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RECENT BOOKS

CRIMINAL LAW AND CRIMINOLOGY: A SURVEY OF RECENT BOOKS

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CAPITAL PUNISHMENT

STUART BANNER, THE DEATH PENALTY: AN AMERICAN HISTORY (Cambridge, MA, Harvard University Press, 2002) 385 pp.

Examining the death penalty's history from colonial times to the present, Banner discusses how various factors influenced evolution in the methods and procedures of execution, alteration in the number and types of capitally sanctioned crimes, and changes in the public debate over the death penalty. In colonial America, many offenses were punished by death. Methods of execution such as differing severity and treatment of the body after death recognized gradations of guilt. Execution was highly public and was regarded as a function performed by the people and the community. Crime was considered an act of free will, and failure of the people to punish it would spread guilt to the community. Detailed rituals surrounding execution legitimized it and promoted public awareness. Deterrence, retribution and encouragement of repentance were the rationales for the death penalty. The introduction of the prison in the early nineteenth century permitted finer calibration of punishment to each crime, resulting in fewer offenses capitally punished. (The prison alternative, however, generally failed to take hold in the antebellum South, in part, the author speculates, because incarceration was insufficiently worse than enslavement, and thus not an effective deterrent to control the black population. In contrast to the North, many offenses in southern states remained capitally punishable when committed by free whites; this may have seemed tolerable because even more offenses were punished by death when committed by slaves.) Philosophical, moral and religious arguments both for and against the death penalty had been advanced in colonial times, but imprisonment provided a practical alternative. Opponents began to advance utilitarian justifications for prisons, arguing that imprisonment was a greater deterrence than death, and that the certainty, rather than the severity, of punishment was the real deterrent. When the prison replaced the public square as the execution site, attendance was limited. Questions about the deterrence value grew, as public

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awareness of execution diminished, since those at whom deterrence was directed had only secondhand knowledge of an execution. Even fewer members of the public attended when electrocution and asphyxiation were used. These methods were adopted from humanitarian concerns, but the debate changed when it appeared that the death penalty was not an act of the community or the people as a whole, but rather was being administered in isolation by government technicians before a few carefully selected witnesses. Public participation in the criminal process grew in other aspects, however, such as awareness of important trials and clemency appeals. The retribution rationale also came under scrutiny, with the generation of new theories about criminal behavior. The number of executions peaked in the 1930's and fell in following decades. (The per capita ratio had been falling since the 1880's.) Application of the death penalty became a constitutional question with the 1972 *Furman* and 1976 *Gregg* decisions. The author gives the background to the "cruel and unusual" clause of the Eighth Amendment, the background to *Furman*, the subsequent suspension of the death penalty, and the return of the death penalty with *Gregg*. Judicial involvement in the death penalty is now extensive and detailed. An unhappy compromise seems to have been reached. On paper, the death penalty is potentially applicable to many crimes, but in practice is it imposed relatively rarely, and then only after prolonged litigation.

STEPHEN P. GARVEY, ED., BEYOND REPAIR? AMERICA'S DEATH PENALTY (Durham, NC: Duke University Press, 2003) 244 pp.

These essays deal with recent developments and ongoing issues in the death penalty debate. Support for capital punishment remains high, despite some indications of change. Recent opinion surveys are analyzed both to shed light on public support and for some expressions of doubt, and whether a trend exists. An essay on the writ of habeas corpus discusses the Rehnquist Court's restrictions on appeals in federal courts. After a brief history of the writ, this essay identifies several recent limitations by the Court. Most important is the Court's high standard for an ineffective assistance of counsel claim, despite indications that capital defendants often receive poor representation (and when better lawyers do come onto the case, it is often too late to have much effect). Other court decisions, and changes to the federal habeas statute, are criticized as unduly burdensome on the petitioner, too restrictive of full appellate deliberation before imposition of death, and creating too much risk that procedural requirements will prevent a proper hearing of claims of actual innocence. Another essay searches for reasons why capitally sentenced, but later exonerated prisoners were convicted in the first place. Important factors include poor representation at trial and the use of jailhouse informants. Suggestions for safeguards include minimum standards for capital defense attorneys, extensive access to prosecution materials for capital defendants, internal guidelines in the prosecutor's office regarding the pursuit of the death penalty in cases that rely on certain types of highly suspect evidence, allowing capital juries to consider "residual doubt" even when the "beyond reasonable doubt" standard has been met, and procedures permitting post-conviction presentation of strong exculpatory evidence. An essay on the problem of racial factors in capital sentencing argues societal stereotypes cannot be adequately countered in capital sentencing by judicial doctrines of race neutrality. Findings of the Capital Jury Project raise questions as to whether defendants are receiving adequate jury deliberation. Especially problematic are difficult-to-understand jury instructions and indications in mock trials that jurors would often vote differently if they understood

the instructions. This raises doubts as to whether capital defendants are receiving the legal protection intended by jury instructions. A final essay argues that public support for the death penalty is based on the standards of both efficiency and protections against wrongful convictions, but the size of the American criminal justice system makes these standards unobtainable.

CONSTITUTIONAL CRIMINAL PROCEDURE

WELSH E. WHITE, *MIRANDA*'S WANING PROTECTIONS: POLICE INTERROGATION PRACTICES AFTER *DICKERSON* (Ann Arbor, MI, University of Michigan Press, 2001) 230 pp.

Although the *Dickerson* Court suggested that if now presented with the *Miranda* facts as a first impression, it would probably rule differently, the Court declined, over a strong dissent, a request to overrule *Miranda*. Stare decisis was the primary reason, although the Court was also concerned with the difficulty of police conformity with the suggested alternative of a due process voluntariness test based on the totality of the circumstances and the cost of the judicial inquiry that this test would require. The due process voluntariness test had been the pre–*Miranda* standard. The Court found that on balance, *Miranda*'s cost to law enforcement was tolerable. Only a relatively few convictions have likely been lost due to *Miranda*. Police have become adept at obtaining *Miranda* waivers, and while due process voluntariness protections apply in principle to interrogation after waiver, the *Dickerson* Court noted that a defendant had little basis to challenge a confession obtained after proper warning and waiver. The author argues, however, that while *Miranda* warnings are necessary to inform the defendant that interrogation is an adversarial situation, they do not supercede the pre–*Miranda* due process standard, and police conformity with *Miranda*'s rules is not a sufficient guarantee of a confession's voluntariness. The pre–*Miranda* due process analysis was concerned with the reliability of confessions; interrogation techniques liable to produce false confession were held to violate the due process clause. However, applying this rule was difficult. Factual inquiry into the conduct of the interrogation could be little more than a "swearing contest" between the defendant and the police. Even if the actual conduct of the interrogation could be determined, little was known about the subtle techniques that can override the suspect's will. Except in egregious cases, judges generally had to rely on their own intuition. The *Miranda* warning and waiver rule did not solve this problem, the author argues, and since no provision was made for fact–finding of interrogation techniques used after the defendant's waiver, *Miranda* was inherently limited in the protection it provided against involuntarily obtained or unreliable confessions. In fact, *Miranda* may have had the unintended effect of discouraging due process inquiry, since, as the reasoning in *Dickerson* indicates, after adequacy of the warning and waiver is established, further inquiry into the interrogation techniques has been thought unnecessary. The author argues that recent events indicate this limitation in *Miranda*'s protection is non–trivial, since some *Miranda*–satisfactory confessions have later shown to be false. New constitutional jurisprudence is not needed to solve this problem, the author explains. The necessary principles come from the pre–*Miranda* cases. The post–*Dickerson* challenge is applying the new technology and knowledge that make factual inquiry into the due process adequacy of the actual interrogation more practical.

CRIMINOLOGY

ADAM GRAYCAR & PETER GRABOSKY, EDS., THE CAMBRIDGE HANDBOOK OF AUSTRALIAN CRIMINOLOGY (Cambridge, UK, Cambridge University Press, 2002) 390 pp.

Contributors look at current trends in Australian criminal law and process, and assess future challenges. The system must cope with crimes unknown until recently, such as computer hacking and credit card fraud. Changes in household structure, immigration, an aging population, economic growth, globalization, and technological advances all will impact the nature of crime in Australia. Evaluation of the successes and failures of law enforcement methods may be of help. Sometimes proactive responses are cost-effective; in other situations the reactive response is better. Policing is also evolving into a mix of public and private agencies, with a need for new forms of expertise, and a need for coordination at the higher levels. This is especially true in the case of white collar crime, the policing of which requires close collaboration with business and technical specialists, and preventative measures by potential victims. The Australian court system is also revising and adapting. In addition to statutory definitions of new kinds of domestic crime, courts are responding to international organized crime. Procedural and structural changes include "case management" streamlining and consideration of victim impact statements. The correctional system has become more punitive recently. Attempts in some areas are being made to employ systems of restorative justice and establish a new punitive-rehabilitative mix, although future correctional policy remains uncertain. On the question of the relationship of drugs and crime, an analysis of the existing data finds the question of how much crime is drug-related is not easily answered, and the author of that section calls for more study. Another section deals with the emerging "restorative justice" movement. This movement is also discussed, along with other aspects, in sections on juvenile offenders, indigenous populations, and crime victims. Original contributions by Australian criminologists discuss the question of gender and crime, including studies of the relationship of femininity, masculinity and criminality, and of gender offending and gender victimization. Australian criminologists have also made important contributions to the study of crime prevention, and their findings have been usefully applied.

JODY MILLER, ONE OF THE GUYS: GIRLS, GANGS AND GENDER (New York, Oxford University Press, 2001) 263 pp.

The author studied female members of gangs in two cities where gang formation is a relatively new phenomenon: St. Louis and Columbus. In interviewing women from the same neighborhoods and socioeconomic strata, the author compared those who joined gangs with those who had not. She found three significant background factors: exposure to neighborhood gangs, family problems (especially witnessing or suffering from violence or abuse in the family), and having other family members who were gang-involved. (Similar factors also contributed to males joining gangs, although family problems seemed to be a greater commonality among female gang members.) The author then examined the foreground of female gang membership: gang structure and activity, gang related delinquency and victimization, and the importance of gender. Gangs in the two cities differed in various ways, including the fact that gang structure in Columbus was more formalized, while St. Louis gangs tended to grow out

of existing neighborhood friendships. Girls in Columbus gangs were a distinct minority, while St. Louis gangs had larger portions of female membership, which significantly affected differences in the girls' gang life and the way they related to other female members of the gang. Similarities included the use of gang symbols and colors, territoriality, and requirements for joining and achieving status in gangs. Inter-gender relationships were similar in the two cities' gangs, including male-on-female violence. Delinquency rates were higher among female gang members than non-gang females, but significant variation in delinquency rates was found among female gang members. While there were also gender differences in the types of delinquency (crack selling and gun use, for example, were predominately male activities), group processes within the girls' gangs shaped and facilitated their delinquency as much as they did for male gang members. Gang confrontations were usually intra-gender, i.e. males fighting males and females fighting females. Gang members' increased involvement with delinquency also increased their risk of suffering violence and other victimization. Female gang members were less at risk, for various reasons, than male gang members, but more at risk than non-gang females. A special problem was the toleration female gang members showed toward sexual assault from male members of the same gang. The author suggests that female gang members accepted this because gang membership provided protection from sexual assault from neighborhood men outside the gang: known, predictable risks were traded for protection from unknown ones. The likelihood of sexual assault from a male in the same gang was related to a particular female gang member's status in the gang. In this, and other ways, female gang members seemed to have struck what the author terms a "patriarchal bargain" to gain the perceived advantages of membership. The author also did not find, in contrast with some other studies, expressions of "sisterhood" or intra-gender solidarity among female gang members. Rather, interviewed female gang members expressed negative characterizations of other women. For example, when a female gang member was assaulted by males in the same gang, other female gang members often blamed the victim. Even when expressing negative attitudes toward other female gang members, an individual woman would often characterize herself in equal terms with male gang members, thereby becoming "one of the guys."

EVIDENCE

ROBERT M. BLOOM, RATTING: THE USE AND ABUSE OF INFORMANTS IN THE AMERICAN JUSTICE SYSTEM (Westport, CT, Praeger, 2002) 206 pp.

Criminal investigation and prosecution in America today relies heavily on information obtained from persons involved in, or closely associated with, the investigated activity. Several actual cases are presented in this book, illustrating the potential for misuse of informants (including the fabrication of an informant to establish probable cause for a search warrant). The courts must balance the need to protect confidential sources against Fourth Amendment concerns. Since self-interest is often the motivation of the informant, the information may be unreliable. This is especially true in the case of "jailhouse" informants, who seek reduced sentences. When criminal enterprises are investigated, the informant, who is usually immunized from prosecution, may be more culpable than those prosecuted. In these cases, the

government, to maintain a flow of information, may tolerate extensive criminal activity by the informant. In contrast, cases where a crime itself motivates the use of informants is another type of potential abuse which occurs when a government official first targets an individual for political reasons, and then seeks evidence of crimes for which that person may be prosecuted. The use of informers significantly enables this type of prosecutorial abuse. The use of informers is necessary to prosecute many types of crime, but protections are necessary to avoid the potential for abuse. Among the most important are public and judicial scrutiny and establishment of guidelines for law enforcement officials. An appendix includes "The Department of Justice Guidelines Regarding the Use of Confidential Informants."

GUN CONTROL

JAMES B. JACOBS, CAN GUN CONTROL WORK? (New York, Oxford University Press, 2002) 287 pp.

The author examines various existing and proposed methods of gun control to determine their costs and effectiveness in solving the targeted problems. The extent to which gun ownership is in itself a societal problem or a direct cause of problems is not clear, and even if this were shown, it is not clear the extent to which new legislation can actually limit gun ownership in a significant way. The situations in other countries, where social structures differ from the United States in important ways, provide limited assistance at best in answering these questions. Any new law limiting gun ownership must take into account the fact that millions of guns are already owned in this country. Given that any proposed legislation meets strong political resistance, advocates of gun control would find it in their interests to propose only effective legislation, carefully tailored to the problem and addressing the ways that gun control laws can be circumvented, and with reasonable administrative costs. The many firearm homicides and injuries fall into different categories (accidents, suicides, differing types of crimes, etc.), with different people using guns for different reasons; any gun control regime which reduces one type of firearm injury may have little effect on others. Careful consideration must be given to the nature and motivation of the violence, whether gun control would actually work, and whether better methods exist. This is especially true in the case of violent crime (the most common reason for the need for gun control), the levels of which fluctuate over time and have fallen precipitously over the last decade, despite a steady increase in the level of gun ownership. More study is needed to determine the cause of violent crime and the reasons for its recent decrease. Even if reducing gun ownership were shown to be an effective means of controlling violence, the link between proposed gun legislation and reduced gun ownership must be shown. Proponents often point to automobile registration as a model for effective control of gun ownership, but the author points out significant differences between the two. The limited success of legal control of drug use, the author suggests, may provide a better analogy showing that legislation may ultimately do little to control gun ownership and use in this country. The author briefly describes the types of gun control at the state level and looks at federal law prior to the "Brady" bill. The political fight leading up to enactment of Brady in 1993 is described, and the legislation is analyzed. The federal law requiring a waiting period and background check by local police before purchase of a new firearm has several important gaps, in that it does not apply to gun shows or purchase of used

guns. The law's effectiveness is also restricted by limits placed by the Supreme Court on the legislation's requirements for administrative action by local officials. While the author finds most existing and proposed gun control of limited value, he argues strongly for laws imposing strict sanctions on using guns in the commission of a crime. Other possible types of gun control the author finds most promising for future study include prohibiting gun shows, limiting new purchases to one per week, restricting ownership by identifiably high risk individuals, and firearm "fingerprinting." Also considered are recent proposals for "issuance laws" which encourage ownership by non-criminals, based on recent studies by John Lott suggesting gun possession by law-abiding individuals actually reduces crime. Varying local conditions may determine the value of such proposals, suggests the author; despite certain problematic externalities, most gun control legislation should be developed at the local level.

JOYCE LEE MALCOLM, GUNS AND VIOLENCE: THE ENGLISH EXPERIENCE (Cambridge, MA, Harvard University Press, 2002) 340 pp.

On the question of the relationship between levels of gun ownership and the rates of violent and other crime in a society, there are three possibilities: 1) private gun ownership increases crime; 2) there is no relationship; 3) private gun ownership decreases crime. The first possibility is the most generally accepted, and evidence is often found in a comparison between England, with some of the strictest gun laws in the world and with what is thought to be one of the lowest crime rates in the industrial world, and the United States, with permissive gun laws and what is thought to be high levels of crime. In order to investigate the correlation between guns and crime, the author examined historical records in England and Wales dating back to the fifteenth century. Useful evidence can be found from this, despite the acknowledged obstacles in drawing reliable conclusions (such as incomplete records and changes over time in record keeping procedures). The author and other researchers have found that rates of crime and violence were high in the late medieval period. The rates fell precipitously from the beginning of the modern era until the middle of the twentieth century, when crime and violence rose abruptly. Thus, now England and Wales, contrary to popular impression, have some of the highest crime rates in the industrial world. Gun ownership over the same period also breaks down into three general stages: while there were few firearms in medieval England, gun ownership became common with only a few legal restrictions during the modern era, until the twentieth century when the government began trying to pull guns from private ownership. Until that later period, homicide rates were low, and few homicides were committed with firearms. These trends strongly indicate at least that the crime rate is independent of the level of gun ownership, and at least suggest a negative correlation between gun ownership and crime. However, the mere fact that crime was low at times when gun ownership was common, and high during the medieval period when there were few guns, and also in the recent period when England enacted strict legislation, does not itself establish that guns reduce crime. Many other variables might influence the crime rate. Although the evidence from England cannot establish a negative correlation, the author refers to the recent studies of John Lott in the United States as stronger evidence that private gun ownership deters crime. The book also surveys English gun law. Throughout most of the modern period, individual citizens were expected to assist in maintaining the public peace, to serve in the local militia, and to own guns in pursuit of these duties.

Legal restrictions on gun ownership seemed more a response to fears of general social unrest than to individual crime, and an attempt by the government to protect itself rather than to prevent inter-personal violence. Through this time, gun ownership was regarded as a right under the English Constitution. Professional police forces began developing in the nineteenth century, along with the view that they should be solely responsible for the public's safety, and that the armed private citizen was a threat to order. Significant legal restrictions began in the early twentieth century, and increased during the social unrest after WWI. It is difficult to determine, however, exactly how effective this legislation was in reducing actual gun ownership. During WWII, more than one million guns were distributed to the citizen Home Guard. Crime rates rose only slightly during the war, and somewhat more in the years immediately after. Armed crime, however, did not rise appreciably. Beginning in about 1953, England experienced an abrupt and steep rise in crime, and today it has some of the highest rates in the industrial world. During the same period, the government pursued stringent restrictions on gun ownership; other civil liberties have also since been curtailed. The author discusses three possible reasons for the sharp rise in crime: 1) lenient treatment of offenders; 2) fewer police; 3) disarmament of the citizenry. In discussing the third possibility, the author draws from evidence developed by John Lott in America that private gun ownership deters crime. The author also criticizes the English Government for its statutory curtailment of common doctrines of self-defense and self-help in pursuit of the theory that the professional police should be the sole providers of protection. However, this policy has failed, in part because of the first two factors mentioned above.

• HATE CRIMES

VALERIE JENNESS & RYKEN GRATTET, MAKING HATE A CRIME: FROM SOCIAL MOVEMENT TO LAW ENFORCEMENT (New York, Russell Sage Foundation, 2001) 218 pp.

Although the conduct of "hate crime" is centuries old, only in the past two decades has it become a legal and policy concern. Applying theories from the social constructionist and institutionalist literature to the data, the authors identify four stages in the development of legal policy on hate crime: 1) social movement and interest group politics; 2) legislative policymaking; 3) judicial interpretation; and 4) policing and prosecution. At the first stage, the civil rights, feminist, and gay and lesbian movements identified and compiled statistics and anecdotal evidence regarding a kind of violence that intimidated particular groups, and then the groups organized to construct this violence as hate crime and a policy concern. This overlapped with the crime victims' movement to form an "anti-hate-crime" movement. The policy debate moved into the federal and state legislatures. Initially, definitions varied as to which groups of victims, which group of offenders, and what types of behavior would be included, as well as the kinds of motivations that would be an element of the crime. The included group of protected victims and sanctioned actions expanded, although interest group lobbying became less influential as the legislative policy-making phase continued; states that later considered the issue often had more inclusive statutes than those that first acted. States also differed in the way they incorporated new hate crime legislation into their existing statutory scheme, including new "freestanding categories of crime," referencing definitions of a "hate

crime" to already enumerated crimes, criminalizing interference with civil rights, and enhanced penalties. Later states enacting hate crime laws tended to modify their existing statutory scheme even more. This suggests a pattern know as "diffusion," where an innovation diffuses slowly at first then accelerates. Variation and experimentation often leads to "homogenization," i.e., consensus regarding the best policy methods to address the problem. States' legislation shows less homogenization than other types of policy innovation, however, as the states that enacted early hate crime laws generally have not amended their statutes to bring them in conformity with those of the later states. States' laws also vary in the phrasing of the motivation element in the definition of a hate crime. In a tabulation of the relevant statutory language, the authors show that later enactments allow wider application. Leading states in the hate crime movement now often provide less statutory protection than later states, although the earliest hate crime laws were enacted when the impact of the social movement and identity group politics had the greatest impact on the legislatures. The social movement became less a factor in later state legislatures, yet the later legislation was more expansive. This fact suggests that "identity politics" is not the sole explanation of hate crime legislation, but it can be understood by drawing from institutionalist research applied to legislative policy–making. In examining judicial interpretation and application, the authors found five types of claims made by defendants against hate crime statutes: vagueness, punishment of speech, over-breadth, content discrimination, and denial of equal protection by preferential treatment of minorities. Four stages in the judicial history are described: 1) early cases where the courts disposed of First Amendment claims by holding that laws regulated conduct, not speech; 2) a period after *R.A.V. v. St. Paul*, where constitutionality was seriously challenged; 3) a "reclamation" period where the courts harmonized hate crime law with established criminal law that regulated motive; 4) a shift to peripheral issues, such as questions of definition and of what evidence is necessary or admissible to prove the motivation elements. The core legitimacy of hate crime law seems established, and issues now raised in the courts can often be resolved by modification and clarification of the statutory language. Courts have tended to construe, and limit, hate crime statutory language so as to situate it within established legal analysis. Actual enforcement is the latest and least settled phase of the legal construction of hate crime law. Concerns include whether hate crime law is enforceable at all, and whether enforcement would be uniform. Little data is yet available, but there is some indication that departments are becoming more uniform in their commitment to the development of routines for the detecting, reporting and processing of hate crimes. Prosecution is proceeding, and prosecutors seem to be careful and conservative in case selection. Although "identity politics" does not adequately explain the developmental course of hate crime policy, more longitudinal study is needed to evaluate the empirical validity of initial concerns and criticisms.

JUVENILES

IDO WEIJERS & ANTONY DUFF, EDS., PUNISHING JUVENILES: PRINCIPLES AND CRITIQUE (Oxford, Hart Publishing, 2002) 215 pp.

This collection begins with a narrative background of the major turns in the judicial treatment of youths. The development of a consciousness that the dangers facing youths, as well as the problem of dangerous youths, required a different response

began several centuries ago. The first separate court system for juvenile offenders was established in 1899. The welfare of the offenders informed the discourse, and the main concern was beneficial consequences for the youthful offender from the application of juvenile justice. The 1960's saw a turn as the "consequentialist" approach was regarded a failure, retributive approaches were preferred, and the treatment of the juvenile offender resembled more that of the adult offender. In the following sections, the contributions take up normative theorizing. The restorative justice movement argues that restoration and reparation is needed in the aftermath of a crime. The offender must confront the damage and implications of his act, repair the damage, and work towards reconciliation with the community. Restoration of the relationship of the victim with the community is also a concern. Supporters of this movement argue that the traditional criminal process of trial and punishment cannot perform this sort of restoration. Questions addressed by contributors to this section include what to do if the offender refuses voluntarily to undertake restorative action, what place punishment and retribution should have in the restorative process, and how best to educate the offender on the wrongfulness of his acts. Some argue that criminal trial and the painful imposition of retribution is inimical to restorative process; others, that it is necessary as a sort of penance and as a means of communicating to the offender community disapproval of his act. Another position is that the educational process should take place at trial through a dialogue between the judge and offender, rather than through later punishment. Other issues include whether a youth should be regarded as being at a time of incomplete moral development, and if so, whether the courts should consider this a factor in assessing culpability. The place of "moral emotions" (shame, remorse and guilt) has also become an issue in the restorative justice movement. The psychological differences between these emotions are discussed. Other questions addressed are whether the criminal justice system should attempt to induce these emotions in the youthful offender, and if the courtroom is the best setting and the judge the best person to elicit a moral response from the juvenile offender. More study is suggested of the methods of the restorative justice movement, such as family group conferences as a means to develop moral emotions in the juvenile offender.

PENOLOGY

L. MARA DODGE, "WHORES AND THIEVES OF THE WORST KIND": A STUDY OF WOMEN, CRIME, AND PRISONS, 1835–2000 (DeKalb, IL, 2002) 342 pp.

Drawing from a number of quantitative and qualitative sources, the author presents a narrative history of the incarceration of women in Illinois, including the effects of changing theories of penology and social discourses about feminine criminality, the organization of women's prisons, the actual conditions of women in the prison system, and the attitudes of law enforcement, judicial, and prison parole officials towards women convicts. Women were initially imprisoned in a separate space within the male penitentiary; the profit to be derived from their labor seems to explain the treatment of women prisoners during this time. In 1896, the first freestanding woman's prison was established in Illinois. At about this time, competing social discourses emerged, viewing women prisoners as unfortunate victims on one hand, and as incorrigible and degenerate on the other. In 1933, a state reformatory was

established. The women were placed in cottages which would simulate home life. Actual institutional conditions, however, conflicted with the ideal of reformation. From an analysis of the sociological profile of women convicts the author shows that a woman's social class, marital status, national origin, and race were greater determinants of whether a woman would be incarcerated than the actual nature of the act for which she was prosecuted. From comments of sentencing officials, the author also concludes that in addition to the specific criminal act, whether a woman in other areas of her life deviated from social standards of proper female behavior was an important factor in whether she would be incarcerated. Social standards also were reflected in the rules and regulations governing women prisoners, infractions of which could affect the possibility of parole. Drawing from theories of the social construction of crime and of the institution of the prison as a method of general social control, and despite competing theories to reform prisons into rehabilitative institutions, the author concludes that imprisonment of women is central to policies of race, class and gender control.

DAVID SHICHOR & MICHAEL J. GILBERT, PRIVATIZATION IN CRIMINAL JUSTICE: PAST, PRESENT AND FUTURE (Cincinnati, OH, Anderson Publishing Co., 2001) 376 pp.

Contributors to this volume examine the history, current trends and potential future of the privatization of criminal justice in this country. Particular aspects examined in detail include privatized security forces, adjudication procedures and substance abuse programs. The emergence and growth of private jails and prisons is also examined through several case studies. Privatization of criminal justice has a long history in this country, driven in part by distrust of government's power and its perceived incompetence and corruptibility, and in part by efficiency and accomplishments of the private sector. While recognizing the advantages of privatization, the contributors find that the criminal justice system may not be as amenable to privatization as other government functions.

Moreover, deficiencies in the contracts through which private firms take over criminal justice functions may be uncorrectable, and resumption of performance by the government in the event of market failure may be difficult. Differences between the goals of public governmental and private commercial organizations, as well as difficulties in monitoring performance, create the risk that the management of privatized criminal justice may be subordinate to public policy. Several guidelines are offered to minimize the risks while obtaining the advantages of criminal justice privatization.