

## From the Literature . . .

by Michele Y. Deitch\*

### *Mass Incarceration*

#### **Prison Nation: The Warehousing of America's Poor**

Tara Herivel and Paul Wright, eds.  
(Routledge, 2003)

Paul Wright, editor of the journal *Prison Legal News* and a prisoner himself, has referred to our country's system of mass incarceration as "the most thoroughly implemented social experiment in American history." With over two million people currently incarcerated in our nation's prisons and jails, the statistics alone lend credence to his observation. But the numbers alone don't tell the whole story. They don't, for example, tell us why our leaders have adopted criminal justice policies that have resulted in an unprecedented prison construction boom; they don't convey the social devastation for communities and families that results from the unforgiving drug laws; they don't question whether the public is safer as a result of our penchant for incarceration; and they don't help us understand the relationship between other parts of the criminal justice system and imprisonment.

*Prison Nation: The Warehousing of America's Poor*, which Wright has co-edited with attorney and prisoners' rights activist Tara Herivel, is a welcome effort to explore these larger issues. Through a set of 41 relatively short, readable essays authored by some of the nation's most progressive voices in the criminal justice field — including prisoners, journalists, lawyers, and social critics — the book seeks to weave together the complex reasons for the emergence of the prison-industrial complex and to explore the social consequences of this dynamic.

The essays and the concepts in them are not new — indeed most of the pieces have been previously published. But what

is powerful and new is the editors' decision to bring these essays together in one volume. To read this book is to feel as though you have completed a jigsaw puzzle. Each individual piece is informative and eye-opening, but as a whole they paint a picture of the American criminal justice system that is truly depressing because of the obvious enormity of scope and interrelatedness of the problems, as well as the seeming hopelessness of the situation. This book presents "the big picture," and, in that regard, it is both ambitious and unusual.

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Divided into seven sections, *Prison Nation* is thoughtfully organized. Herivel and Wright include sections entitled: "The Warehousing of America's Poor" (which provides an overview of the criminal justice system, including essays about the ineffectiveness of the court-appointed attorney system and the role of the prosecutor and the plea bargaining process); "Two Million Swept Away" (which reveals the impact of the mass incarceration craze on individuals, families, and communities); "Making a Buck Off the Prisoner's Back" (about prison labor); "The Private Prison Industry"; "Malign Neglect: Prison Medicine"; "Rape, Racism, and Repression"; and "The Bars to Prison Litigation." The section headings leave no doubt as to the editors' perspective about these issues.

There are so many interesting and thought-provoking essays in this book and I wish I could mention them all. But I was particularly struck by several pieces on subjects that have received little scholarly or legal attention. For example, I found particularly eye-opening Mark Dow's essay about the indefinite detention of immigrant offenders who cannot be deported because their home countries won't accept them; Ronald Young's exposé of the private correctional medical care industry; Anne-Marie Cusac's com-

mentary about AIDS treatment in prison; and Gordon Lafer's piece about how prison labor for private sector companies undoes most of the gains of the unions over the last century. Lafer's chapter also included some very insightful observations regarding the relationship between prison work programs and the vicious cycle of poverty and imprisonment.

Nell Bernstein, an award-winning journalist, writes very effectively about the unfairness of the conspiracy provisions in the drug laws and how women with little connection to the drug trade are inad-

vertently swept away by the harshness of these laws. Joelle Fraser's account of a small-town's "seduction" by the prison business — a common occurrence in the era of the "yes, in my backyard" brand of economic development — paints an insightful portrait of how a new prison changed a community forever, for better and for worse. She forces us to consider how much a small town can bear when employees spend so much time in a prison environment that the experience affects their behavior and emotions.

Several of the essays by current and former prisoners are especially valuable. Paul Wright's piece on victims' rights presents astute observations about how some victims are "more equal than others." He also offers a political interpretation of the victims' rights movement, showing how it has been manipulated by those with a vested interest in expanding the prison-industrial complex and police powers generally. Another prisoner activist, Willie Wisely, writes with the intimacy of his own experience when he talks about conditions in high-security units, guard brutality, and mentally ill prisoners.

Lawyers will appreciate John Midgley's helpful summary of how prison litigation has changed as a result of case law and the PLRA over the last fifty years, and prisoner Matthew Clarke's review of the barriers

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placed before inmates who wish to challenge the conditions of their confinement.

*Prison Nation* contains numerous examples of fine investigative journalism, fascinating and shocking narratives, sobering commentary, and insightful analysis. Even those with years of experience working in the prison system will find that it provides an important backdrop for the work they do by placing their work in a social context. Even if you think you already know the kind of information that is in the book, read it anyway. You will learn something new, or at least see it from a different perspective. Whatever one's political perspective, the conclusion of this book is inescapable: prisons and poverty are inextricably — and perhaps inevitably — linked. We should all read books that force us to ask why.

*Copies:* Order directly from Prison Legal News and receive a free six issue trial subscription to PLN. Prison Legal News, 2400 NW 80th Street, PMB 148, Seattle, Washington, 98117; Phone: (206) 781-6524; Internet: [www.prisonlegalnews.org](http://www.prisonlegalnews.org); Price: \$19.95 plus \$5 shipping and handling.

### *The Costs of Our Incarceration Practices*

#### **Invisible Punishment: The Collateral Consequences of Mass Imprisonment**

Marc Mauer and Meda Chesney-Lind, eds.  
(New Press, 2002)

Marc Mauer, the Assistant Director of The Sentencing Project, a well-known advocacy group, and Meda Chesney-Lind, a highly-regarded academic, have pulled together a provocative set of essays that explore the great costs—both intended and unintended—that come from our country's incarceration practices. *Invisible Punishment* works well as a companion volume to *Prison Nation*, and there is a great deal of overlap in the subject matter covered by the two books.

The 16 essays in this book are written by distinguished scholars and policy experts, including Jeremy Travis, Todd Clear, Judith Greene, Tracy Huling, and Vivien Stern. Each piece stands on its own as an impressive work.

*Invisible Punishment* takes its name from contributor Jeremy Travis's excellent and ground-breaking essay about the ever-increasing number of laws and regula-

tions that serve to diminish the rights and privileges of those convicted of crimes. These laws operate largely beyond public view at the same time that they have serious consequences for the individuals affected. Such civil disabilities are imposed not explicitly as criminal punishment, but are nonetheless collateral consequences of conviction. Often, the offender, the judge, and other criminal justice system practitioners are unaware that these consequences will follow. Travis, the former director of the National Institute of Justice, points out that these collateral consequences are rarely given much attention in the legislative process and are typically not codified with other criminal sanctions. For all these reasons, Travis terms such consequences "invisible punishment," and he argues for bringing greater visibility to these issues.

Travis's piece explores many of these invisible punishments and shows how they have an incredible impact on the social fabric. For example, he discusses disenfranchisement, ineligibility for certain benefits, occupational restrictions, and housing restrictions. Because of such collateral consequences, Travis argues, an offender's debt to society is never fully paid.

Travis proposes some changes that make a lot of sense, and legislators ought to stand up and take note. He suggests that all collateral consequences of conviction be collected and codified in one place. And he points out that real "truth in sentencing" would mean the offender must acknowledge awareness of all the potential collateral consequences at the time of plea or sentencing. Moreover, he advocates that collateral consequences should be proportional to the seriousness of the offense, that they be tailored to an individual's crime and personal circumstances, and that an offender should be able to seek relief from some of these collateral consequences over time.

Another worthy contribution comes from Vivien Stern, a senior research fellow at the International Centre for Prison Studies in England and a member of the British Parliament. Placing our country's criminal justice policies in a world context, Stern's essay reminds us that the United States is out of step when it comes to incarceration. She notes that other countries are not following America's lead on mass imprisonment and indeed, they see our record on this front as something to avoid emulating. Stern asserts that the specifics

of U.S. criminal justice policy are too extreme to exert a major influence on other countries' practices.

*Invisible Punishment* works best when it examines the personal consequences of conviction—the impact of incarceration on individuals. Travis's essay, Mauer's piece on felony disenfranchisement, and Donald Braman's study of the economic and emotional costs to the families of the incarcerated are particularly noteworthy in this regard. The essays that examine societal consequences are also powerful, but the book is never entirely comfortable in shifting between those two very different concepts of "invisible punishment."

Although the book as a whole examines the broad-ranging consequences of imprisonment, including fractured families, social corrosion, the impact on women, and the growth of entrepreneurial corrections, some of the essays feel a bit disconnected from the "collateral consequence" theme and seem somewhat surprising choices for inclusion in the volume. For example, the chapter on media access to prisoners, while interesting, is only tenuously related. And several subjects are missing entirely, including sexual assault in prison and the high rate of suicide in jails — both of these topics are obviously unintended collateral consequences of imprisonment. The book could also perhaps have benefited from a conclusion, which would bring together the diverse (and sometimes far-flung) subjects covered by the contributors.

But even given those slight reservations, *Invisible Punishment* provides a fresh and insightful look at the impact of mass imprisonment on U.S. society. In this regard, it resembles *Prison Nation*, although it is not as comprehensive in its coverage. *Invisible Punishment* might appeal to a readership seeking a more scholarly or objective approach to the topics than *Prison Nation* provides. But both works leave us with the same uncomfortable sense that our incarceration policies are amiss and have had far-reaching consequences for our society.

It is truly striking that two such similar books would make their appearance at the same time. Perhaps this is a reflection of the fact that the literature was long overdue for an examination of this critical topic.

*Copies:* The New Press, 38 Greene Street, 6th Floor, New York, NY 10013; Phone: (800) 233-4830; Internet: [www.thenewpress.com](http://www.thenewpress.com); 355 pp., \$26.95. ■