

1977

Book Reviews

Follow this and additional works at: <https://scholarlycommons.law.northwestern.edu/jclc>

 Part of the [Criminal Law Commons](#), [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

Recommended Citation

Book Reviews, 67 J. Crim. L. & Criminology 356 (1976)

This Book Review is brought to you for free and open access by Northwestern University School of Law Scholarly Commons. It has been accepted for inclusion in Journal of Criminal Law and Criminology by an authorized editor of Northwestern University School of Law Scholarly Commons.

BOOK REVIEWS REVIEW ARTICLES

DOING JUSTICE—THE CHOICE OF PUNISHMENTS. By *Andrew Von Hirsch*. New York: Hill and Wang, 1976. Pp. xli, 179. \$9.95.

This book represents the final report of the Committee for the Study of Incarceration ("the Goodell Committee"). The Committee was born of the aftermath of Attica. Funded by the Field Foundation, the Committee, at the time the report was published, was composed of fifteen eminent persons with widely diverse professional and academic backgrounds.

The book comes at a time when many students of the criminal justice system are questioning the basic assumptions upon which our sentencing and correctional processes appear to be based. The work joins Norval Morris' *The Future of Imprisonment* and David Fogel's *We Are the Living Proof* in calling for greater determinacy in sentencing, the shelving of forced rehabilitation or aversive therapy programs, and the moderation of both the use and terms of incarceration as a penal sanction. It offers us little new in terms of suggestions of things that should be done. But its marshalling of arguments, through a deliberative process involving this diverse committee of rigorous scholars, should lead us to consider its proposals more seriously than we otherwise might.

Von Hirsch's rendering of the Committee report carefully develops justification for each of the proposals. His justification of the model eschews utilitarian considerations except when they coincidentally may be served by the means undertaken to support his new ethos. There is little value, we are told, in pursuing a correctional philosophy other than that which concerns itself with providing to the offender the portion of retribution to which he is entitled. The major focus of the book is on the question of how the right medium and measure of retribution is to be determined. Rehabilitation, deterrence and crime prevention in general are considered discredited as primary objectives of a system.

There is some uneasiness expressed regarding the use of the word "retribution" and therefore it is rejected in favor of "desert." And while the word "desert" describes the quantity of which the author speaks, I join Professor Goldstein in his view,

reflected in an addendum to the report, that "retribution" describes it even more precisely. Gaylin and Rothman in their introduction to the piece observe that: "When we honestly face the fact that our purpose is retributive, we may, with a re-found compassion and a renewed humanity, limit the degree of retribution we will exact." The report recognizes the need to articulate a clear purpose in order that sentencing and correctional policy be rationally developed, but its attempt to respect the sensibilities of those to whom "retribution" is painful leads to a sacrifice of clarity.

The author suggests that just sentences must connote societal reprobation proportionate to the suffering implicit in the term of the sentence. This is necessary in order to bring home to the subject, as well as to the general public, that the consequence of a wrongful act is a sanction commensurate with the seriousness of the wrong. Without the construct of blameworthiness, punishment could appear to be administered solely for the sake of exacting suffering. For my money, "retribution" (deserved punishment for evil done) captures with greater clarity the principle discussed. If the idea of ceremonial attachment of blame can be handled by the consumers of our system, I think their constitutions can face up to the inherently retributive character of the proposed system. Therefore, for the purpose of clarity, in the balance of this review I will substitute "retribution" for the author's kindly "desert".

To justify retribution as the preeminent objective of a just sentencing and correctional system, Chapters One through Four document the failures and the sorry lack of prospect for alternative correctional objectives such as rehabilitation, predictive restraint, and individualization of punishment. The tools used in this dismemberment are familiar to many but, nonetheless, the notes to these chapters provide a handy reference to researchers in the field. The major conclusions argued to are:

(1) There is a lack of differential effect of alternative penal measures when applied to similarly situated individuals.

(2) There is significant risk of false positives in every measure that has been developed to estimate

the probability of recurrence of serious conduct by a particular individual or class of individuals.

(3) In similar cases, an indefensibly large range of judgments is likely to occur among independent sentencing authorities given broad sentencing discretion.

The bottom line of this elaboration is the suggestion that as we lack the ability to select from a broad range of sanctions with any great consistency, there would be value in limiting the available range of choice to achieve a system which, if not totally satisfactory in terms of the values it says it will produce, at least reaches its stated objectives. The objective which is offered for such a system of punishment is retribution coupled with a measure of general deterrence.

That a punishment be seen as deserved both in quantity and quality is a primary objective of the proffered system. How this criterion is to be met, placing each offender and his offense in the "right" relative rank order of a deservedness so that each can be given the appropriate measure of retribution, is a question that would appear to call for the wisdom of the ages. The report rises to the occasion by suggesting an approach that appears to be methodologically feasible as well as reasonably appealing to the public's sense of justice. Satisfying that sense of justice is, in the final analysis, what the proposal is all about.

The report suggests that survey methods could be employed to obtain a ranking of the seriousness of offenses which reflects the public's mind. Pointing to the results of exploratory efforts by Thorsten Sellin and Marvin Wolfgang, and by Peter Rossi, Von Hirsch concludes that there would likely be little variation in response among different racial, occupational and educational subgroups. If the proofs regarding this hypothesis are satisfactory, one moves to the next step of the Committee's proposal: establish the upper and lower limits of the punishment system, and then apportion punishment in measure appropriate to each offense's position on the seriousness scale.

But wait. Hasn't something been forgotten? Certainly the scaling of offenses in relative order of seriousness in response to survey data takes care of part of the equation, the nature of the offense, but what of the blameworthiness of the offender? The answer is simple; with one modest reservation, relative blameworthiness of the individual is not to be considered. And by eliminating the need to consider that issue, the simplicity of the system is achieved. Determination of guilt of an offense determines

precisely what the sentence will be. The only additional factor which will affect punishment is the prior criminal history of the offender. Gradations of a determined amount will be produced by a scoring of both frequency and seriousness of prior offenses. The justification for this deviation from the crime-equals-punishment construct is the argument that prior criminal history objectifies the determination that the offender has, by varying degrees, been put on notice by the community. His failure to be dissuaded from criminal conduct, as evidenced by his subsequent conviction of an additional offense, justifies attributing to him an enhanced measure of blameworthiness. Chapter Sixteen reduces these two sentencing controls—seriousness ranking of offense and scoring of prior offense—to a neat two dimensional table. The range of offenses are divided into five classes and criminal history scores into four classes, thus producing a matrix. Resort to the table answers any possible questions a sentencing judge would need to ask.

The rigorosity with which the proposal serves the Committee's policy of relating punishment solely to offense is exemplified by the admonition that in no instance shall the punishment provided for different classes of offense overlap. But since this caveat is joined with the proposal that the maximum punishment available be five years of incarceration, that a large number of diverse offenses be reduced to five classes, and that four gradations of penalty be used for each class, I doubt that the sentencing schema produced will have clear margins of relative seriousness between classes of offenses. This I believe is a deadly flaw in the proposal. For the strong sense of distributive justice upon which the system's integrity depends derives from clear distinctions between punishments meted out for differently classed offenses.

The use of criminal history to enhance sentences may also be costly to the integrity of the system. If it is the Committee's pretention that the graded seriousness of the offense is derived from public perception of relative harm, I cannot see how that harm becomes any greater or less as a consequence of the offender's prior criminal history. Extending incarceration because of prior criminal history can be explained only in terms of a perceived need to incapacitate for a longer period of time or on the grounds that a larger dose of punishment is more likely to correct. Accepting the author's argument that varying quantities of punishment seem to have no major discernible effect on the future behavior of the subject, variance on the basis of criminal history seems to make little sense. The suggestion that penalties

be graded up toward maximum incarceration flies in the face of the argument made by the report that predictive measures cannot justly be used to extend incarceration as long as the danger of a false positive is significant. A major underpinning of the American criminal justice system is that it punishes for acts committed, not acts anticipated.

By correctly directing the system toward dispensing retribution in just measures to offenders, the report suggests a utilitarian value that can be well served. While most of the traditional justifications for a punishment system are rejected out of hand, general deterrence is not. Arguing that the deterrent value of punishment cannot be measured by the recidivism rate of subjects punished, the Committee suggests that it can be estimated through the use of the crime rates. The report points to H. Laurence Ross's study of the effect of the British Road Safety Act of 1967 on the rate of nighttime traffic fatalities and concludes that the general deterrent value of a law is more accurately measured by the number of those who do not engage in the proscribed conduct because of the law. Thus, it is urged, it is appropriate to select, among alternative sanctions which each adequately meet the criteria of commensurate retribution, the one that most adequately serves to deter.

The utilitarian value of deterrence is not permitted to affect the quantum of punishment which retribution requires regarding an offense. For this we are grateful; one could but imagine the complexity that independent consideration of this value would introduce in the sentencing matrix. I believe that the author's caution regarding the danger of preoccupation with the demonstrable effectiveness of varying measures of punishment for a particular offense is well worth considering. For example: it might be proven that punishing parking violators with extended terms in prison results in a marked decrease in the rate of illegal parking; prison terms for murder, on the other hand, may be shown to have no effect on the rate at which that crime is perpetrated. It would, I think, work mischief to conclude, on utilitarian grounds, that illegal parkers should be imprisoned and murderers should not.

I would rather the report had not hedged its bet on retribution with one on deterrence. While deterrence as an objective for the system may be more satisfying to some, we know little about it and how to produce it. Delivery of a fair measure of retribution, and that alone, is an objective that a criminal justice system can promise and achieve.

The retributive, impersonal system suggested is softened somewhat by its limited schedule of punishment. For most minor offenses formal reprobation of conduct is viewed as an adequate sanction. Recidivists in this class and those found guilty of more serious crimes stand the risk of losing leisure time: "This sanction would require the offender to attend a state run (or designated) facility at specified times outside of his regular working hours." (The restriction is not residential, as the offender continues to live at home.)

It is only for the most serious offense class and hopeless recidivists that incarceration is provided. Chapter Fifteen concedes the likely political non-feasibility of an absolute limitation of five years on all sentences to incarceration: ". . . to preserve a system in which sentences are ordinarily based on offenders' deserts, an exception must be made of a small class of especially fearsome cases: namely, defendants who stand convicted of serious assault crimes and who have extensive records of violence." For this class of case it is suggested that provision be made for extended sentences, but only where very stringent criteria are met. This is important, because regardless of the clarity of the rule, from the degree of latitude allowing for exception comes the potential for the rule itself becoming the exception.

Consistent with the system's major theme of retribution, no provision is made for probation. Not only is probation rejected because it is primarily concerned with the adjustment of the offender to the community; but, in addition, since probation is revocable on criteria less rigorous than those associated with proof of guilt of an offense, the discretion allowed probation officers to seek or revoke probation would undermine the concept of retribution on objective criteria.

While it is fair to say that forced rehabilitation is a documented failure, there is a considerable difference between using the promise of early parole to coerce participation in a prison program, and requiring some participation in helping programs by someone who is otherwise free. In the first case the prisoner is living in a totally controlled environment, where the consequence of official displeasure may take any number of unknown but feared forms. The probationer, on the other hand, has little to lose but a minimum amount of time from a life over which he otherwise has major control. To some extent I find the concept of probation potentially more constructive than that of intermittent confinement during periods of an offender's leisure time. Using the

author's arguments, I doubt very much whether conditions of probation would be more onerous, and while there is no evidence of differential benefits in probation programs, their promise certainly appears to be greater. Therefore, the no more costly or onerous but potentially more beneficial alternative, probation, should be selected.

For all of the apparent tightness of the plan to operationalize the policies urged by the report, no great concern appears to have been given the question of where the responsibility for implementation should lie. The sentencing schema could be accomplished in many different ways, but the ones suggested (1) appellate review of sentences, (2) trial level sentencing panels, and (3) an administrative panel operating under the aegis of the courts leave me a bit confused. If sentencing discretion is left to the courts, there is little likelihood that appeals judges will tamper with sentences imposed within a legislatively described range. It is even less likely that individual trial judges will abrogate their powers of discretion in sentencing. Even if large numbers of judges could be persuaded to abide by the kind of sentencing norm proposed, as long as discretion to deviate from the norm exists, the even distribution of sentences according to offense alone could not be obtained.

If the proposed system is to be operationalized, there is little alternative to legislation. Not only is legislation required to achieve the highest possible level of conformity and thus equality in the distribution of sentences. It is also needed to achieve fairness in the sense that an individual should be given notice of the potential cost of an offense. To leave the articulation of standards and terms to the court, to be reported in the tradition of the common law, would leave layman and lawyer alike at sea. If the objective is to scale offenses in the order of the public's perception of seriousness and to allocate punishment to each offense proportionate to its position on the scale, the legislative process, because of its political sensitivity, is undoubtedly the best suited means. The ultimate questions to be answered here are, after all, inherently political.

In sum, the book is most readable. The proposals put forward are those that are in the forefront of the debate over the future of sentencing and corrections. And while the style of the author is pedantic at times, this marshalling of arguments, obviously tested by a very distinguished Committee, is likely to provoke a good deal of thought.

Chicago Crime Commission STEPHEN A. SCHILLER

EXECUTIONS IN AMERICA. By *William J. Bowers*. Lexington, Mass.: Lexington Books, D. C. Heath and Company, 1974. Pp. xxviii, 489. \$20.00.

To the serious student of capital punishment, *Executions In America* must rank as both a delight and disappointment. Prompted by the urgent need for more empirical research on the death penalty, Bowers offers this book as a repository of recent research and a stimulus for further investigations, his hope being that his efforts will affect pending death penalty legislation.¹

While this reader agrees with Bowers as to the need for more good empirical research on the capital punishment question, and the hope that policy makers will give proper attention to scientific investigations in deciding the fate of the death penalty, *Executions In America* falls short of the mark in a number of respects. But first, what of its strengths?

If for no other reason, the inclusion of the "Teeters-Zibulka Inventory of Executions Under State Authority, 1864-1967," which spans some 200 pages, makes this book well worth its price many times over.² Along similar lines, Bowers has further assisted those interested in the death penalty by including in this book an extensive 50 page bibliography on capital punishment compiled by Lyons (1972).³ This bibliography, which he has updated and reorganized along topical lines, provides, to this writer's knowledge, the most complete set of references available on capital punishment.

On the more negative side, much of Bowers' investigation suffers from some very serious theoretical and methodological shortcomings, especially his discussion and examination of the deterrence controversy over the death penalty. To illustrate, before empirically examining the merits of this argument, he spends a total of less than two pages discussing the deterrence thesis. Moreover, the discussion that he does present is quite distorted and misleading to the reader not otherwise familiar with this theoretical perspective. This shoddy presentation of deterrence theory is clearly surprising in light of the amount of attention this topic has received in the criminology

¹ It is of interest to note that at the latest count, 35 states have reinstated the death penalty in one form or another; over 500 persons are now on death row.

² Only the portion of the Teeters-Zibulka Inventory dealing with Alabama and Kentucky was in print prior to the Inventory's inclusion in the Bowers book.

³ An abridged version of D. Lyons' bibliography appeared earlier under the title, *Capital Punishment—A Selected Bibliography*, 8 CRIM. L. BULL. 783 (1972).

literature in recent years and the growing appreciation for the complexity of the deterrence issue.⁴ In addition, the lack of a systematic treatment of the deterrence argument and the many variables and propositions involved ill-equips the unfamiliar reader to fully understand and assess the significance of Bowers' research and that of others he presents. (It might be further added that this type of selective presentation of the deterrence thesis may result in Bowers' research being dismissed as biased, thus doing a grave disservice to his own personal concerns about the abolition of capital punishment.)

On the question of the deterrent effect of the death penalty, Bowers' analysis and the study he presents by Professor Fattah on the effects of abolition in Canada are far from convincing. Like his presentation of the deterrence doctrine, Bowers' and Fattah's analyses suffer from many serious shortcomings. Utilizing Sellin's classic approach of comparing groupings of contiguous death penalty and abolition states, Bowers shows homicide rates to be generally unrelated to the *statutory provision* for executions. Similarly, he reports no unusual increase in homicides after the abolition of capital punishment. In addition, by examining the periods prior to and following the *Furman* decision, he concludes that the reduced use of the death penalty in the 1960's and its abolition in 1972 cannot be considered responsible for the increase in homicides in recent years. Fattah draws the same conclusion from examining pre- and post-moratorium and abolition years in Canada.

Unfortunately, in examining the deterrence question, neither Bowers nor Fattah would seem to have profited from a number of recent discussions and critiques of this line of research.⁵ To illustrate, in

⁴See, e.g., H. BEDAU, *THE DEATH PENALTY IN AMERICA* (rev. ed. 1967); J. WILSON, *THINKING ABOUT CRIME* (1975); F. ZIMRING, *PERSPECTIVES ON DETERRENCE* (1971); F. ZIMRING & G. HAWKINS, *DETERRENCE: THE LEGAL THREAT IN CRIME CONTROL* (1973); Andenaes, *General Prevention Revisited: Research and Policy Implications*, 66 J. CRIM. L. & C. 338 (1975); Bailey, *Murder and the Death Penalty*, 65 J. CRIM. L. & C. 416 (1974); Ball, *The Deterrence Concept in Criminology and Law*, 46 J. CRIM. L.C. & P.S. 347 (1955); Bedau, *Deterrence and the Death Penalty: A Reconsideration*, 61 J. CRIM. L.C. & P.S. 539 (1971); Gibbs, *Crime, Punishment and Deterrence*, 48 SOUTHEAST SOC. SCI. Q. 515 (1968); van den Haag, *On Deterrence and the Death Penalty*, 60 J. CRIM. L.C. & P.S. 141 (1969); Tittle & Logan, *Sanctions and Deviance: Evidence and Remaining Questions*, 7 LAW & SOC. REV. 371 (1973).

⁵WILSON, *supra* note 4; ZIMRING, *supra* note 4; ZIMRING & HAWKINS, *supra* note 4; Ball, *supra* note 4; Bedau, *supra* note 4; Gibbs, *supra* note 4; Jeffery, *supra* note 4; van den Haag, *supra* note 4; Tittle & Logan, *supra* note 4.

neither study is systematic attention given the possible deterrent effect of the certainty of the death penalty in retentionist jurisdictions. Rather, jurisdictions are simply designated as either retentionist or abolitionist, with no attention given Sellin's and others' arguments that we need to examine the effect of the certainty of the death penalty on capital offenses, and not simply its presence or absence in the statutes.⁶ Accordingly, both investigations could have been much improved by examining the relationship between jurisdictions' execution rates and homicide rates longitudinally, as well as cross-sectionally as Schuessler did in an investigation some 25 years ago.⁷

Second, although some have called into question the typical practice of simply comparing contiguous abolition and retentionist states because they are not similar enough, Bowers makes no mention of this objection nor does he try to match otherwise similar death penalty and abolition states in examining homicide rates.⁸ Such an analysis could have been conducted very easily through the use of various socioeconomic and demographic data compiled by the Bureau of the Census and other federal agencies.

Third, and along different lines, while deterrence theory emphasizes the importance of the celerity of punishment, no attention is given this variable in either Bowers' or Fattah's analysis. Nor does either investigator discuss, or even speculate about, the deterrent effect of the publicity (nonpublicity) surrounding death sentences and executions. Unfortunately, this variable too is excluded from both analyses, thus leaving another important question unaddressed about the deterrent effect of the death penalty.

When one adds to the above list a host of additional theoretical and methodological considerations recently raised in the deterrence literature, the

⁶To cite Sellin, we need to focus upon executions, not simply statutes, for "were it present in the law alone it would be completely robbed of its threat. . . . We should therefore examine the effect of executions on murder rates." T. SELLIN, *THE DEATH PENALTY* (1959).

⁷Schuessler, *The Deterrent Influence of the Death Penalty*, 284 ANNALS 54 (1952).

⁸As van den Haag argues, in many cases contiguous abolition and death penalty states are "not similar enough" to draw meaningful conclusions. "Homicide rates do not depend exclusively on penalties any more than other crime rates. A number of conditions which influence the propensity to crime, demographic, economic, or general social . . . may influence homicide rates." Accordingly, whatever variation is found in comparing abolition and retentionist states cannot be attributed to variations in penalties, unless the jurisdictions are otherwise comparable. van den Haag, *supra* note 4, at 146.

conclusion becomes obvious.⁹ We have only begun systematically and meaningfully to explore the deterrent effect of legal sanctions, the death penalty included. As C. R. Jeffery concludes, the investigations to date have simply not allowed deterrence theory to show its stuff, one way or the other.¹⁰ As distasteful as this conclusion may seem to those deeply concerned about the death penalty, to draw any other conclusion would be misleading and might discourage further investigations of this important issue.

In conclusion, while Bowers' *Executions In America* has provided this writer with a number of insights and raised many interesting questions to be explored, I found his investigation (with the exception of his analysis of racism and executions) a disappointment. The book is not as significant a contribution to the death penalty literature as it might have been had Bowers been more abreast of the theoretical and methodological issues and debates in the professional literature.

WILLIAM C. BAILEY

Cleveland State University

YOUNG INNER CITY FAMILIES: DEVELOPMENT OF EGO STRENGTHS UNDER STRESS. By *Margaret M. Lawrence*. New York: Behavioral Publications, 1975. Pp. 136. \$11.95.

Dr. Lawrence is a black woman psychoanalyst who has written about a community outreach program that diagnoses and treats developmentally disordered children in Harlem. Dr. Lawrence's diagnostic and treatment foci are a tripartite of a child's hereditary endowment, his affiliative supports, and any physical or emotional trauma he may have. The team excels in discriminating minimal brain dysfunctions in children under five and skillfully works with physical limitations. Dr. Lawrence and her multidisciplinary team contend that traditional psychodynamic theory is applicable to disadvantaged black families, challenging the more traditional view that this multiproblem group is not amenable to this form of treatment.

In her illustrative case studies, Dr. Lawrence appears to be moving in the direction of ego psychology, but her theoretical base lacks clarity, especially concerning the question whether particular behavior is appropriate coping strategy or a dysfunctional defense. There are important differ-

ences in the black experience calling forth different survival techniques, and we could have benefited from a discussion of this which would help the practitioner generalize about intervention strategy.

One of the book's major problems is that we are unclear about its intended audience. For the professional, there is a lack of theoretical development. A sparseness of description of patients and therapists prevents the layman's becoming engaged within the case materials. Perhaps the constrained style stems from Dr. Lawrence's attempt to control her anger about the pervasive effects of racism she constantly sees. It emerges in the book's introduction when we glimpse her struggles to affirm her own professional abilities despite discrimination, and again when she states as simple fact: "The worker's black anger, impotence, frustration and confusion, in a setting where no day turns out the way it was planned, must be noted."

Dr. Lawrence recognizes the need to address the institutional racism that is a primary cause of black family dysfunction, yet she does not address strategies of social change in her practice. Although she is making the point about the ego strength of blacks, we see little evidence that she consciously inserts the important dynamic of race into the therapeutic encounter. Perhaps in her efforts to stress the similarities of needs of blacks and whites, Dr. Lawrence overlooks an opportunity to support black pride and group identification that could bolster clients in efforts toward social change.

A valuable inclusion is the recognition and tracing of the black family's network of permanent, strong relationships across temporal and geographic barriers. This presents the reader with an historical sense of the black family's affiliative strengths usually omitted in the "culture of poverty" thesis. We are left with a feeling of discomfort, however, about the obvious need for primary intervention in fundamental social change and the treatment team's impotence in that arena. Perhaps *Young Families* is not so much a message of hope as a statement of faith about black people's ability to survive.

MARILYN KENT

University of Pennsylvania

CRIME, CRIMINOLOGY AND PUBLIC POLICY. Edited by *Roger Hood*. New York: The Free Press, 1975. Pp. xxii, 650. \$29.95.

This collection of 28 original essays is a *fest-schrift* in honor of Sir Leon Radzinowicz on the occasion of his retirement from the first Wolfson Professorship of Criminology at Cambridge,

⁹WILSON, *supra* note 4; ZIMRING, *supra* note 4; ZIMRING & HAWKINS, *supra* note 4; Bedau, *supra* note 4; Gibbs, *supra* note 4; van den Haag, *supra* note 4.

¹⁰Jeffery, *supra* note 4.

England. In addition to the essays there is an extensive introduction by Dr. Roger Hood which sets forth the accomplishments of Sir Leon in the field of criminology and related matters, and there is also an annotated bibliography of his writings.

Those who know Sir Leon Radzinowicz will doubtless wish to have this book on account of its dedication to him. But this is not by any means the only reason to commend it. While "readers" are quite common in the field of criminology, a set of original essays by so many distinguished writers is not at all common. Fifteen of the essays are from countries other than the United Kingdom while thirteen are by persons currently in that country. It is, of course, difficult to see any theme by which the work may be characterized, since each author was writing upon a topic of his own choice. The work, however, provides a sampling of current thinking from Europe and the United States. There is also a representative of the African continent in a piece by Mr. Justice J. H. Steyn of South Africa.

The majority of the essays are legal/analytical or philosophical, but there are three exceptions which may be classified as empirically based studies. All three are from outside the United Kingdom; from the United States, Denmark and Poland. The first four chapters are of a "domestic nature", dealing with the foundation of the Institute of Criminology at Cambridge and the Home Office Research Unit.

Four chapters are concerned with aspects of judicial discretion and indicate the current concern with this area—three items are from the United Kingdom and one from Norway. Other chapters describe various administrative processes related to criminal justice or discuss theoretical and legal issues. It would be easy for a reviewer to select two or three of the essays which were found to be particularly interesting, but to do so would reveal a personal bias unrelated to the quality of the essays or the status of the authors. Each reader will doubtless find two or three articles here which he would not wish to miss, but there would not likely be much concordance among the selections. The disagreement would reflect only upon the state of our knowledge of criminology, which, to steal a phrase from Sir Leon himself, we are still in search of.

LESLIE T. WILKINS

State University of New York, Albany

Ten years ago a casebook on prisoners' rights would have been very slim. This one is fat. The difference is the explosion of prisoner litigation that began in the last decade. A whole new field of law has emerged.

Prisoner petitions now constitute the largest single category of civil cases in the federal courts. New and important decisions are coming down almost daily. This poses a serious problem for a casebook in the field, because any statement of case law, unless regularly updated, risks instant obsolescence.

The authors have managed, however, to expose all the major *issues*, both present and potential, in the field. They have also found a few wonderfully obscure older cases to illustrate some of their points. Their comprehensive casebook contains five parts—an introductory overview of why we imprison various "deviants," consideration of the "therapeutic state" (civil imprisonment for "treatment" of juveniles, alcoholics, addicts, mentally unstable persons, etc.), issues in sentencing, prisoners' rights and alternatives to incarceration. Considering both civil and criminal commitment makes sense, although it causes some lack of focus in the last part which deals with a variety of problems of release and community supervision in both contexts.

As a casebook, it is encyclopedic. It probably contains more than any student wants to know. As a teaching tool, it is overinclusive for one course, but could easily be used for two or three. It is an excellent reference work and a helpful research aid for those litigating in the field. Beyond cases, it contains a wealth of secondary and legislative materials. The secondary materials are not merely academic, and some provide the flavor of imprisonment for readers whose life experience has not included a feel for the reality of prisons. Many of the secondary materials are loaded with sociological jargon, but since this has become the actual language of prison professionals, this too is part of the reality.

The authors' notes put provocative, hard questions, requiring the conscientious student not merely to do conventional law school analysis but also to scrutinize the values and rationality of the criminal justice system. Particularly thoughtful questions are aimed at the unspoken assumptions of our sentencing "system". The authors' point of view is not neutral. Many of their questions are rhetorical and highly critical of the "correctional" system (and there are subject matter headings on the "failure" of prisons "to be humane", "to rehabilitate", "to deter"). This is not a defect in the book, for no one could rationally call the present correctional system a success. The

book rigorously exposes the system as the least effective social institution we have created.

WILLIAM BENNETT TURNER

NAACP Legal Defense Fund
San Francisco, California

THE CRUMBLING WALLS, edited by Ray E. Hosford and C. Scott Moss. Urbana: University of Illinois Press, 1975. Pp. xiv, 257. \$8.95.

The Crumbling Walls is an edited volume which portrays some of the problems inherent in attempting to resocialize the incarcerated person, and the specific programs and modalities which have been adopted by the Federal Correctional Institute, Lompac, California, to deal with these problems. The overall orientation of the institution, we are told, is one of differential treatment. That is, in the words of one of the contributors, "finding which treatment approach is appropriate for which kind of offender under which circumstances as implemented by what type of treaters." Certainly not an easy task for a system which normally is the recipient of society's outcasts, and which for the most part is given no help or encouragement by that same society. The theme which underscores *The Crumbling Walls* is simply that we cannot physically and socially isolate the inmate from free society and expect him to be successfully reintegrated into society upon release by some magical transformation of self.

The contributions to this manuscript are divided into two sections. Section 1 provides descriptive, and some evaluative, data concerning the key programs which have been created at F.C.I., Lompac. Included here are essays concerning programs designed to train line staff and inmates in leadership roles and as counselors. Section 1 also provides the reader with descriptive accounts of the total program development, the drug-abuse program specifically, and inmate-speaker programs designed by the inmates themselves. In general, Section 1 is an interesting peek into the problems which inmates and correctional workers at all levels face on an everyday basis, and the programs which will hopefully alleviate some of these difficulties.

This reviewer, however, is not so satisfied by Section 2. The reader is promised a look into some new and innovative treatment programs that are somehow different from the traditional forms of psychological therapy. Specifically, we are led to believe that one-on-one therapy is outmoded, and that this institution has reached out into the community to take advantage of the resources available in order to "not isolate the inmate from society." But with the exception of one essay, Section 2 deals with individual one-to-one therapies, including the desensitization of stuttering behavior, hyponosymbolism as a means of eradicating recurrent nightmares of a drug abuser, assertive training of sexual offenders, among others. Furthermore, this book leads the reader to believe that he/she will encounter descriptions of how inmate "helpers" are used in the resocialization of their fellow prisoners, but only one essay in this section demonstrated the use of inmate "helpers" (in this case, nurses). In addition, one essay seems to be completely out of place in that it is a description of a therapy program used in the state mental hospital. Indeed, this is not to imply that such a program could not be applicable to incarcerated felons. In this book, however, it seems to just jump out at you from nowhere.

In the Afterword, the editors suggest that a viable resocialization effort demands a collaborative relationship between social agencies in free society, the institution, staff leaders, and inmate leaders. In all fairness, it does show the interplay between F.C.I. and the University of Santa Barbara, especially in the in-service training of graduate psychology students. Beyond this, however, *The Crumbling Walls* falls short of convincing the reader that F.C.I., Lompac, has succeeded in establishing a true collaborative relationship. In short, this book has failed to give the reader what was promised—an examination of the full interplay between staff personnel, community resources, and inmates in the resocialization process.

MATTHEW T. ZINGRAFF

Bowling Green State University

