparked by their own intense sleep deprivation.³⁹³ Medical personnel dismiss prisoners' symptoms, deny requests for x-rays or specialist access, and pass them off with ibuprofen and pamphlets. Access to loved ones, both by phone and in person, is highly restricted, often for no reason other than official caprice. Life is constantly governed by "chickenshit rules," which can seem designed more to demean than to address genuine institutional needs.³⁹⁴ Grievance procedures are generally byzantine, and complaints, however meritorious, are almost always denied.³⁹⁵ When disciplinary infractions require a hearing, these hearings often feel like shams, with those officials serving as adjudicators virtually always siding with the CO who wrote the ticket.³⁹⁶

392. Even in low-security prisons, to get on the wrong side of staff is to risk retaliation. This might play out as a CO refusing to move you to a bottom bunk or "mak[ing] sure that you never got called in the morning [for programs or visits]." Interview with AH FI.2 at 30. Or, if you worked as a porter responsible for cleaning a given area, "nine times out of ten, they're not real picky about . . . the way things are, but if they don't like you, suddenly you're cleaning for hours on end." *Id.* at 30.

393. See Dolovich, "Forever Tired," *supra* note 13 (exploring the causes of sleep deprivation among COs). In future work, I will further explore the implications for the operation of the prison of the fact that everyone in prison—incarcerated and CO alike—is sleep deprived.

394. See IRWIN, *supra* note 298, at 161–62.

395. In one landmark study of prison grievances in California, the authors found that, of the grievances in their data set, only 0.2% were granted in full, and 4.7% were granted "in part," with many of the so-called partial grants being "more symbolic than real." CALAVITA & JENNESS, *supra* note 364, at 44–45. For example, a person who alleged that the treatment he received amounted to "racial/cultural discrimination" was said to have received a "partial grant" because the reviewing officer acknowledged that "staff will not discriminate against prisoners regardless of race, ethnicity, or culture." *Id.* at 45 ("Summing up the symbolic nature of partial grants, [one senior reviewing official] told us, 'Almost every partial grant is pro forma.'").

396. See *id.* at 45, 118 (quoting Dave Manning, an official with the California Office of Internal Affairs, who acknowledged that he "believe[s] staff over inmates. Always. Always. Always."). Even the Supreme Court has recognized the conflict of interest that compromises the fairness of internal prison disciplinary hearings. In Cleavinger v. Saxner, 474 U.S. 193, 193 (1985), presiding members of a federal prison's disciplinary committee were sued for violations of due process. In defense, they asserted a right to the absolute immunity generally afforded those state actors who serve an adjudicatory function. *Id.* The Court rejected this argument, finding the suggestion that members of the committee were "independent" in the way due process requires "to ignore reality." *Id.* at 203. Rather, the Court noted, hearing officers are

The relentlessness of these humiliations can take a deep emotional toll, leaving people feeling frustrated, resentful, disrespected, and outraged. Such feelings are not conducive to sleep, to say the least. In my interviews, I asked people what they thought would have to change to enable people in prison to get adequate sleep. Multiple people spoke about the dehumanizing treatment that they experienced daily, the constant reminders of their own powerlessness, and the pleasure staff seemed to take in ignoring their needs. One interviewee described what this treatment looks like in real time:

[For example,] I gotta go to school. Now I gotta ring the doorbell on the cell one thousand times for this individual to let me out. When you coming back from school [you might] want to use the restroom, but the officer got me out here waiting forty-five minutes. When we're going to yard, we[']re delay[ed] forty minutes and now when we get to the yard, instead of getting an hour and a half, we get thirty minutes in the yard. . . . It's just little components of them treating us like [we]’re not human beings.³⁹⁷

Or consider this account of a cell search:

When [COs] come in to search your cell, they don't just nicely pick things up and put them back down. It looks like a hurricane ran through your room. They literally flip your bed over, your pillow is on the ground, your sheets are on the ground, your stuff gets mixed in with your bunkie's stuff. Your clothes are all over the floor, your food's mixed everywhere. Some [COs] will take the jelly and just squeeze it on your bed for no reason. . . . [T]hey come in and they destroy. That's what they do.³⁹⁸

When this is your daily experience, when nighttime rolls around, the state of relaxation requisite for sleep remains elusive. One woman I spoke to was especially eloquent on this point. What she said is worth quoting at length:

[I]f we're constantly having these bad interactions, these bad experiences, and the culture isn't conducive, or it always . . . undermine[s] you and . . . makes you less than and makes you feel worthless and all these other things—you're not going to sleep like oh, I conquered the world today. No, you're going to sleep feeling like shit, feeling even worse than you've felt. . . . I go to the freaking clinic to get medication for . . . a

prison officials, albeit no longer of the rank and file, temporarily diverted from their usual duties. They are employees of the Bureau of Prisons and they are the direct subordinates of the warden who reviews their decision. They work with the fellow employee who lodges the charge against the inmate upon whom they sit in judgment. The credibility determination they make often is one between a co-worker and an inmate. They thus are under obvious pressure to resolve a disciplinary dispute in favor of the institution and their fellow employee.

Id. at 204 (citation omitted).

397. Interview with FI.31 at 48.

398. Interview with FI.19 at 37–38; *see supra* note 163 (quoting CO who acknowledged that cell searches often take this form).

toothache and I get treated like a fucking drug addict. And [I] don't even get any Motrin, so I'm not going to sleep feeling too good. . . . And then when you're constantly looking at me and talking down to me as if I'm less than you, [as] if I'm not a person, . . . all those things don't make for a good night's sleep. You don't feel good at the end of the night. . . . [A]nd not only that, but the setting in general . . . doesn't make it conducive for family reunification. They make it even harder for you to have relationships [and] more so [for] women. [T]he women's prison, geographically where it's placed, is in the middle of nowhere. So all the people that often are coming into the prison settings live so freaking far away. . . . [T]hese inner cities are so far away from this rural fucking place in [location of prison] in the middle of nowhere, that it makes it hard for you to have visits, to have a constant contact with your family or the . . . how much is it? Fifty cents a minute a phone call? When we're making one dollar a day on our freakin' wages? Like, seriously? So all these things just work to produce even more stressors and, as we all know, when I'm super stressed throughout the day, all that's happening at the end of the night when it comes time for me to sleep is these things [are] replaying in my head . . . and making me feel even more incompetent and worthless.³⁹⁹

In short, sleep will not come easily to people who are constantly humiliated.

Like those conditions canvassed in Part III, the conditions discussed in this Part contribute significantly to the inability of people in prison to get adequate sleep. If there is a difference to draw, it lies in the pervasiveness of these “meta-conditions,” the extent to which each is woven into the carceral project. While the more concrete and specific conditions described in Part III appear tied to policy decisions concerning prison administration and operations, the conditions described in this Part seem to arise directly from the culture and ethos of the American prison. Yet, as far as moral valence goes, the distinction I have drawn between the more concrete sleep-impeding conditions and what I have labelled “meta-conditions” may not much signify. Whatever the moral orientation of individual COs, all the conditions that systematically compromise the potential for sleep in prison reflect a system shaped at its core by a callous indifference to the well-being of the incarcerated, a blindness to their humanity, and a refusal to accord those in custody the basic consideration and respect owed to any fellow human. This moral injury is part of the daily experience of imprisonment. And as the foregoing has shown, among the innumerable practical manifestations of this systematic institutional disdain is the persistent interference with the fundamental human need for sleep.

399. Interview with FI.22 at 46–47.

V. IMPLICATIONS: PRISONS, PUNISHMENT, LAW, POLICY

This Part begins to explore the normative implications of chronic sleep deprivation in prison. Section A considers, as a descriptive matter, what this phenomenon adds to our understanding of the prison experience. Section B flags several ways the inevitability of chronic sleep deprivation deepens the punitive character of the carceral penalty. Section C offers a first cut at the core constitutional question—whether the conditions mapped in this Article violate the Eighth Amendment’s prohibition on cruel and unusual punishment. It also touches on a question that frequently arises when I discuss this work: whether the conditions chronicled here constitute torture. Finally, Section D offers some thoughts on the prospects for policy change and the challenges that await efforts to tangibly improve sleep in prison. For reasons of space, my contributions on these topics will necessarily be brief. The aim here is twofold: to begin mapping the normative implications of the problem, and to offer preliminary thoughts on the four dimensions identified here in the hope of sparking a broader conversation.

A. PRISONS: SLEEP DEPRIVATION AND CARCERAL LIFE

Prior to the interviews, many of my subjects had given little thought to their experiences of sleep inside, or to how those experiences shaped their time in prison.⁴⁰⁰ Yet what I learned during those conversations brought into focus certain basic realities of prison life that have, until now, been largely unrecognized, not only among many of my interviewees, but also among those who study incarceration. Below, in no particular order, I identify four such implications.⁴⁰¹

First, chronic sleep deprivation is a constitutive feature of life in prison. Regularly getting insufficient sleep—night after night, for months, years, and even decades—is as central to the daily experience of incarceration as lousy food, crushing boredom, grossly inadequate medical and mental health care, solitary confinement, and the perpetual fear of physical or sexual violence from staff or fellow prisoners. Being sleep deprived is an intrinsic part of what it means to be inside.

True, people in prison sometimes manage to get decent sleep. In some cases, housing configuration makes the difference. Virtually everyone I spoke to agreed that people in single cells sleep much better than anyone

400. At the end of each Zoom interview, after I stopped recording, many of my interview subjects said that this was the first time they had ever really thought about their experiences of sleeping/trying to sleep inside or even realized that they had spent much of their time in prison in a sleep-deprived state.

401. There remains much more to be said in this vein. What I say here is intended just as a first cut.

else.⁴⁰² As one person memorably put it, “[T]he best cellie is no cellie.”⁴⁰³ In other instances, people can benefit from their own wise choices. One person I spoke to spent thirty-seven years in prison. He reported that, especially in later years, he was able to get sufficient sleep and wake feeling rested. He credited several aspects of the life he built in prison for this atypical experience, including staying out of prison politics (“not trying to be king of the jail”), making peace with not being able to control the behavior of loved ones on the outside (not “trying to live one foot in prison and one foot in the world”), and building a supportive religious community of fellow Orthodox Muslims who bunked together and provided one another with “comfort and security.”⁴⁰⁴ He was also an accomplished artist, which compounded his sense of purpose and seemed to enhance the personal equanimity that helped him sleep. Yet he also described multi-year stretches over his long incarceration during which he slept far less.⁴⁰⁵ And even in single cells—the equivalent of temporarily winning the prison sleep lottery⁴⁰⁶—people struggle with noise, light, extremes of heat and cold, and many other obstacles to sleep chronicled here. In other words, in prison, even the outliers only sleep so well.⁴⁰⁷

402. This preference for single-celling may have a gendered dimension. For women in prison, the greatest threat to their personal safety—particularly from sexual violence—stems from staff, and a cellmate may offer a degree of protection from harm. As a result, women in prison may feel safer, and thus sleep more soundly, with a cellmate than if they were housed alone. I thank Chesa Boudin for raising this issue, which warrants further study.

403. Interview with FI.17 at 29.

404. Interview with FI.2 at 58–59. FI.2 seemed to have two benefits in mind here—a calmer coexistence with one’s cellmate and an enhanced sense of personal safety. As he put it, “there was actually protection by being a member of that group . . . [and] it was ideal to be in a cell with another Muslim because we prayed together . . . and that made for peace.” *Id.* at 59. This set of experiences was echoed by the only other person I spoke to who reported getting decent sleep inside. FI.11 credited her ability to sleep in prison to having found a community of religious women who supported each other. She “started going to church and . . . hav[ing] a relationship with God,” which “really helped.” Interview with FI.11 at 30. This community helped her “fill[] [her] days” and “keep busy, because when you’re busy, your days go by quickly, and before you know it you’re out [i.e., asleep].” *Id.* at 31. She also had “active jobs” that kept her “literally running around” all day. *Id.* at 21. Yet even still, she reported that getting “a good night’s sleep” was a challenge, because “you’ll never know what’s going to happen or what’s going to wake you up.” *Id.* at 25.

405. Interview with FI.2 at 9, 11–15 (describing long stretches over the course of his incarceration during which he slept 3–4 or 4–6 hours per night).

406. *See* Interview with FI.17 at 29 (“I had a single cell for six months . . . [T]hat’s the best sleep I had [in prison].”). *But see supra* note 402 (raising the possibility that the desire for single-celling as a way to improve sleep may have a gendered dimension).

407. There was one other notable outlier among my interview subjects. This person served time in two prisons and reported sleeping eight hours per night in the first facility and fourteen or sixteen hours per night in the second. He explained that his goal was to try to sleep away his sentence: “My approach was the less I’m conscious, the quicker this goes.” Interview with FI.10 at 7. His second facility was a private prison without work opportunities or educational programs so he “had a routine where [he] would just stay up reading at night and [then] would sleep all day.” *Id.* at 4. He also reported a history of anxiety

In any case, the fact that some people may sometimes beat the odds scarcely goes to controvert the core finding that sleep deprivation is endemic in prison. To take a parallel example, even though some people may sometimes receive reasonably acceptable and even effective medical or mental health treatment while incarcerated, there is no question that a systematic failure to provide adequate health care constitutes a definitive feature of the prison experience. A central claim of this Article is that chronic sleep deprivation, produced by persistent, systematic interference with sleep, is likewise intrinsic to the carceral experience—even if some people in prison occasionally manage to sleep reasonably well.

Second, at any given time, most people living in prison will be operating from a sleep deficit, possibly a considerable one, and this situation will have profound effects on what happens inside. In future work, I will take up the question of how sleep deprivation in prison impacts interpersonal dynamics and institutional functioning. For now, it is enough to say that, judging from my interviews (and as we would expect), the fact that virtually everyone in prison is chronically tired greatly heightens institutional tension and volatility, along with the likelihood of interpersonal conflict. And because COs too are frequently sleep deprived, the heightened potential for conflict and all that goes with it also implicates COs—who, it bears noting, are legally authorized to use force. At this point, it is hard to know just how much the instability and threat of violence that shapes life in the contemporary American prison is attributable to the poor judgment and short tempers emblematic of fatigue. Yet I am certain that the impact is far greater than heretofore recognized.

Third, the overwhelming weight of the sleep science, combined with the striking unidirectionality of the findings, strongly suggests that, in the aggregate, people in prison will suffer considerable physiological and psychological harm traceable to the long-term systematic interference with their ability to get adequate sleep.⁴⁰⁸ Again, at this stage, it is impossible to say with any precision what shape this harm takes.⁴⁰⁹ However, in light of

and depression, which seemed to underwrite his tendency to sleep during the day. *Id.* at 17. Even after his release, he reported, he is still unable to “sleep till about five in the morning when I hear someone get up and then I get up around noon.” *Id.* The experience reported by this respondent would fall into the category of “long sleeping,” typically defined as greater than eight or nine hours per night, which sleep science has also shown to carry serious negative health effects. *See* Cappuccio et al., *supra* note 29, at 588 (“[L]ong sleepers (“commonly [greater than] 8 or 9 [hours] per night”) [have] a 30% greater risk of dying than those sleeping 7 to 8 [hours] per night.”).

408. *See supra* Part I (providing a brief overview of key sleep science findings).

409. Researchers at Yale Medical School have begun to investigate the harmful health effects of sleep deprivation among the incarcerated both during and following incarceration. To the best of my

what is known about the health-compromising effects of even short periods of sleep deprivation,⁴¹⁰ it is hard to imagine that no such effects occur. In addition, the health-compromising effects of sleep deprivation suggest several other troubling possibilities, each of which merits serious consideration:

- The inability to sleep properly in prison suggests a vicious circle as to the health of the incarcerated: thanks to chronic sleep deprivation, people inside are vulnerable to illness and disease that well-rested people might avoid, and when they get sick, the constant sleep deprivation and disruption that define the carceral experience are likely to undermine the body's natural healing processes.
- Sleep deprivation may help to explain why people age faster in prison. Research suggests that the biological age of incarcerated individuals is as much as ten to fifteen years greater than their chronological age.⁴¹¹ This effect is traceable in part to “the high prevalence of risk factors for poor health” among the incarcerated, including “a history of substance abuse, head trauma, poor health care, and low educational attainment and socioeconomic status.”⁴¹² Yet given the breadth of the harms generated by insufficient sleep, it seems hard to imagine that chronic sleep deprivation does not also play a central role in the accelerated aging process prisoners experience.
- If, as some studies suggest, sleep deprivation constitutes a risk factor for—or exacerbates the symptoms of—mental illness, the systematic interference with sleep that people routinely experience inside could help to explain the strikingly high incidence of mental illness among those in

knowledge, this initiative is the first of its kind, although one hopes their work will inspire others to pursue the issue. *See, e.g.*, Elumn et al., *supra* note 9.

410. *See supra* Part I.

411. Mike Mitka, *Aging Prisoners Stressing Health Care System*, 292 JAMA 423, 423 (2004); *see also* R.V. Rikard & Ed Rosenberg, *Aging Inmates: A Convergence of Trends in the American Criminal Justice System*, 13 J. CORR. HEALTH CARE 150, 152 (2007) (“The combination of physical and mental declines makes aging inmates, on the average, 10 to 11.5 years older physiologically than their nonincarcerated age peers.” (citations omitted)).

412. Brie A. Williams, James S. Goodwin, Jacques Baillargeon, Cyrus Ahalt & Louise C. Walter, *Addressing the Aging Crisis in U.S. Criminal Justice Health Care*, 60 J. AM. GERIATR. SOC’Y 1150, 1151 (2012) (identifying the key causes of accelerated aging among the incarcerated population).

custody.⁴¹³ These psychopathological effects mean that those concerned with the epidemic of mental illness behind bars should pay particular attention to the quality and quantity of the sleep people get inside.

Fourth and finally, the causes of sleep deprivation in prison are inextricably bound up with the normative design and operation of the modern American prison. Every person alive, whether inside prison or out, knows what it is like to try to sleep in the face of obstacles like noise, excessive light, extremes of temperature, and so on. For this reason, it may at first seem that people struggling to sleep in prison are on a continuum with others across society who fight for sleep in unconducive situations. But if sleep deprivation is not unique to prisoners, the impediments to sleep behind bars have a particular normative cast, reflecting the distinctive animus towards the incarcerated that shapes virtually all aspects of prison life.⁴¹⁴

For example: Prison beds are not fiercely uncomfortable by happenstance. People are forced to sleep on metal slabs with thin, cracked, moldy, sticky mattress pads because those who decide what form the beds will take view the resulting discomfort as appropriate for people serving time as criminal punishment and would begrudge as undeserved the cost of anything more substantial. People sleep on flimsy, creaky bunkbeds for the same reason, and fear moving in their sleep in case they provoke frustrated, angry bunkmates who, like themselves, are forced to live in moral ecosystems where they are routinely humiliated and dehumanized and who may lash out at small indignities simply to feel some small measure of control. Every night, people are woken up by COs who, “hav[ing] zero respect for prisoners,”⁴¹⁵ make no effort to do their rounds quietly. During the height of summer and the depths of winter, people labor to sleep in intense heat or extreme cold, a hardship that could be largely addressed were state corrections agencies to invest in air conditioning and routine winter maintenance in the housing units where prisoners sleep, as they already do

413. See, e.g., LAURA M. MARUSCHAK, JENNIFER BRONSON & MARIEL ALPER, U.S. DEP’T OF JUST., NCJ 252643, INDICATORS OF MENTAL HEALTH PROBLEMS REPORTED BY PRISONERS: SURVEY OF PRISON INMATES, 2016, at 5 tbl. 1 (2021), <https://bjs.ojp.gov/media/44841/download> [https://perma.cc/6AZA-REPK] (reporting that, in 2016, 41% of all state and federal prisoners exhibited at least one mental health problem and 13% met the threshold for serious psychological distress); Leah Wang, *Chronic Punishment: The Unmet Health Needs of People in State Prisons*, PRISON POL’Y INITIATIVE, (June 2022), <https://www.prisonpolicy.org/reports/chronicpunishment.html#mentalhealth> [https://perma.cc/D2M9-WP7M] (“More than half (56%) of people in state prison had some indication of a mental health problem, whether recent (14% report serious psychological distress in the past month) or previously diagnosed (43% report any history of one or more mental health conditions.”).

414. It also bears noting that people living outside prison will rarely face the full raft of obstacles to sleep that people in prison must wrestle with simultaneously as a matter of course.

415. Interview with FI.16 at 45.

as a matter of course in the parts of the prison frequented by staff. And so on. Obstacles to sleep that may at first seem of a piece with what people routinely experience outside prison turn out on further examination to constitute specific, sleep-compromising manifestations of the callous indifference and even hostility towards the incarcerated that in countless ways shape the American carceral system.

B. PUNISHMENT: SLEEP DEPRIVATION AND THE CARCERAL PENALTY

Recognizing the fact of sleep deprivation in prison and the shape it takes also deepens our understanding of the nature of the punishment inflicted on people sentenced to prison time. In this section, I identify four related dimensions of one key insight: the way the inability to get adequate sleep heightens the punitive character of the carceral penalty.

First, it is already well understood that in practice, a prison sentence carries with it a raft of noxious conditions beyond simply the deprivation of liberty. This Article strongly suggests that, among these conditions, we must include the experience of being chronically sleep deprived for the duration of the stipulated term. Not merely a side effect of being in prison, chronic sleep deprivation is a constitutive feature of the punishment itself, a part of the penalty imposed when the judge pronounces sentence.

Second, the punishment incarceration represents also includes being subjected to the harms that arise from chronic sleep deprivation. To put the point more concretely, when we sentence people to prison time, we are sentencing them to insufficient sleep, which is very likely to (1) trigger a degradation of their body's proper functioning and defenses against illness and disease,⁴¹⁶ (2) expose them to an increased risk of early mortality,⁴¹⁷ and (3) ignite psychological harms, activating or exacerbating the symptoms of a wide range of psychopathologies.⁴¹⁸ We are also sentencing them to perpetually live with the cognitive deficits that daily plague people who are poorly slept—the irritability, ready frustration, fuzzy-headedness, impaired judgment, proneness to conflict, and general incapacity that collectively make it difficult to get through the day, much less make good decisions, achieve one's goals, or build healthy relationships. To the extent that sleep deprivation is an in-built feature of the prison experience, all these harmful effects become part of the punishment prison time represents.

Third, the punitive character of the carceral penalty is intensified by the effects of pervasive sleep deprivation on the prison's social ecosystem.

416. *See supra* text accompanying notes 30–42.

417. *See supra* text accompanying notes 28–29.

418. *See supra* text accompanying notes 43–49.

Although sleep-impeding conditions are experienced individually, they are simultaneously endured by everyone. In other words, people in prison are routinely forced into close quarters with scores and perhaps hundreds of others who are themselves struggling with the psychological challenges and cognitive deficits produced by chronically inadequate sleep. People in prison are already likely to be bored, frustrated, resentful, and sometimes distraught, a situation that helps to explain the constant undercurrent of tension, conflict, and volatility that defines the carceral environment. These dynamics will only be exacerbated when everyone is denied access to restorative sleep.⁴¹⁹ Being forced to live in this environment, with all its stress, instability, and incipient danger,⁴²⁰ is yet another essential component of the carceral penalty traceable to collective sleep deprivation—part of what the punishment of prison time entails.⁴²¹

Fourth, being subjected to chronic sleep deprivation is dehumanizing, which adds a further dimension to the punitive character of prison. Dehumanization is the process of “stripping people of human qualities” so that “they are no longer viewed as persons with feelings, hopes[,] and concerns but as sub-human objects.”⁴²² The mechanisms of dehumanization experienced by people in prison do not only lead others to deny their moral worth. They also turn the process inward, undermining a person’s most elemental capacities, including the internal resources necessary for self-reflection, reasoned judgment, moral fortitude, and personal growth.

419. See, e.g., Interview with FI.19 at 42 (“[E]veryone gets poor sleep in prison. So that . . . causes more agitated personalities around each other, which leads to fighting or just disruptive behavior.”); Interview with FI.14 at 41 (“[Being tired] makes you very irritable, which is why you have so many confrontations . . . It makes it so easy for somebody to be angry when they’re irritable, when they’re tired. . . . [If] [y]ou’re around a bunch of testosterone, and all of them are irritable, something’s gonna happen.”).

420. See, e.g., Interview with FI.44 at 34–35 (“[P]eople that are tired are grouchy; they have an attitude [and] they start trouble. . . . They’re irritated, easily irritated. [What kind of trouble do they cause?] Fights. Arguments. Tension.”); Interview with FI.38 at 67 (“I’ve definitely seen people fight early in the morning because [they are tired.] They’re extra irritable—over food, over the phone[s], over . . . [access to the sinks]—just small things that may not bother you at other times.”).

421. This dynamic also carries an opportunity cost: people who might, if given the chance, be able to access their best selves and learn to support one another in efforts to grow and develop are instead forced inward, with all their resources being put towards just getting through the day. A community of sleep-deprived people is not one in which there is likely to be the kind of personal moral growth and transformation that society claims to want from those imprisoned as punishment. Certainly, many people in prison do manage to grow and change, and to support others inside on their own paths of personal transformation. However, these successes are achieved, not because of the conditions people endure in prison, but despite them.

422. Albert Bandura, *Selective Moral Disengagement in the Exercise of Moral Agency*, 31 J. MORAL EDUC. 101, 109 (2002).

Sleep deprivation is not generally recognized as among the core dehumanizing aspects of the carceral experience. But it should be. As we all know from personal experience, when we do not get enough sleep, our most fundamental faculties are impaired. It can be hard to think, to reason, and to read situations and other people. Even things that might otherwise feel urgent or meaningful can seem flat or insufficiently important to motivate action.⁴²³ These effects are regularly experienced by people in prison, where the stakes may be especially high. Those who are sleep deprived may react with irritation or hostility even to those they love the most—including the friends and family on the outside who are their lifeline.⁴²⁴ Like people everywhere, when they are tired, people in prison make poor choices. They opt not to participate in activities they would otherwise value⁴²⁵—even those that might improve their chances of successful reentry.⁴²⁶ Thanks to diminished self-restraint, they sabotage their prospects.⁴²⁷

In short—again, like people everywhere—prisoners who are chronically tired may find themselves sleepwalking through life. Obviously, by virtue of being incarcerated, the human potential and personal agency of people in prison are necessarily drastically curtailed. Yet it is also true that people make meaning in custody. Within the constraints of their incarceration, to a greater or lesser degree, people can be agents of their own situation. But the less sleep they get—and the more they are thereby deprived of the restorative effects of adequate sleep—the less equipped they will be to engage in meaningful, productive interactions,⁴²⁸ and the more readily

423. *See, e.g.*, Interview with FI.23 at 42–43 (“Emotionally, I was really checked out. . . . I wasn’t myself. I wasn’t compassionate. I wasn’t nurturing. I wasn’t considerate. I was more like, ‘[F]uck off, get the fuck out of my face, and fuck you motherfucker.’ ”); Interview with FI.38 at 64 (“Lack of sleep leaves you unmotivated [and] incoherent. You don’t want to do anything.”).

424. *See, e.g.*, Interview with FI.8 at 36 (“Say on a weekend when your family comes, and . . . you’re sitting at a table, you’re talking, but you’re so tired that you can’t focus to hear what they’re saying. . . . Or you may be in school . . . [and] you have to listen to what the professor says, but you’re tired, you can’t stay awake to take the notes or hear the lesson plan, or to study your English or math.”).

425. *See, e.g.*, Interview with FI.1 at 43 (“[T]here [were] plenty of weekends whe[n] I was so exhausted that I would . . . confine myself for the whole weekend in the cell. I wouldn’t go anywhere. . . . I would just sleep.”).

426. For example, one person I spoke to described being “so tired and irritable” that he picked a fight in class, leading to his removal from the classroom in handcuffs. Interview with FI.14 at 46. Yet this same person loved learning and wound up enrolled in a full-time college program after his release.

427. *See, e.g.*, Interview with FI.3 at 12–13 (explaining that when he was tired, he found himself provoking a fistfight with someone who cut into the shower line, knowing he was risking a major write-up that could impact his upcoming parole hearing); Interview with FI.38 at 68 (“I’ve seen a guy say ‘I’m not going to work today.’ And I’m like, ‘Alright man. They’re gonna try to wake you up.’ You walk away, and then [the COs are] calling, ‘Forty cell let’s go. Work. Let’s go or you’re getting a ticket.’ ”).

428. *See, e.g.*, Interview with FI.44 at 38 (“[W]hen people are well-rested, they tend to make better decisions, . . . think clearer, . . . come up with better solutions, and it tends to change their

they will be dragged into the dark, negative, hostile space that so frequently traps those lacking the resources to escape it.⁴²⁹ In all these ways, being sleep-deprived severs people from central aspects of their own moral characters and those features that define their humanity. This severing too is a part of the punishment traceable to—and inflicted by—systematic sleep deprivation in prison.

C. LAW: IS SYSTEMATIC INTERFERENCE WITH SLEEP UNCONSTITUTIONAL? IS IT TORTURE?

The conditions described in Parts III and IV raise two obvious legal questions: (1) Do these conditions violate prisoners' constitutional rights? and (2) Do they amount to torture under international human rights law? This Section considers these questions in turn. It focuses primarily on the constitutional question and the likely prospects for successful constitutional claims in the courts, before briefly touching on the matter of torture, which frequently arises in conversations about this research.

The primary provision for assessing the constitutionality of prison conditions is the Eighth Amendment prohibition on "cruel and unusual punishments."⁴³⁰ At its most basic, the question is whether plaintiffs challenging the conditions catalogued here could satisfy current Eighth Amendment standards—and the answer, I argue, is yes. To see why requires a short overview of the governing law.

Under existing doctrine, to prevail on a prison conditions challenge, plaintiffs must satisfy two components, styled by the Supreme Court as "objective" and "subjective."⁴³¹ The objective component considers the challenged treatment, asking whether "the deprivation [was] sufficiently serious."⁴³² The subjective component focuses on the responsible officials, asking whether they acted "with a sufficiently culpable state of mind."⁴³³ Of the two, the objective component may require somewhat more doctrinal explication to make the case. However, as currently defined,⁴³⁴ neither

behavior. . . . [T]o be well rested means I don't have all the stress and the things that keep me from being rested, which is a road itself . . . to rehabilitation.").

429. See, e.g., *supra* note 423.

430. U.S. CONST. amend. VIII.

431. *Wilson v. Seiter*, 501 U.S. 294, 298 (1991).

432. *Id.* at 298.

433. *Id.*

434. For extended critique of the way the Supreme Court has defined each of these components, see Sharon Dolovich, *Cruelty, Prison Conditions, and the Eighth Amendment*, 84 N.Y.U. L. REV. 881, 943–48 (2009) [hereinafter Dolovich, *Cruelty*]; Sharon Dolovich, *Evading the Eighth Amendment: Prison Conditions and the Courts, in THE EIGHTH AMENDMENT AND ITS FUTURE IN A NEW AGE OF PUNISHMENT*

component should pose insurmountable obstacles for plaintiffs challenging the conditions that impede prisoners' sleep.

As the Court made clear in *Wilson v. Seiter*, the objective component requires a showing that the challenged conditions "have a mutually enforcing effect that produces the deprivation of a *single, identifiable human need*."⁴³⁵ Writing for the *Wilson* majority, Justice Scalia identified "food, warmth, or exercise" as examples of "human need[s]" that might ground such claims.⁴³⁶ A complaint, he observed, might allege "a low cell temperature at night combined with a failure to issue blankets," thus implicating multiple "mutually enforcing" conditions depriving the plaintiffs of the "single, identifiable human need" for warmth.⁴³⁷

Sleep deprivation seems a textbook case of the sort of objective component *Wilson* explicitly approved. It is beyond peradventure that sleep is a basic human need, as intrinsic to human survival as "food, warmth [and] exercise."⁴³⁸ Even should plaintiffs choose to focus their complaint only on the more concrete factors explored in Part III—uncomfortable beds, hunger, extreme heat and cold, noise, and excessive light—these conditions together make getting adequate sleep close to impossible and would thus seem to readily satisfy the *Wilson* standard.⁴³⁹

Yet incarcerated plaintiffs will not typically claim the complete denial of sleep but rather the inability, over months and years, to get even close to the recommended seven hours per night. And as Justice Powell observed in *Rhodes v. Chapman*, "the Constitution does not mandate comfortable prisons."⁴⁴⁰ This means that, when incarcerated plaintiffs bring

133, 149–54 (Meghan J. Ryan & William W. Berry III eds., 2020.) [hereinafter Dolovich, *Evading the Eighth Amendment*]. Here, I am taking the standards as they are currently written.

435. *Wilson*, 501 U.S. at 304 (emphasis added).

436. *Id.*

437. *Id.*

438. *Id.*

439. Some federal courts have recognized as much. *See, e.g.*, *Walker v. Schult*, 717 F.3d 119, 126 (2d. Cir. 2013) ("[S]leep is critical to human existence, and conditions that prevent sleep have been held to violate the Eighth Amendment."); *Garrett v. Thaler*, 560 F. App'x 375, 378 (5th Cir. 2014) ("[S]leep undoubtedly counts as one of life's basic needs.' Thus, conditions designed to prevent sleep may violate the Eighth Amendment." (quoting *Harper v. Showers*, 174 F.3d 716, 720 (5th Cir. 1999))); *Robinson v. Danberg*, 729 F. Supp. 2d 666, 683 (D. Del. 2010) (recognizing sleep as a basic human need and holding that its deprivation may violate the Eighth Amendment); *see also Cintron v. Bibeault*, No. 22-1716, slip op. at 20, 21, 27 (1st Cir. Aug. 5, 2025) (holding that the plaintiff's complaint alleged sufficient facts to state a claim of unconstitutional sleep deprivation and denying qualified immunity on the ground that, at the time, "it was clearly . . . established that Cintron's alleged conditions of continued confinement"—and most especially those "allegations of prolonged sleep deprivation"—"violate[ed] the Eighth Amendment's objective requirement").

440. *Rhodes v. Chapman*, 452 U.S. 337, 349 (1981).

constitutional claims grounded in sleep deprivation, there is a need to determine the point at which insufficient access to adequate sleep ceases being simply the denial of those “creature comforts” of the sort incarceration necessarily entails, and instead qualifies as the “deprivation of a single, identifiable human need” that satisfies the objective component of Eighth Amendment conditions challenges.⁴⁴¹

In *Garrett v. Lumpkin*, an ongoing case out of Texas, the district court offered one answer.⁴⁴² It held that “because Garrett failed to show that his sleep deprivation—which was undisputed—*actually* caused his health issues, he had not satisfied the objective element of cruel and unusual punishment.”⁴⁴³ Seeing why this answer fails as a matter of basic Eighth Amendment doctrine helps make clear why sleep deprivation need not be total to satisfy this hurdle. When Michael Garrett filed his claim, he had been in prison for more than thirty years. At the time he drafted his complaint, he was living in the McConnell Unit and was later transferred to the Estelle Unit.⁴⁴⁴ In his complaint, Garrett challenged a set of conditions that, he alleged, interfered with both the quantity and quality of his sleep and left him chronically sleep deprived. As to quantity, the schedule operating in the Estelle Unit afforded residents only three and a half hours of sleep a night, with bedtime set for 10:30 p.m. and breakfast starting “around 2:00 a.m.”⁴⁴⁵ (The hours in the McConnell Unit were only slightly better, with bedtime at 10:30 p.m. and breakfast commencing around 2:30 a.m.⁴⁴⁶) And “even during this three and a half hour window, sleep is not continuous,” because residents must “be awake for a 1:00 a.m. bed-book count,” which meant that “the most continuous sleep Garrett can theoretically receive is two and a half hours” (assuming he falls asleep instantly at 10:30 and sleeps undisturbed until the bed-book count).⁴⁴⁷ As to sleep quality, the “nighttime prison conditions—namely, the hallway lighting, heavy doors slamming, and prisoners yelling—further imperil” the sleep residents are able to get during the brief period the prison’s compressed schedule allows.⁴⁴⁸

In his complaint, Garrett challenged this raft of conditions on Eighth Amendment grounds and sought an injunction “that would mandate a prison

441. *Wilson v. Seiter*, 501 U.S. 294, 304 (1991).

442. *Garrett v. Lumpkin*, 96 F.4th 896 (5th Cir. 2024) (per curiam).

443. *Id.* at 900.

444. In Texas, state prisons are referred to as “units.”

445. *Garrett*, 96 F.4th at 897–98.

446. *Garrett v. Thaler*, 560 F. App’x 375, 378 (5th Cir. 2014).

447. *Garrett*, 96 F.4th at 898.

448. *Id.*

schedule with six hours per night designated for sleep.”⁴⁴⁹ Yet the district court found that Garrett had failed to make out “the objective element of the Eighth Amendment inquiry.”⁴⁵⁰ The reason? Having failed to present “any expert testimony establishing that a lack of sufficient uninterrupted sleep has, within reasonable medical probability,’ caused his health conditions,” Garrett could not establish a cause-and-effect relationship between his sleep schedule and any medical complaint.”⁴⁵¹

But this notion—that a plaintiff in Garrett’s position can satisfy the objective component of an Eighth Amendment conditions claim only by showing actual harm—is directly at odds with governing doctrine, specifically the Supreme Court’s clear holding in *Helling v. McKinney*. *Helling* was decided just two years after *Wilson*. While in prison in Nevada, William McKinney was “assigned to a . . . [cellmate] who smoked five packs of cigarettes a day.”⁴⁵² McKinney filed suit, arguing that exposure to this degree of cigarette smoke would unconstitutionally “jeopardiz[e] his health.”⁴⁵³ At trial, the magistrate judge granted the state’s motion for a directed verdict in part on the ground that McKinney “had failed to present evidence showing . . . medical problems that were traceable to [exposure to] cigarette smoke.”⁴⁵⁴

Helling wound up in the Supreme Court. The state, following the magistrate, argued that “unless McKinney can prove that he is currently suffering serious medical problems caused by exposure to [environmental tobacco smoke (“ETS”)], there can be no violation of the Eighth Amendment.”⁴⁵⁵ The Court, however, rejected this suggestion,⁴⁵⁶ with its implication that “prison authorities . . . may ignore a condition of confinement that is sure or very likely to cause serious illness and needless suffering the next week or month or year.”⁴⁵⁷ As Justice White put it, writing for the majority, “[A] remedy for unsafe conditions need not await a tragic event.”⁴⁵⁸ Instead, the Court held, it is enough to show that McKinney was exposed “to levels of ETS that pose an unreasonable risk of serious damage

449. *Id.*

450. *Id.* at 899.

451. *Id.* (quoting Garrett v. Davis, No. 2:13-CV-70, 2019 U.S. Dist. LEXIS 43176, at *4–5 (S.D. Tex. Mar. 18, 2019)).

452. *Helling v. McKinney*, 509 U.S. 25, 28 (1993).

453. *Id.*

454. *Id.* at 29.

455. *Id.* at 32.

456. *Id.* at 33.

457. *Id.*

458. *Id.* (“We would think that a prison inmate . . . could successfully complain about demonstrably unsafe drinking water without waiting for an attack of dysentery.”).

to his future health.”⁴⁵⁹ The following year, the Court decided *Farmer v. Brennan*, which phrased the general inquiry slightly differently: whether the plaintiffs faced a “substantial risk of serious harm.”⁴⁶⁰ In the three decades since *Farmer* was decided, it is this latter formulation that has governed.

When *Garrett* came up on appeal, the Fifth Circuit made short work of the district court’s reasoning.⁴⁶¹ In her opinion on behalf of a unanimous panel,⁴⁶² Judge Clement drew directly on *Helling*, which declared it “‘cruel and unusual punishment to hold convicted criminals in unsafe conditions,’ regardless of whether those conditions actually cause injury.”⁴⁶³ Because “[i]t would be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening condition in their prison on the ground that nothing yet had happened to them,” the Fifth Circuit had previously held that, to satisfy the objective component of an Eighth Amendment conditions claim, the plaintiffs “need not show that death or serious injury has already occurred.”⁴⁶⁴ Instead—in keeping with *Farmer*—they “need only show that there is a substantial *risk* of serious harm.”⁴⁶⁵ In short, when sleep in prison is sufficiently restricted as to expose people to a substantial risk of serious harm, plaintiffs will have satisfied the objective component, whether or not the danger has yet manifested and even if they still manage to get some sleep each night.⁴⁶⁶

459. *Id.* at 35.

460. *Farmer v. Brennan*, 511 U.S. 825, 828 (1994). By my count, *Farmer* used the phrase “substantial risk of serious harm” seven times, thus normalizing this formulation as the requisite inquiry for the objective component of Eighth Amendment conditions claims involving unmanifested dangers.

461. *Garrett v. Lumpkin*, 96 F.4th 896 (5th Cir. 2024).

462. It is noteworthy that the Fifth Circuit panel that decided in *Garrett*’s favor was composed of extremely conservative judges. Of the three members, two—Judges Engelhardt and Oldham—were appointed by President Trump. The third, Judge Clement, was appointed to the Fifth Circuit by President George W. Bush and long had a reputation as one of the most reliably conservative judges on the federal bench. See, e.g., Mark Joseph Stern, *Fifth Circuit Judge Does Her Best Trump Impression in Opinion Attacking Liberal Colleagues*, SLATE (Mar. 25, 2019, at 17:15 PT), <https://slate.com/news-and-politics/2019/03/clement-mississippi-reeves-senate-gerrymander.html> [https://perma.cc/QUJ8-9LGN].

463. *Garrett*, 96 F.4th at 900 (quoting *Helling v. McKinney*, 509 U.S. 25, 33 (1993)).

464. *Id.* (quoting *Helling*, 509 U.S. at 33). As the *Garrett* panel explained, in the prior Fifth Circuit case of *Ball v. LeBlanc*, 792 F.3d 584, 593 (5th Cir. 2015), the state had argued that because “no death-row prisoner has ever suffered a heat-related incident, and the [plaintiff’s] medical records show no signs of heat-related illness,” the plaintiff could not make out the objective component of his Eighth Amendment claim. *Garrett*, 96 F.4th at 901. But the Fifth Circuit “rejected that argument,” holding instead that the plaintiff “did not need to show that he had actually suffered from heat-related illness but instead only that he was at substantial risk of serious harm.” *Id.*

465. *Id.* at 900–01 (quoting *Ball*, 792 F.3d at 593).

466. Here, the strong evidence of risk of harm offered in the sleep science literature would help the plaintiffs make this case. For more on this point, see *infra* text accompanying notes 479–80.

What of the subjective component? Here too, were a court to faithfully follow governing precedent, there is a clear pathway for plaintiffs alleging unconstitutional sleep deprivation to meet their burden. The requisite state of mind for Eighth Amendment conditions claims is “deliberate indifference.”⁴⁶⁷ In *Farmer v. Brennan*,⁴⁶⁸ the Court held that to satisfy this standard—and thus the subjective component of an Eighth Amendment claim—plaintiffs must show that defendants “kn[ew] of and disregard[ed] an excessive risk to inmate health or safety.”⁴⁶⁹ As the *Farmer* court explained, Eighth Amendment deliberate indifference is equivalent to criminal recklessness as defined by the Model Penal Code: “[T]o act recklessly . . . a person must ‘consciously disregard[d]’ a substantial risk of serious harm.”⁴⁷⁰

To satisfy this standard, plaintiffs bringing an Eighth Amendment sleep deprivation claim must show that prison officials subjectively realized the substantial possibility that, because of the challenged conditions, those incarcerated in their facility were unable to get adequate sleep. As always, plaintiffs must take care to name defendants who will have some knowledge of the challenged conditions. But given the pervasiveness of the conditions described here and the many operational decisions that daily compromise the quality of prisoners’ sleep—the nightly counts, the double-bunking, the crowded dorms, the early dinner hour, the lack of air conditioning, and so on—it would not be hard to identify prison officials with full knowledge of the conditions that deprive the incarcerated of the basic human need for sleep.

Defendants in such cases might try to argue that, although they knew of the challenged conditions, they were not aware that these conditions posed “a substantial risk of serious harm” to prisoners. Yet as the *Farmer* Court made clear, “[w]hether a prison official had the requisite knowledge of a substantial risk is a question of fact subject to demonstration in the usual ways, including . . . the very fact that the risk was obvious.”⁴⁷¹ At a minimum, prison officials who work the night shift are well acquainted with the conditions under which those living in their facilities are forced to try to sleep. And because they are human themselves, and thus equally in need of the full complement of sleep necessary for human functioning (not to

467. See *Estelle v. Gamble*, 429 U.S. 97, 104 (1976) (“[D]eliberate indifference to serious medical needs of prisoners constitutes the ‘unnecessary and wanton infliction of pain’ proscribed by the Eighth Amendment.”) (quoting *Gregg v. Georgia*, 428 U.S. 153, 173 (1976)).

468. *Farmer v. Brennan*, 511 U.S. 825 (1994).

469. *Id.* at 837.

470. *Id.* at 839 (quoting MODEL PENAL CODE § 2.02(2)(c) (A.L.I. 1985)).

471. *Id.* at 842.

mention equally likely to have wrestled with environmental conditions impeding sleep), it would be reasonable to infer that they realized that people subjected to this set of conditions would be unable to get adequate sleep. Given the way the Court defined the Eighth Amendment deliberate indifference standard in *Farmer*, the plaintiffs should be readily able to identify defendants as to whom they can satisfy the subjective component of an Eighth Amendment sleep deprivation claim.

I am aware that, in this discussion, I have glossed over innumerable issues that plaintiffs may run up against in litigating these two aspects of an Eighth Amendment conditions challenge. For example, defendants might argue that plaintiffs failed to exhaust administrative remedies.⁴⁷² They might invoke qualified immunity⁴⁷³ or “*Turner* deference,”⁴⁷⁴ or deny that

472. See 42 U.S.C. § 1997e(a) (denying access to federal court for incarcerated plaintiffs seeking to challenge their conditions of confinement “until such administrative remedies as are available are exhausted”).

473. See *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982) (holding that government officials have qualified immunity from suit so long as they did not violate “clearly established law”); *Procunier v. Navarette*, 434 U.S. 555, 561–62 (1978) (holding that prison officials are entitled to qualified immunity from liability for civil rights violations).

474. In *Turner v. Safley*, 482 U.S. 78 (1987), the Supreme Court established a standard for reviewing prison policies and practices that incidentally burden prisoners’ constitutional rights. Although the case specifically concerned communication restrictions between incarcerated people and limits on their ability to marry, *Turner* quickly became the “new, default standard for reviewing constitutional challenges to prison policy.” *Driver & Kaufman, supra* note 10, at 536; *see also* *Washington v. Harper*, 494 U.S. 210, 224 (1990) (“[The *Turner* principles] apply in all cases in which a prisoner asserts that a prison regulation violates the Constitution, not just those in which the prisoner invokes the First Amendment.”). Under *Turner*, prison regulations that burden prisoners’ constitutional rights—even fundamental rights—will nonetheless be upheld if they are “reasonably related to legitimate penological interests.” *Turner*, 482 U.S. at 89. The case identifies four factors that courts should use to make this determination, *id.* at 89–91, and the Court’s elaboration of each “leaves no doubt that the test is intended to be extremely deferential to prison officials.” *Sharon Dolovich, The Coherence of Prison Law*, 135 HARV. L. REV. F. 302, 312 (2022) [hereinafter Dolovich, *Coherence*]. Indeed, as I have argued elsewhere, “[i]t is hard to conceive of a more deferential standard than *Turner*, or one that creates a stronger presumption of constitutionality.” *Id.* at 311. Even the Supreme Court has acknowledged the high degree of deference to prison officials that *Turner* demands—so much so that, in a 1996 case concerning prisoners’ right of access to courts, the Court did not even try to apply *Turner*’s multi-factor analysis, but simply referred to “*Turner*’s principle of deference” as an independent reason for courts to side with prison officials seemingly regardless of the context. *See, e.g.*, *Lewis v. Casey*, 518 U.S. 343, 361 (1996) (“*Turner*’s principle of deference has special force with regard to [restrictions on law library access for] . . . inmates in lockdown . . .”); *see also id.* at 393 (Souter, J., concurring in part, dissenting in part, concurring in the judgment) (agreeing with the majority that the injunction granted below “does not reflect the deference we accord to state prison officials under *Turner v. Safley*”).

Even still, any defense to an Eighth Amendment sleep deprivation claim grounded in a general invocation of *Turner* deference should readily fail. *See Johnson v. California*, 543 U.S. 499, 511 (2005) (explaining that the Court “ha[s] not used *Turner* to evaluate Eighth Amendment claims of cruel and unusual punishment in prison . . . because the integrity of the criminal justice system depends on full compliance with the Eighth Amendment”); *Garrett v. Lumpkin*, 96 F.4th 896, 901 (5th Cir. 2024) (“[T]he

plaintiffs suffered actual injury.⁴⁷⁵ They might claim relief is foreclosed absent a showing of physical injury.⁴⁷⁶ Or they might claim—as prison officials repeatedly did during COVID—that, despite taking no meaningful steps to reduce the risk of harm, they reasonably responded to the risk prisoners faced from lack of sleep and could thus not be found deliberately indifferent.⁴⁷⁷ At least as to some challenged conditions—hunger in particular comes to mind—they might insist that they lacked knowledge of the condition itself and thus of the risk of harm it might have posed. Litigators will need to address these issues as they arise.⁴⁷⁸ To some extent, their force will depend on the particulars of individual cases. But my point here is a more general one: assuming a well-litigated case, so long as courts apply the governing Eighth Amendment doctrine in an evenhanded and straightforward way, plaintiffs alleging unconstitutional sleep deprivation should have a clear doctrinal pathway to prevailing on the merits.

All this means that in theory—assuming the ability to overcome the many procedural hurdles to getting into court and getting a hearing on the merits—an affected class that meets its burden under governing Eighth Amendment standards should be entitled to injunctive relief designed to remedy the many sleep-impeding conditions producing harm or risk of harm. However, in practice, those seeking relief in the courts from the conditions undermining sleep are still likely to face a steep uphill climb.

Supreme Court clarified in Johnson that Turner's penological-purpose test does not apply to Eighth Amendment conditions-of-confinement claims.”).

475. *See Lewis*, 518 U.S. at 349 (holding, in an opinion penned by Justice Scalia, that “inmate[s] alleging a violation of [their right of access to the courts] must show actual injury,” and locating this requirement in “a constitutional principle that prevents courts of law from undertaking tasks assigned to the political branches”); *Brown v. Plata*, 563 U.S. 493, 552 (2011) (Scalia, J., dissenting) (“[I]t is inconceivable that anything more than a small proportion of prisoners in the plaintiff classes have personally received sufficiently atrocious treatment that their Eighth Amendment right was violated”). This effort too should fail. *See id.* at 505 n.3 (reaffirming—against Justice Scalia’s argument that no constitutional claim lies absent showing of an actual injury—that the plaintiffs who show that, thanks to “systemwide deficiencies” in prison operations, they are exposed to a “substantial risk of serious harm” have satisfied the objective component of an Eighth Amendment conditions challenge).

476. Assuming cases in which the plaintiff seeks prospective relief and not damages, this effort should also be to no avail. *See, e.g.*, *Garrett v. Thaler*, 560 F. App’x. 375, 379 n.3 (5th Cir. 2014) (explaining that the physical injury requirement established by the Prison Litigation Reform Act (“PLRA”) “does not apply to requests for declaratory or injunctive relief” (quoting *Geiger v. Jowers*, 404 F.3d 371, 375 (5th. Cir. 2005)).

477. *See Dolovich, Coherence*, *supra* note 474, at 334–39 (describing the doctrinal shift in the reading of *Farmer v. Brennan*, 511 U.S. 825 (1994), that benefitted defendant prison officials during COVID-19); *see also id.* at 335 n.218, 337–39 (documenting cases demonstrating this doctrinal shift).

478. At least some defenses raised by the state—*Turner* deference and arguments that plaintiffs have failed to show “physical injury” or “actual injury”—should go nowhere. *See supra* notes 474–75.

One notable challenge would arise from the nature of the relevant evidence. On the one hand, the considerable body of sleep science demonstrating unequivocally the myriad harms—physiological, psychological, and cognitive—arising from sleep deprivation will help incarcerated plaintiffs make their case.⁴⁷⁹ On the other hand, making such a showing demands expertise and resources that pro se plaintiffs are likely to lack, which means that, to succeed, plaintiffs will require outside counsel with deep pockets and a commitment to building the strongest possible case.⁴⁸⁰ And even still, such efforts may run up against what Margo Schlanger has characterized as “a general hardening of attitudes about causation” on the federal bench, producing demands by courts for “more rigorous proof on harm and causation.”⁴⁸¹

Then there is the fact that today’s federal courts are extremely reluctant to order meaningful changes to how prisons are run. Except for one brief period in the 1970s and 1980s,⁴⁸² federal courts have been notoriously unwilling to issue broad injunctive orders in prison cases.⁴⁸³ And as we have

479. See *supra* Part I.

480. See Margo Schlanger, *Civil Rights Injunctions Over Time: A Case Study of Jail and Prison Court Orders*, 81 N.Y.U. L. REV. 550, 621 (2006) (tracing the “increased complexity of contemporary injunctive correctional practice” in part to the “big firm ‘playbook,’ ” which is resource intensive and designed to pull out all the stops on behalf of clients).

481. See *id.* at 605; see also Supplemental and Revised Findings of Fact and Conclusions of Law at 8, *Garrett v. Guerrero*, No. 2:13-CV-00070 (S.D. Tex. May 1, 2025) (ruling against Garrett on his Eighth Amendment sleep deprivation claim in part because the plaintiffs’ evidence demonstrated an “insufficient causal link”—“only an association, not a cause-and-effect relationship, between the amount of continuous sleep and health disorders”).

482. See MALCOLM M. FEELEY & EDWARD L. RUBIN, JUDICIAL POLICY MAKING AND THE MODERN STATE: HOW THE COURTS REFORMED AMERICA’S PRISONS 30–41 (1998) (providing a historical overview of the increasing willingness of federal district courts in the 1970s and 1980s to engage in robust enforcement of prisoners’ constitutional rights, a phenomenon that, in several cases, led to sweeping injunctions affecting every aspect of prison life and heralding the end of the so-called hands-off era); *id.* at 51–95 (exploring in detail landmark prison reform cases in Arkansas and Texas).

483. In this respect, courts have long responded to clear signals from the Supreme Court, which, even during what is known as the “reform” era, *see id.* at 39, took pains to emphasize the need for judicial restraint, a theme it continued to sound as the Court shifted rightward. See, e.g., *Procurier v. Martinez*, 416 U.S. 396, 404–05 (1974) (emphasizing that “courts are ill equipped to deal with the increasingly urgent problems of prison administration,” which are “complex and intractable, and . . . not readily susceptible of resolution by decree” and thus “peculiarly within the province of the legislative and executive branches”); *Bell v. Wolfish*, 441 U.S. 520, 562 (1979) (cautioning courts against “becom[ing] . . . enmeshed in the minutiae of prison operations” and to leave the “judgment calls” as to how to run the prisons “to officials outside of the Judicial Branch,” who “are actually charged with and trained in the running of [prisons]”); *Lewis v. Casey*, 518 U.S. 343, 349 (1996) (“It is the role of the courts to provide relief to claimants . . . who have suffered, or will imminently suffer, actual harm . . . [and it is the role] of the political branches[] to shape the institutions of government . . . to comply with the laws and the Constitution.”). In 1996, this view of the limits of judicial authority to order injunctive relief was effectively codified by Congress in the PLRA. As Margo Schlanger has shown, in the wake of the PLRA, court orders against prisons and jails became fewer in number and narrower in

seen, the concern with sleep deprivation implicates wide swaths of prison operations—the design of housing units, maintenance of the physical plant, a prison’s ability to accommodate large populations in relatively small spaces, the way staff shifts are organized, how COs do their jobs, and even the fundamental matter of how staff perceive and treat the incarcerated. In today’s judicial climate,⁴⁸⁴ the breadth of any sufficient remedy is likely to incline courts to try to find some way to dispose of the case long before the remedial stage—however strongly supported the constitutional claim.⁴⁸⁵

For these and other reasons, litigation will not be a cure-all.⁴⁸⁶ Yet even granting the impediments, these cases are still very much worth bringing. For one thing, with the right case, dedicated and adept advocates with sufficient resources to mount the litigation may well find a way to win.⁴⁸⁷ And partial successes are still worth pursuing. Even if a court were unwilling to order sweeping relief encompassing all the issues explored here, it would still make for better sleep inside if they were at least to require, say, adequate air conditioning during hot summer months or that prisoners be provided real beds with higher quality mattresses. To this, some may object that, given the cruelty of forcing people to try to sleep in the dehumanizing and inhumane conditions mapped here, we ought to accept nothing less than complete

scope. *See* Schlanger, *supra* note 480, at 569–89, 602–05. She traces the reduction in volume directly to the PLRA, *see id.* at 589–94, and the reduction in the number of topics addressed in those orders that are obtained to the increased complexity of the cases and the heightened burdens on the plaintiffs seeking to make their case. *See id.* at 630.

484. Perhaps some state courts may be more hospitable to claims challenging prison conditions that impede sleep. As federal courts have become increasingly less open to prisoners’ constitutional claims, state courts have emerged as a possible alternative venue. However, it is currently unclear how viable an alternative state courts in fact represent; at best, success is likely to vary dramatically across jurisdictions.

485. Courts not inclined to side with incarcerated plaintiffs or to enter injunctive orders on their behalf have ways to avoid doing so—even when the plaintiffs’ claims are strong on the merits and even when the defendants’ proffered arguments strain credulity. For a survey of available strategies, see Dolovich, *Coherence*, *supra* note 474, at 303 (exploring “the mechanisms by which, despite what is known about the reality on the ground in American prisons, courts hearing constitutional challenges brought by prisoners so persistently find in favor of the state”).

486. Indeed, recent developments in the Supreme Court suggest that, however great the current obstacles, it may soon be even harder than it currently is for the incarcerated plaintiffs to get the relief they seek through Eighth Amendment claims. *See* City of Grants Pass v. Johnson, 144 S. Ct. 2022, 2216 (2024) (“None of the city’s sanctions qualifies as cruel because none is designed to ‘superad[d]’ ‘terror, pain, or disgrace.’ ”) (quoting *Bucklew v. Precythe*, 139 S. Ct. 1112, 1114 (2019)); *see also* Dolovich, *Evading the Eighth Amendment*, *supra* note 434, at 154–60 (discussing the Court’s reasoning in *Bucklew*, 139 S. Ct., and what it might portend for the future of Eighth Amendment prison conditions claims).

487. *See* Dolovich, *Coherence*, *supra* note 474, at 316 (arguing that, notwithstanding “prison law’s pro-state tilt[,] where the challenged treatment is glaringly indefensible, where dedicated and adept plaintiffs’ lawyers are willing to build the strongest possible case for their clients, and where courts are open to taking plaintiffs’ claims seriously, prisoners may sometimes prevail”).

institutional overhaul.⁴⁸⁸ But when conditions are this dire, advocates do prisoners no favors by letting the best be the enemy of the good.

Moreover, we should not discount the possible virtuous circle that might arise were courts to order—and prison officials to implement—even partial relief. Of the obstacles to sleep catalogued here, those I have labeled meta-conditions are perhaps least likely to form the basis for injunctive relief. Yet if a carceral facility took steps to improve the more concrete conditions impeding sleep, some of the meta-conditions may at least partly take care of themselves. If a prison provided decent beds, served a meal before bed, reduced the frequency of nighttime counts, or ensured an ambient temperature conducive to sleep, these efforts might mitigate the daily humiliations that can themselves compromise sleep. Depending on the nature of the policy changes, people in such facilities might also feel less compelled to break the rules to try to improve the quality of their sleep, or to engage in risky behavior for the sake of having something to eat before bed. This possibility of felicitous knock-on effects is another reason Eighth Amendment claims grounded in sleep deprivation are worth bringing, even if the results may fall short of total institutional transformation.

Sleep deprivation may also ground claims beyond class actions seeking broad structural change. As with other pathological features of the carceral experience—medical neglect, inadequate mental health care, the risk of physical or sexual assault, excessive force, and so on—sleep deprivation is both a shared experience produced by macro-level institutional design and a personal experience the precise shape of which will vary according to the individual and their context. Depending on the circumstances, people in custody may face particular obstacles to adequate sleep for which individual prison officials may be liable. For example, prison officials may persistently refuse to provide testing and treatment for people exhibiting obvious signs of sleep apnea, or to authorize a cell move for someone whose cellmate is a kitchen worker with a 2:00 a.m. wake-up time, or to provide a longer or wider bunk for someone of greater than average height or weight. Such situations too deprive people of the basic human need for sleep and thus raise potential constitutional claims, along with claims under other legal frameworks—perhaps most notably the Rehabilitation Act and the

488. However much we may wish it were otherwise, there is, at this historical moment, no obvious pathway to total institutional transformation. This being so, those of us with the luxury of controlling our sleeping environments should not allow our wider political commitments, however fervently held, to blind us to the needs of the almost two million people currently living—and desperately trying to sleep—behind bars. For now, if making it possible for prisoners to get seven hours of uninterrupted sleep per night is not a realistic goal, those inclined to take on this issue might at least aim to help those inside to get four hours a night rather than two.

Americans with Disabilities Act, the “two principal federal disability anti-discrimination statutes.”⁴⁸⁹

Again, I do not wish to overstate the likelihood of success. Given the dispositional favoritism federal courts routinely exhibit toward defendant prison officials in prison law cases, incarcerated plaintiffs will always face long odds.⁴⁹⁰ Yet advocates should still bring these claims—and not only because they may sometimes win. They should also do so because, just by filing cases, they can put the issue of perpetual sleep deprivation in prison on the public radar.⁴⁹¹ If change is to be possible, the public first needs to be aware of what goes on behind the walls. And litigation, with its built-in drama and familiar script, offers a way to expose the realities of prison life to public view. Legal cases can become the focus of media attention; as reporters cover the various stages of the case, they also educate the public about the underlying issues. Judicial proceedings offer inflection points for organizing, around which advocates can build political campaigns. And lawsuits themselves can open pathways for sympathetic engagement by legislators, who may in turn hold hearings and push for policy change.⁴⁹² Eighth Amendment litigation alone cannot achieve these aims. It can, however, play a crucial supporting role in a multi-pronged, multi-stakeholder strategy.⁴⁹³

489. Margo Schlanger, *Prisoners with Disabilities*, in 4 REFORMING CRIMINAL JUSTICE: PUNISHMENT, INCARCERATION, AND RELEASE 295, 301 (Erik Luna ed., 2017). For an overview of the experience of people with disabilities in custody and analysis of the legal pathways to challenging carceral conditions negatively impacting those in this group, see *id.* and Margo Schlanger, Elizabeth Jordan & Roxana Moussavian, *Ending the Discriminatory Pretrial Incarceration of People with Disabilities: Liability Under the Americans with Disabilities Act and the Rehabilitation Act*, 17 HARV. L. & POL’Y REV. 231 (2022).

490. See Dolovich, *Coherence*, *supra* note 474, at 303–04 (identifying and mapping the phenomenon of “dispositional favoritism”: the moral psychology that “orients courts to regard prison officials’ arguments favorably while viewing prisoners’ claims with skepticism and even hostility”).

491. See generally Sharon Dolovich, *How Prisoners’ Rights Lawyers Do Vital Work Despite the Courts*, 19 U. ST. THOMAS L.J. 435 (2023) (describing the way litigation can help publicize inhumane prison conditions that may otherwise remain hidden).

492. Following Jules Lobel, we might think of this as a species of winning by losing. See generally JULES LOBEL, *SUCCESS WITHOUT VICTORY: LOST LEGAL BATTLES AND THE LONG ROAD TO JUSTICE IN AMERICA* (2003).

493. Just such a multi-pronged strategy was pursued to powerful effect by opponents of solitary confinement in the early 2010s. Combining litigation with media attention, public education, and political advocacy, reformers helped move the profligate use of solitary in carceral facilities nationwide from the shadows into the light. See generally Peoples v. Fischer, 898 F. Supp. 2d 618 (S.D.N.Y. 2012) (broadly challenging the use of solitary in New York state prison); Plaintiffs’ Second Amended Complaint, Ashker v. Brown, No. 4:09-CV-05796-CW (N.D. Cal. 2012) (same in California state prison). Although the use of solitary confinement has not ceased, it has been the subject of broad political challenge in all 50 states, with the practice having been limited by 228 pieces of legislation in 42 states. *Data Tracker*, UNLOCK THE BOX, <https://unlocktheboxcampaign.org/data-tracker> [<https://perma.cc/463N-S6BY>].

One other legal issue, implicating not the United States Constitution but international human rights law, bears addressing here. That is, some readers may be inclined to regard the systematic interference with sleep in American prisons as tantamount to torture. Whether such a claim could succeed under international law is an open question. There is a high bar to a finding of torture under the United Nations Convention Against Torture (“CAT”),⁴⁹⁴ which explicitly excludes from the definition “pain or suffering arising only from, inherent in or incidental to lawful sanctions”—a provision that would greatly complicate efforts to apply CAT to sleep deprivation in American prisons (if not for cases focusing on pretrial or administrative detention).⁴⁹⁵ For this and other reasons,⁴⁹⁶ advocates wanting to argue that the conditions mapped here violate international law bans on torture may also face a steep uphill climb.⁴⁹⁷

Those pursuing this legal pathway might find it more promising to try framing sleep deprivation in prison, not as torture, but as “cruel, inhuman or degrading treatment” (“CIDT”—a category of treatment also prohibited under international human rights law.⁴⁹⁸ CIDT falls somewhat below torture on the schedule of human rights abuses, and includes “forms of

494. The European Court of Human Rights (“ECHR”), which has de facto jurisdiction over interpreting CAT, has never found sleep deprivation alone to constitute torture under the U.N. Convention. *See, e.g.*, *Ireland v. United Kingdom*, 25 Eur. Ct. H.R. (ser. A) at 86 (1978) (rejecting a claim of torture in a case challenging tactics including forced stress positions, hooding, extreme noise, sleep deprivation, and deprivation of food and drink, though finding this treatment to constitute “inhuman and degrading treatment”).

495. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 1, ¶ 1, Dec. 10 1984, 2025 U.S.T.I.F. 94-1120.1.

496. *See, e.g.*, *supra* note 494 and *infra* note 500.

497. There are some threads in the caselaw that might help advocates make the case. For example, in 1999 in *Selmouni v. France*, the ECHR emphasized that “the Convention is a ‘living instrument which must be interpreted in the light of present-day conditions’” and that “certain acts which were classified in the past as ‘inhuman and degrading treatment’ as opposed to ‘torture’ could be classified differently in future.” *Selmouni v. France*, App. No. 25803/94, ¶ 101 (July 28, 1999), <https://hudoc.echr.coe.int/eng?i=001-58287>. And in *Hatton v. United Kingdom*, a case challenging a policy in the United Kingdom allowing night flights from Heathrow Airport, a dissent joined by five members of the court found that “[w]hen it comes to such intimate personal situations as the constant disturbance of sleep at night by aircraft noise there is a positive duty on the State to ensure as far as possible that ordinary people enjoy normal sleeping conditions.” *Hatton v. United Kingdom*, App. No. 36022/97 ¶ 12 (July 8, 2003) (joint dissenting opinion by Costa, Ress, Türmen, Zupančič, and Steiner, JJ.), <https://hudoc.echr.coe.int/?i=001-61188>.

498. *See Ireland*, 25 Eur. Ct. H.R. at 59 (quoting G.A. Res. 3452 (XXX), Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Dec. 9, 1975)); *id.* at 58 (finding the challenged treatment to constitute “inhuman and degrading treatment”).

punishments . . . that cause ‘serious mental and physical suffering,’ ”⁴⁹⁹ which persistent interference with sleep of the sort described here arguably does.

I leave it to experts in international human rights law to determine how best to categorize the conditions described here within CAT and other international human rights frameworks. Here, I would simply note that, at this stage, how this doctrinal debate (torture or only CIDT?) would come out under international law may matter less⁵⁰⁰ than the fact that, for many, this is the question that most immediately comes to mind when confronting the fact of systematic sleep deprivation in American prisons. That we find ourselves in a moral universe where these are the stakes provides the strongest possible evidence that the conditions identified here are among the features of American prison life most worthy of condemnation and challenge.

D. POLICY: CHALLENGES AND COMPLICATIONS

The conditions chronicled in this Article are the product of multiple failures: of institutional design, of moral obligation, of constitutional protection and enforcement. In these ways, the phenomenon of sleep deprivation is no different from many other toxicities constitutive of the American carceral experience. All the unconscionable conditions that shape prison life, sleep deprivation included, have the same moral driver: an inability (or unwillingness) to recognize the humanity of the incarcerated, and a consequent callous indifference to their health and well-being. They also have considerable mutual interaction effects, each reinforcing and amplifying the harms prisoners endure.

This interconnection means that none of prison’s noxious aspects can be fully resolved while the others persist. Yet, however much we might wish

499. Lisa Yarwood, *Defining Torture: The Potential for ‘Abuse’*, 2008 J. INST. JUST. & INT’L STUD. 324, 328 (quoting *Prosecutor v. Kvočka*, Case No. IT-98-30/1-T, Judgment, ¶ 542 (Int’l Crim. Trib. for the Former Yugoslavia Nov. 2, 2001)).

500. If Eighth Amendment protections remain profoundly underenforced in the American legal environment, the imperatives of international law have virtually no traction at all. See John K. Setear, *A Forest with No Trees: The Supreme Court and International Law in the 2003 Term*, 91 VA. L. REV. 579, 585–86 (2005) (arguing that the Court frequently ignores international law and describing the Court’s approach to international law in seven cases as “cramping, ignoring, or defanging international law”). See generally Harry A. Blackmun, *The Supreme Court and the Law of Nations*, 104 YALE L.J. 39 (1994) (discussing, following his retirement from the Court, the ways in which several of the Court’s decisions ignored or contradicted principles of international law); *see also* *Knight v. Florida*, 528 U.S. 801, 990 (1999) (Thomas, J., concurring in the denial of certiorari) (“[W]ere there any such support in our own jurisprudence, it would be unnecessary for the proponents of the claim to rely on the European Court of Human Rights, the Supreme Court of Zimbabwe, the Supreme Court of India, or the Privy Council.”).

it, we will not witness the wholesale transformation of American carceral practice any time soon. Of course, we ought still to push for sweeping change. But this hard truth means that, for now, the best we may realistically be able to achieve for those currently living behind bars is to ameliorate their suffering as much as possible.

When it comes to improving the conditions in which prisoners sleep, there are some obvious policy fixes. To name just a few: people should have real beds, decent mattresses and pillows, and sufficient blankets to keep them warm at night. Meals of reasonable quality and quantity should be served at appropriate times, and food should be available in the evening for people who are still hungry. Facilities should be air-conditioned in summer, well-heated in winter, and generally well maintained to ensure a temperate environment. Nighttime counts should be reduced and staff trained to respect prisoners' sleep. Approaches to lighting should be found that do not interfere with sleep and leave some people feeling like "rotisserie chicken[s]."⁵⁰¹ And ideally, people would have their own rooms, so that their sleep will not be disrupted by the movements and noises of a cellmate⁵⁰²—or ninety-nine other dormmates. Even if policymakers balk at implementing the policy reforms just itemized, these are changes advocates should push for on every available front.⁵⁰³

No doubt, these proposals and others in a similar vein would be condemned by abolitionists (and other advocates of sweeping change) as woefully inadequate. But given the actual distribution of power in this space, what is of more practical moment is that such proposals are also likely to be fiercely resisted by prison officials and policymakers. Such changes would not come cheap, and prisoners, largely viewed as undeserving across society at large, are not a constituency in which legislators are generally eager to invest. Although the desire of politicians to seem "tough on crime" has waned somewhat since its peak in the 1990s, there is still a palpable reluctance among policymakers to address even the most pressing needs of the incarcerated.⁵⁰⁴ This is not the place to fully address these troubling

501. Interview with FI.30 at 23.

502. *But see supra* note 402 and accompanying text (noting the possibility that women prisoners might feel safer with a cellmate and thus may prefer to be double-celled).

503. It might seem as if such reforms, focused as they are on the concrete conditions described in Part III, would leave unaddressed the meta-conditions identified in Part IV. But these conditions are all interrelated, and as noted, *see supra* Section V.C, the changes I propose would also help to neutralize, at least to some extent, some of the sleep-disrupting effects of the pathological dynamics Part IV explores.

504. *See* Sharon Dolovich, *The Failed Regulation and Oversight of American Prisons*, 5 ANN. REV. CRIMINOLOGY 153, 158–60 (2022); *see also id.* at 160 ("The resounding silence with which legislators across the country greeted the disproportionate threat COVID posed to people locked inside crowded, poorly ventilated carceral facilities is wholly in keeping with this notable quiescence . . .").

dynamics. Here, I would simply note that the state's decision to incarcerate carries with it the duty to provide for the basic needs of people in custody. This is the state's carceral burden.⁵⁰⁵ If efforts at economy produce conditions that deprive people of what Justice Powell once labeled "the minimal civilized measure of life's necessities,"⁵⁰⁶ the state is obliged to reorient its priorities. If it finds the costs too great to bear, the appropriate response—both morally and constitutionally—is not to subject the incarcerated to dehumanizing and affirmatively harmful conditions, but instead to reduce the carceral footprint.⁵⁰⁷

It is well beyond the scope of this Article to fully explore the policy challenges facing those seeking to ameliorate the sleep-disrupting conditions prisoners face. I will, however, flag one additional complication that advocates will invariably need to confront: efforts to improve the conditions enabling sleep in prison will at times run up against policy initiatives intended to promote unrelated dimensions of prisoners' interests and needs. For example, as we have seen, one central source of nighttime disruption comes from COs conducting count and performing regular security checks. But in the view of many prisoners' advocates, these rounds are vital to ensuring the health and well-being of those in custody, by preventing or disrupting suicide attempts and intra-prisoner violence and allowing timely intervention in the event of medical crises.⁵⁰⁸ In my view, this justification is questionable.⁵⁰⁹ Yet even assuming its validity, it is also the case that these nighttime checks exact a considerable cost to the health and well-being of the very people they are supposed to help—a cost measured in the disrupted sleep, every single night, of hundreds of thousands of people incarcerated in locked facilities around the country. It may be that nighttime rounds should

505. See Dolovich, *Cruelty*, *supra* note 434, at 911–23; see also Dolovich, *Evading the Eighth Amendment*, *supra* note 434, at 137–40 (describing the Eighth Amendment "roots of the state's carceral burden").

506. Rhodes v. Chapman, 452 U.S. 337, 347 (1981).

507. See DeShaney v. Winnebago Cnty. Dep't of Soc. Servs., 489 U.S. 189, 199–200 (1989) ("[W]hen the State by the affirmative exercise of its power so restrains an individual's liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs . . . it transgresses the substantive limits on state action set by the Eighth Amendment and the Due Process Clause.").

508. See Order at 4–7, Coleman v. Brown, No. 2:90-cv-00520-KJM-SCR (E.D. Cal. Dec. 3, 2020).

509. Someone bent on killing themselves or attacking a cellmate can readily time their efforts to correspond to the gaps between security checks. And although in some instances, COs might arrive on the scene in time to intervene in a suicide attempt or a medical emergency that might not otherwise have been flagged by others in the unit calling for help, in many instances, help from COs doing rounds will likely come too late. If there are some few cases in which the checks can make a difference, there is also an enormous opportunity cost in terms of sleep that must be weighed in the balance.

be maintained, but at the very least, their considerable downside effects on sleep should be taken seriously and addressed.⁵¹⁰

A similar tension will also confront efforts to improve sleep in prison by increasing access to single cells. Judging from my interviews, it is impossible to overstate the sleep-enhancing effects of having one's own room. Given the choice, virtually everyone I spoke with would opt for a single.⁵¹¹ Yet since the 1980s, when the American prison population exploded, double-celling—that is, housing two people in cells designed for one—has been the norm.⁵¹² This practice allowed states to cram many more people into each facility, and solo housing became relatively rare. But although the size of the incarcerated population remains high, it peaked nationwide in the early 2000s and continues to exhibit appreciable declines.⁵¹³ Among other advantages, this drop has somewhat eased

510. An especially stark example of this tension arose in California's Pelican Bay Prison in 2015. To try to reduce suicides at Pelican Bay, the court in *Coleman v. Newsom*, No. 2:90-cv-00520-KJM-DB (E.D. Cal. Feb. 3, 2015), "adopted an expert recommendation requiring twice-hourly welfare checks in solitary confinement using Guard One." Plaintiff-Appellant's Opening Brief at 9, *Rico v. Roberston*, No. 21-16880 (9th Cir. Mar. 16, 2022). Guard One is an electronic monitoring system designed to ensure that staff are doing their security rounds. COs "carry a small metal wand or pipe that, when touched to a metal button outside of each cell, electronically records that the officer has checked that cell to confirm the security and welfare of the individuals in the cell." Stipulation and Order Approving Settlement of Plaintiff-Intervenor Christopher Lipsey's Claim in Intervention, Exhibit 1, at 2, *Coleman v. Newsom*, No. 2:90-cv-00520-KJM-DB (PC) (E.D. Cal. Aug. 9, 2022). This system may well help reduce suicides. It is also, however, extremely disruptive, persistently interfering with the sleep of those housed in the units where Guard One is operative. In such units, people who are trying to sleep "can hear the metal-on-metal banging of the Guard One pipe hitting the metal buttons on each cell." Plaintiff-Appellant's Opening Brief, *supra*, at 10. "The cacophony of the Guard One checks occurs once an hour at night and twice an hour during the day. Because each round of checks takes about fifteen minutes, inmates only have about fifteen minutes of uninterrupted time between checks during the day and forty-five minutes during the night." (citation omitted). *Id.* I thank Michael Bien for calling this case to my attention and Kate Falkenstein, Shawna Ballard, and Brian Baran—who represented Christopher Lipsey in his Eighth Amendment challenge to the Guard One system, *see Lipsey v. Norum*, No. 2:18-cv-0362-KJM-DB-P, 2019 U.S. Dist. LEXIS 176724 (E.D. Cal. Oct. 9, 2019)—for taking the time to talk me through the case.

511. *But see supra* note 402 and accompanying text (noting the possibility that the preference for single cells may not be shared by women, who may feel safer with a cellmate).

512. This approach to housing expanded exponentially in the wake of *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981), which held that housing two people in cells expressly designed for one person does not constitute a *per se* Eighth Amendment violation. *See Dolovich, Evading the Eighth Amendment, supra* note 434, at 148 (explaining that *Rhodes* "wound up providing constitutional cover for prison officials nationwide to respond to ever-increasing prison populations by jamming two people into cells built to the minimum adequate specifications for a single person").

513. *See NAT'L RSCH. COUNCIL, THE GROWTH OF INCARCERATION IN THE UNITED STATES: EXPLORING CAUSES AND CONSEQUENCES* 39 (Jeremy Travis et al. eds., 2014) (showing incarcerated population more than doubling across federal and state prisons and local jails during the 1980s, reaching more than four times its 1972 level in 1990, and six times in 2000); EMILY D. BUEHLER & RICH KLUCKOW, U.S. DEP'T OF JUST., NCJ 308699, *CORRECTIONAL POPULATIONS IN THE UNITED STATES, 2022—STATISTICAL TABLES* 5 tbl. 1 (2024), <https://bjs.ojp.gov/document/cpus22st.pdf> [https://perma.cc/

pressures on housing and, in some jurisdictions at least, could allow for a greater number of people to be housed alone. However, for some advocates, the preferred response when jurisdictions reduce their numbers is not to reduce population density but instead to close facilities, thus shrinking the carceral capacity of the system. If overall decarceration were the only goal, seeking prison closures would make sense. Yet viewed through the lens of sleep, shuttering prisons carries a significant downside for those who remain behind: the missed opportunity to expand the number of people able to live—and sleep—alone. This too is a serious tension advocates must navigate when considering how best to fight for change in this arena.

This brief policy discussion has focused primarily on challenges likely to attend efforts to make concrete changes to the conditions affecting prisoners' sleep. But as I have repeatedly emphasized, the phenomenon of sleep deprivation in prison cannot be fully understood independently of the moral character of the carceral enterprise, specifically, the normative hostility and callous indifference that drive institutional choices and shape official behavior. If those with the power to shape the carceral environment are blind to or unmoved by the humanity of people in custody, they will easily dismiss demands for the concrete changes that would help those inside get adequate sleep. Any strategy for achieving practical change on the ground must therefore include efforts to generate a broad cultural recognition of the shared humanity of the people society chooses to incarcerate.

CONCLUSION

It may be tempting for some to dismiss concerns with the quality or quantity of the sleep people get in custody as simply part of the loss of those so-called creature comforts that necessarily comes with a carceral penalty.⁵¹⁴ But this notion misapprehends the stakes. Getting adequate sleep is not a matter of personal indulgence or a luxury only to be enjoyed by those at liberty to chart their own course. It is a basic human need, as fundamental to human survival and adequate human functioning as is access to food, water, and shelter from the elements.

For those who live in prisons, being denied the ability to sleep night after night takes a substantial toll. Most immediately, the experience is frustrating, infuriating, and even humiliating. Chronically insufficient sleep also inflicts substantial physiological, psychological, and cognitive harm.

F2VX-UQM4] (showing a decrease in the number of incarcerated persons from 2012 (2,231,300) to 2022 (1,827,600), with an average annual percent change of -2.0).

514. *See Rhodes v. Chapman*, 452 US 337, 349 (1981) ("[T]he Constitution does not mandate comfortable prisons, and prisons . . . [that] house persons convicted of serious crimes cannot be free of discomfort.").

Yet when aspects of the American prison are singled out for condemnation, sleep deprivation is virtually never mentioned. In this Article, I have argued that chronic sleep deprivation should be counted as among the fundamental harms of incarceration, explicitly acknowledged as a core part of what makes prison so unlivable. And the claim might be put still more forcefully: the persistent inability of people in custody to get adequate sleep is not only a product of some of the most damaging and degrading features of the prison experience, but also in turn helps to produce them. Not to reckon with this endemic aspect of prison life is to miss a key driver of the toxicity of the prison environment.

APPENDIX A

RESEARCH METHODOLOGY

The findings presented in this Article are based on thirty-nine interviews conducted primarily over four months in 2023⁵¹⁵ with people formerly incarcerated in prisons across the United States. These interviews were of two types. Thirty-five were semi-structured interviews conducted on Zoom using a 200-item questionnaire developed for the purpose. These interviews were video-recorded after obtaining consent. Each research subject had spent at least four years in prison,⁵¹⁶ and all but three had been released within five years of the interview.⁵¹⁷ I established these parameters to ensure clearer memories and a depth of experience with the issues.⁵¹⁸

The remaining four interviews—which I came to label “ad hoc interviews”—were more free-form. Participants in these interviews were people I connected with who seemed to have insight and experience to contribute, but who did not meet the study parameters at the time or who otherwise seemed unsuited for formal enrollment.⁵¹⁹ These interviews were audio-recorded after obtaining consent. To get context and perspective, I asked these individuals many of the same questions as appeared in the questionnaire, and their answers were entirely consistent with what I was hearing in the formal interviews. As a result, I wound up drawing on all thirty-nine interviews when analyzing the data.

The primary focus of the research, as well as the main source of the data, was the thirty-five formal interviews conducted using the 200-item questionnaire. What follows is a description of the protocol I followed in undertaking this core aspect of the research.

I began by compiling a draft questionnaire, initially shaped by many conversations with people with firsthand carceral experience as well as by my own knowledge of prison conditions accrued over years of study. I then

515. *See supra* note 62 (describing when the interviews were conducted).

516. I originally established a requirement of at least six years in prison. But at some point, to enhance the diversity of my sample on other dimensions, I wound up enrolling two participants who had served only four years.

517. For details, see *infra* Appendix B, Table 6 and discussion following the table.

518. Other conversations I have had in the intervening years have led me to conclude that on both these fronts, I might have been more flexible without loss of depth. But at the time I developed the study protocol, I set the parameters noted in the text.

519. One of these “ad hoc” interviewees had been out of prison for nine years and had only served three. Another had served four years, but we connected early in the data-gathering phase when I had thought my lower range on length of incarceration would be six years. The other two had spent much of their time in honor dorms, which led me to think their experiences would be somewhat less representative of the standard carceral experience.

enlisted three volunteers, each of whom had spent time behind bars (two in California and one in Louisiana), to do individual mock interviews based on my draft questionnaire. After each mock interview, the volunteer shared feedback on which aspects warranted revision. I also incorporated feedback from Joe Doherty, former Director of the Empirical Research Group at the UCLA School of Law, who advised me throughout this project on matters of research methodology.

After receiving IRB approval, I began recruiting participants. I used two main channels. First, I put out a call for participants through the networks I have developed as part of my long-standing research into prisons and prison conditions. Targeted recipients included the Prisoners' Rights listserv, a national list populated primarily by advocates for the incarcerated. This call briefly described the study and the format of the interviews and asked recipients to share the information with anyone they knew who might fit the parameters. I also posted a notice on Twitter,⁵²⁰ advertising the study and inviting participants. In each notice, I included a link to a Microsoft form asking for basic demographic data and contact information. I also indicated that study participants would receive a \$30 Amazon gift card. The idea here was to provide some compensation for the time people spent doing the interview, while keeping the amount low enough that it would be unlikely to draw people who would not otherwise be inclined to share personal details or revisit prior experiences likely to have been traumatic. Unfortunately, I did not anticipate that the up-front promise of a gift card might incline some people without prior carceral experience to pretend to have been incarcerated in an effort to receive this benefit. The first few iterations of the sign-up form proved to be a mix of genuinely qualifying individuals and fraudsters, and it took some time to figure out how to sort them out. Eventually, I began scheduling "pre-calls" with those who filled out the form. During these brief calls, I described the study and then explained that I had been hearing from people who were only pretending to be formerly incarcerated and that, before we could schedule an interview, I needed to hear enough to confirm that the person was in fact formerly incarcerated. In each instance, it took only a few sentences of the person recounting their carceral history⁵²¹ for me to know they were in earnest.⁵²²

Once I got through this rough patch, it did not take long to receive expressions of interest from more potential participants than I had time to

520. Before it became "X."

521. One person sent me a set of photos of boxes of mail he had received while incarcerated, with close-ups of his prison address featuring prominently.

522. I quickly realized that requesting the pre-call was enough to deter false respondents, but I carried out the practice with each potential participant just to be sure.

interview. My aim was to build a research sample diverse as to race and roughly proportionate as to gender.⁵²³ The reason for seeking a diverse sample was to ensure that my findings would not reflect only the experiences of one group of people. I also sought a sample that had broad jurisdictional/geographic representation. I did so because, as is common knowledge among people who study prisons or who work in the field, carceral systems vary considerably across the country on a variety of metrics, including facility size, general conditions of confinement, and—most importantly—moral orientation toward the health, safety, and well-being of those in custody.

I started by interviewing people in the order in which they reached out, but as my sample took shape, I began to pick and choose among those who had filled out the initial form, seeking people who would broaden the sample on the metrics I sought. Some states were better represented than others in my participant pool, and at some point, I realized that a certain degree of jurisdictional depth would enhance the data. I therefore set out to interview four or five people from four states well-represented in my pool: California, Louisiana, New Jersey, and New York. This approach helped strengthen confidence in my findings, as there proved to be considerable overlap in what I was hearing regarding the conditions impacting sleep from these four very different prison systems.⁵²⁴ I then did my best to speak to people from as many other state systems as I could to build out the picture more broadly.⁵²⁵

Each interview proceeded as follows:

First, prior to beginning to record, I briefly described the study and what types of questions the interview would cover. I explained that the person was free to decline to answer any question they would prefer to skip over.⁵²⁶ I also explained that if, at the end of the interview, they decided they did not want their data to be used in the study after all, they would be given an

523. See *infra* Appendix B for demographic make-up of the sample.

524. Given their geographic proximity, one might imagine prisons would not differ much between New York and New Jersey. But based on my interviews, it appears that New Jersey's prisons are much worse than New York's in terms of both conditions of confinement and the way prisoners are treated by staff and by the system in general. This is not to say that New York prisons are not also deeply problematic on many fronts. For a chilling recent account of conditions in New York prisons following the 2025 strike by New York State COs that left state prisons grossly understaffed and required the National Guard to step in, see Jennifer Gonnerman, *A Year of Convulsions in New York's Prisons: How Two Murders and a Strike Exposed a System at Its Breaking Point*, THE NEW YORKER (Oct. 6, 2025), <https://www.newyorker.com/magazine/2025/10/13/a-year-of-convulsions-in-new-yorks-prisons> [<https://perma.cc/3MQR-QRSR>].

525. See *infra* Appendix B, Table 3.

526. This rarely occurred. When it did, it was most often people preferring not to share their current weight.

opportunity to retroactively withdraw their consent. Finally, I explained that the content of our exchange would be, not only confidential, but also fully anonymous. To that end, with the permission of each participant, I changed the name in their Zoom box to the random code I had previously selected for their interview, each taking the form FI.# (with FI standing for “Formerly Incarcerated”). Doing so ensured that even the person who transcribed the interview would not know the subject’s name. And once the interviews were transcribed, the (anonymized) transcript would be the only record of the interview. I then solicited consent to participate in the study and for the session to be recorded. Only after consent was granted on both fronts did we start the interview.

The interviews were semi-structured. On this approach, the questionnaire becomes the vehicle for introducing issues, any one of which may invite deeper inquiry depending on how the conversation goes. Each interview began with the interviewee providing their carceral history, including which facilities they were in, how long they spent in each, and the housing configuration of each. After asking them to estimate how much time they slept in each housing context, I asked one series of questions about issues that may have impaired sleep, and another about how if at all being chronically tired (or being surrounded by other chronically tired people) may have impacted their carceral experience or the functioning of the prison. A final set of questions addressed demographics and related issues.

Over the course of the research, I began to get a feel for which questions were most fruitful, and which yielded little of interest. Consequently, I stopped asking some questions altogether.⁵²⁷ I also started asking additional questions as salient issues emerged. This meant that, as to some issues—those that only emerged over time—I received input from fewer people than on those issues I had been asking about from the beginning. Among the questions that emerged in this way were:

- Did you ever have trouble sleeping due to the presence of insects, rodents, or other vermin in your cell or dorm? If so, tell me about it.
- Did you ever find it hard to sleep because of untreated physical pain? If so, tell me about it.
- Did you have any difficulty sleeping in the bunks because of above-average weight or height, or did you ever see others in this situation? If so, how did you/they handle it?

527. For example, one initial question asked whether poor ventilation ever interfered with sleep. Virtually no one answered this question in the affirmative, so I stopped asking it.

- Do you think staff were also tired/sleep deprived? If so, what makes you say so? If so, how did staff being tired affect your daily life or that of others in the prison?⁵²⁸

During the initial process of drafting the questionnaire, an issue came up that I thought might be fruitful to pursue more systematically: the experience of people diagnosed with sleep apnea who used/tried to use CPAP machines in custody. I therefore designed a second, shorter questionnaire intended for use with this population. It contained targeted questions about sleep apnea and CPAP use,⁵²⁹ and also asked what I thought were likely to be the core questions for all interview subjects: those concerning how long and how well people slept, the specific obstacles to sleep, and how being sleep deprived or being surrounded by people who were sleep deprived affected their carceral experience. After conducting two such interviews, I realized that I would not get sufficiently consistent data on the sleep apnea/CPAP piece to be able to say anything reliable on these issues. I therefore folded these two interviews into my larger data set and ceased soliciting participation from those in this category.⁵³⁰

A question arose early on about whether doing the interviews over Zoom might disadvantage some participants. But it quickly became clear that, in a post-COVID world, virtually everyone was comfortable with the Zoom platform. Occasionally the start of an interview would be delayed by technical difficulties, but these were readily overcome.

At the close of each interview, after I ceased recording, I gave each person the opportunity to offer any thoughts they might have on the experience we had just shared. Once or twice, the subject began talking about an entirely new issue, one we had not discussed during the interview. Each time this happened, I hesitated to risk interrupting the flow by asking to restart the recording. I therefore took as detailed notes as I could and immediately after ending the call recorded my recollection of the exchange as part of the field notes for that interview.

At the close of each interview, I also gave each person the opportunity to withdraw their initial consent to participate and not to have their data included in the study. No one took me up on this offer. After each interview, I followed up by email to share my contact information and the contact information for the UCLA Office of the Human Research Protection

528. I began asking the formerly incarcerated participants about staff fatigue once it became clear from my CO interviews that the COs too were profoundly sleep deprived.

529. I also asked about these issues in a less detailed way in the main questionnaire.

530. I originally coded these interviews as CPAP#. When I made the decision to fold them into the larger data set, I gave them new code numbers of the FI.# form.

Program, in case they had any questions or concerns about the research that they preferred not to go through me. I also shared the unique code for the \$30 Amazon gift card that had been promised to each participant as a token of thanks for their participation.

Once the interviews were completed, the recordings were shared with a team of research assistants (“RAs”) for transcription. There were two steps to the transcription process. First, each interview was handed off to an RA who ran it through Otter.ai, which produced an initial transcript that caught roughly ninety to ninety-five percent of the content. That same RA then went simultaneously through the recording and the initial transcript and filled in any missing pieces. Second, the interview was handed off to another RA on the team, who went through the recording and transcript to catch any remaining errors.

The coding process proceeded as follows: I created an initial, lengthy list of coding categories, each taking the form #issue (e.g., #noiseinadseg, #extremeheat, #mattresses). My RAs then went through each transcript, identifying any passages related to each category. Whenever they identified a relevant passage, they dropped the code in the interview text (producing a set of coded interviews searchable by issue) and also added the text to a master coding document that grouped interview excerpts according to categories. To ensure quality control, I reviewed the first set of coded transcripts and an early version of the master coding document. As they went, my RAs sometimes added to the initial list of coding categories. We also created tables, populated with any data amenable to being preserved in this way (e.g., race, gender, state of origin, length of incarceration, age at initial incarceration, age on release, weight on entry, weight on release, and so on). I then went through the master coding document to identify relevant issues and representative passages. I also frequently went back to the coded transcripts to read for context and confirm impressions. In this Article, I only quoted passages that were representative of what I heard more generally.⁵³¹ Where the experiences varied, for example by security level or housing configuration, I indicated as much in the text.

531. See AMY E. LERMAN & VESLA M. WEAVER, ARRESTING CITIZENSHIP: THE DEMOCRATIC CONSEQUENCES OF AMERICAN CRIME CONTROL 106 (2014) (explaining that, when they quoted from their interviews, they selected “only material that represents themes consistently articulated across the interviews”).

APPENDIX B: DESCRIPTIVE STATISTICS OF THE SAMPLE

In this Appendix, I provide tabular representation of several aspects of the research sample amenable to quantification. Unless otherwise indicated, each table includes pertinent data for the thirty-five subjects formally enrolled in the study and the four individuals with whom I conducted ad hoc interviews.⁵³²

TABLE 1. Racial Distribution (n=39)

Identified as	# in sample	% of sample	Overall % in U.S. Prison and Jails ⁵³³
Black	15	38%	42%
White	13	33%	36%
Hispanic	7	18%	20%
Asian	1	3%	N/A
Native American	1	3%	3% ⁵³⁴
Mixed Race ⁵³⁵	2	5%	N/A

TABLE 2. Gender Distribution (n=39)

Housed in facilities for	# in sample	% of sample	Overall % in U.S. Prisons ⁵³⁶
Men	35 ⁵³⁷	90%	93%
Women	4	10%	7%

532. For a description of the research methodology, including the two categories of interviews I conducted, see *infra* Appendix A.

533. See Sawyer & Wagner, *supra* note 72, at 30 (“Racial and Ethnic Disparities in Correctional Facilities”) (rounding numbers so that the total is not 100%).

534. Includes American Indian and Alaska Native.

535. Of the two subjects who identified as mixed race, one described themselves as Hispanic/Italian and the other as White/Asian.

536. This data is based on numbers reported in two graphics: *How Many People Are Locked up in the United States?* and *How Many Women Are Locked up in the United States?* in Sawyer & Wagner, *supra* note 72, at 2, 30. (including state and federal prisons and federal jails).

537. Includes one trans woman who served her full sentence in facilities for men. See *supra* note 76.

TABLE 3. Jurisdictional Breakdown (n=39)⁵³⁸

As this Table shows, the data on which this Article is based derived from interviews with people with firsthand experience of incarceration in seventeen state systems, as well as the D.C. Department of Corrections and the Federal Bureau of Prisons. In addition, six members of my sample served time in private prisons located in five different states.

Alabama	2
California	5
Colorado	2
Illinois	2
Louisiana	4
Michigan	1
Missouri	1
New Jersey	5
New York	4
Ohio	1
Oregon	2
Pennsylvania	2
Rhode Island	1
Tennessee	1
Virginia	3
Washington, D.C. ⁵³⁹	2
Wisconsin	1
Wyoming	1
Federal Bureau of Prisons	4
Private prisons ⁵⁴⁰	6 (located in Arizona, California, Colorado, Ohio, Oklahoma, and Virginia)

538. Several individuals in my sample served time in multiple jurisdictions. For this reason, the number of jurisdictions represented here is greater than thirty-nine.

539. Two members of my sample were convicted in Washington, D.C. and served the first part of their sentences in Lorton Penitentiary, a prison located in Virginia but housing only people from D.C. In 2001, Lorton was closed, and (along with everyone in Lorton) both of my interviewees were transferred out, one to BOP custody and one to the custody of the Virginia DOC.

540. Six members of my sample reported being housed for some portion of their prison terms in privately-run prisons. These facilities, eleven in total, were located in six states (as indicated in the table)

TABLE 4. Housing Configuration (n=39)

The figures in this table represent the total number of study subjects who experienced each type of housing configuration. If, as was common, a subject experienced multiple housing configurations over their incarceration, then all these configurations were counted in this table. It was not always possible from the interview transcripts to determine with precision the full range of a person's experience, so these numbers are most likely undercounts.

Housing Type	Total # Interview Subjects Reporting Experience
Solitary confinement	29
Single cell	29
Double cell	30
3+ cell (range: 3–10 occupants)	10
Cubicle in dorm	12
Open dorm	25

and operated by several different private prison providers, including MTC, Dominion, GEO Group, and Corrections Corporation of America (“CCA”) (both before and after CCA changed its name to CoreCivic). In some cases, people were sent from their states of conviction to private prisons out of state. In those instances, I counted them as under the jurisdictions of their home states rather than the states where the private facilities were located.

TABLE 5. Security Level (n = 39)

The figures in this table represent the total number of security levels, by type, experienced by the subjects in my study. If a subject had experience of three different security levels, all three security levels are accounted for in this table. Because many people had experience of multiple security levels, the total number of security levels represented in this table exceeds the total number of interview subjects. It was not always possible from the interview transcripts to determine with precision the full range of a person's experience, so these numbers are most likely undercounts.

Security Level	Total # Interview Subjects with Experience of Each Security Level
Minimum security	11
Medium security	27
Maximum security	29
Mixed security levels	20
Reception Center	7
Unclassified juvenile	2
N/A	2

TABLE 6. Misc. Data Points

	Minimum Value	Q1	Q2	Q3	Maximum Value
Hours of sleep per night (n=39)	3 (n=3)	4.5	5.1	6	11.5
Total years incarcerated (n=39)	3	9.5	13.5	23.5	45
Interview length (n=35) (hours: mins)	1:03	1:44	1:58	2:14	2:48
Years between release and interview	0	1	2	4	12 (n=2)

Table 6 features several data points as to which the answers reflected a range. To capture the breadth of responses, I used the standard “five number summary,” indicating as to each category the minimum value, Q_1 (25th percentile/lower quartile), Q_2 (50th percentile/median value), Q_3 (75th percentile/upper quartile), and the maximum value. As to each data point, some further explication is in order, as follows:

Hours of sleep per night: The effort to calculate the hours of sleep per night my subjects received was complicated by many factors, including the long duration of the sentences served by many of my subjects and the wide range of experiences each had across housing configurations, not to mention inevitable variability night to night. I asked people to give me their best estimate of how many hours per night they slept on average in each housing configuration they experienced. When respondents reported variation across their incarceration, I took an average of the reported hours slept. If someone gave a range (e.g., four to six hours per night), but characterized the sleep quality as very poor or described themselves as waking frequently during the night, I took the low end of the stated range as more accurately reflecting the

actual amount of sleep they likely received. These limitations mean that the numbers reported should be considered rough estimates only, although the considerable sleep deficit they indicate seems entirely consistent with the narrative accounts of the extremely limited and poor-quality sleep reported in the interviews.

The maximum value for hours of sleep per night is 11.5. The person who reported this outlier value served time in two prisons and reported sleeping eight hours a night in the first facility and fourteen to sixteen hours per night in the second. To calculate his hours slept for purposes of this chart, we took the average of eight hours (from prison #1) and the middle of the range he named for prison #2.⁵⁴¹

Total years incarcerated: In building my sample, I sought to enroll only people who had spent at least six years in prison. I wound up enrolling two individuals who had done four years each, because each offered diversity as to other metrics. The minimum value noted in the table (three years in custody) reflects the experience of one of the individuals with whom, in part for this reason, I opted to conduct an ad hoc interview rather than formally enrolling them in the study.

Interview length: For this data point, I included only the thirty-five interviews conducted with those individuals formally enrolled as subjects in the study. I did so because the four ad hoc interviews took a different form and did not follow the path shaped by the questionnaire. For reference, the four ad hoc interviews ranged in duration from 1:05 to 2:09.

Years between release and interview: The interviews were conducted in 2023. Two members of my sample were released that same year and were coded as having had zero years between release and interview. Two members of my sample were released in 2011, twelve years prior to the interview. This gap was considerably greater than my intended parameter of five years. Each of these individuals was interviewed very early in the process, when I was still unsure whether I would find enough participants to assemble an adequate sample. Once things progressed and I had more people expressing interest in participating than I had time to interview, I reverted to requiring a release date within five years of the interview. One other enrolled participant was outside this stipulated limit. He had entered the wrong release date when he filled out the initial form expressing interest in participating, substituting 2018 for 2015. When I enrolled him in the study, I believed he was five years

541. For more on this individual and his lengthy sleep time, see *supra* note 407.

out, and was surprised when, at the end of the interview, he named 2015 as his year of release. Having already conducted the interview, I opted to retain his data as part of the full data set.