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RECENT BOOKS

CRIMINAL LAW AND CRIMINOLOGY: A SURVEY OF RECENT BOOKS

BARD R. FERRALL*

PENAL SYSTEM—ELECTRONIC MONITORING

RICHARD ENOS, JOHN E. HOLMAN, AND MARNIE E. CARROLL,
ALTERNATIVE SENTENCING: ELECTRONICALLY MONITORED
CORRECTIONAL SUPERVISION, 2nd Ed. (Bristol, IN: Wyndham Hall
Press, 1999) 225pp.

The authors review the historical development of probation, and discuss the relationship of probation to the general purposes of criminal sentencing. They discuss recent concerns over the cost effectiveness of various correctional practices, and examine newly developed and expanded probation programs and procedures. The focus of the book is on electronic monitoring, the use of which was beginning when the first edition was published in 1992. After relating the practice of electronic monitoring to various models and theories of the purpose of criminal correction, the authors analyze the data from several studies of the use of electronic monitoring in three different county probation offices. Also analyzed is data on the effects of electronic monitoring on the offenders and on the home environment to which they are confined. The authors also examine the studies for indications of how electronic monitoring can best be used in conjunction with other methods of correctional case management, and what types of offenders are the best candidates of electronic monitoring. The book concludes with look at issues in the future of electronic monitoring.

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CRIME AND PHILOSOPHY—RAPE

A MOST DETESTABLE CRIME: NEW PHILOSOPHICAL ESSAYS ON RAPE (KEITH BURGESS-JACKSON, ED.) (NY: Oxford University Press, 1999) 306pp.

The editor of this anthology states that although philosophy has largely ignored rape, it is an appropriate question for philosophical analysis. The very concept of rape is subject to significant disagreement, and philosophy, which in significant part is concerned with conceptual analysis, may help in resolving, or at least clarifying, the conceptual disagreements. For example, the question how best to conceive the nature of the offense touches on several branches of philosophy. The disagreement over whether rape is an act of sex or violence, also refers back to how the act is theoretically conceptualized. (Of course, any theoretical analysis must attend to the growing empirical data.) The essays in this book were compiled with the aim, in part, of achieving some consensus on these controversies. Among the issues taken up in the essays is whether rape has its genesis in, is an expression of, and perpetuates societal standards of male and female behavior; whether it should be conceptualized in terms of "essential" differences between men and women; and whether a particular rape is wrongful act against and moral injury to all women. The problem of race is presented in an essay on the case of the "Scotsboro boys." Other essays attempt to situate rape in relation to other crimes, or to find its relationship to other forms of abuse of women, particularly sexual harassment. The question whether rape is on a continuum with, or distinct from other crimes and abuses is debated. Many of these essayists also propose changes in the law based on their philosophical analyses. The problems posed by the requirement of non-consent as an element of the crime are considered, and suggestions are offered for a re-conceptualization of "consent" which is based on what is argued to be the actual realities of the relationship of men and women. Rape shield laws, another essayist argues, fall short of their well-intentioned goals, in part because of certain loopholes, but largely because they have not counteracted certain myths and misunderstandings about the victims and perpetrators or rape. Fair treatment, it is argued, of both defendants and victims requires education and understanding about the difference between sex and rape.

DEATH PENALTY

WILLIAM S. MCFEELY, PROXIMITY TO DEATH, (NY: W.W. Norton, 2000) 206pp.

After being convicted of rape and murder and sentenced to death, the defendant Carzell Moore appealed and was granted a new

sentencing hearing. The defense argued that the courtroom presence of the Georgia state flag, which incorporates the Confederate battle flag, tainted the proceedings against an African-American defendant. The author, an historian, was called at this new hearing as an expert witness for the defense, to testify on the history of the confederate battle flag, (as distinct from the official flag of the Confederate States of America,) and the history of lynching after the Civil War. From this experience, the author became interested in the current operation of the death penalty, generally and especially in Georgia. This book briefly reviews the Supreme Court's death penalty jurisprudence and presents the author's informal discussions with the some of the attorneys, jurors, judges, and defendants in several Georgia capital cases.

