

In many ways, the book becomes a compelling effort to reconcile pragmatism with abolitionism. Reiter is ultimately a pragmatist, sensitive to a political and legal landscape in which outright abolition of solitary is unlikely. But she knows how easily reforms fail to meaningfully improve the lives of people sitting in cages. “Is there any kind of solution that would satisfy both a prison administrator and the family members of inmates?” Reiter asks herself in the aftermath of the legislative hearing.

Her work is ultimately a call for scholars to take on the hard task of imagining an answer to that question, to think in a spirit of both pragmatism and idealism about what short-term changes can be made to solitary confinement—agreeable to a prison administrator and inmates’ loved ones alike—that will put the practice on the road to abolition.

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Locked in. The True Causes of Mass Incarceration and How to Achieve Real Reform. By John Pfaff. New York: Basic Books, 2017.

Breaking the Pendulum: The Long Struggle Over Criminal Justice. By Philip Goodman, Joshua Page, and Michelle Phelps. New York: Oxford University Press, 2017.

Reviewed by Hadar Aviram, UC Hastings College of the Law

Virtually every public conversation about American punishment begins with the quintessential chart: a timeline of incarceration rates, stable until the early 1970s, then alarmingly rising through the 1980s, 1990s, and 2000s, until a slight decline in the late 2000s. This striking visual aid goes hand in hand with a “standard story”: after several decades of following a rehabilitative punishment

model (albeit not without some serious discontents), the Nixon administration made crime a national issue and zealously pursued punitive policies—partly in response to the reality of rising violent crime rates, and partly in a top-down, politically motivated effort to target the civil rights movement and African Americans. The federal government funneled funds into municipal police departments and kicked the war on drugs into high gear, resulting not only in skyrocketing incarceration rates and overcrowding prisons, but also in shameful racial disparities among those caught in the system's clutches. The standard story invariably also involves the Prison Industrial Complex (PIC), highlighting the role of the private prison industry and commercial interests in the growth of incarceration.

That this narrative has been so successfully disseminated out of academia and into the progressive conversation about incarceration was evident in the last U.S. elections, in which both Democratic candidates addressed police violence, racial discrimination, and the fate of private prisons. But this story has been, in some ways, the victim of its own success, and in recent years several important works have highlighted its problems and inaccuracies. Naomi Murakawa (2014) and Elizabeth Hinton (2016) have highlighted the role played by liberal democrats in the rise of mass incarceration, looking at Nixon's presidency as a continuation, rather than a shift, of policy priorities and practices. James Forman (2017) and Marie Gottschalk (2014) have complicated the simplistic story of racial disparities. The two new books reviewed here—*Locked In* by John Pfaff and *Breaking the Pendulum* by Philip Goodman, Joshua Page, and Michelle Phelps—go a step further, offering fundamental revisions of the very premise of the incarceration story.

Pfaff's main objective in the book is to marshal simple but convincing data analysis to show that, not only does the "standard story" incorrectly explain mass incarceration, but also leads us astray in directing our reform efforts toward "highly salient but ultimately less important issues" (112). Pfaff identifies two main culprits—the first of which is the war on drugs. Contrary to commonly made assumptions, shows Pfaff, drug-related offending contributes relatively little to the incarceration population. He attributes this error to a reversed causality: drug enforcement might follow, rather than cause, violent crime. Moreover, his data complicates some of the commonly made racial critiques of drug enforcement policies (an effort in which he echoes Gottschalk and Forman's works.). Pfaff's analysis rings true and important, though he too readily dismisses the importance of reforming the drug system for the sake of those caught in the federal system. It is true, as Pfaff says, that reforms "pay too much attention to the federal criminal justice system," which "focuses much more heavily on drugs than state

systems do” (13) but incarcerates merely 12% of U.S. prisoners; but the flagrant injustices of the federal system, atypical as they may be, merit attention in and of themselves (Lynch 2016). He also easily ignores a considerable body of scholarship that specifically addresses criminal justice in the states precisely because local context is important, such as Barker’s three-state comparison (2009), Gilmore’s analysis of California (2006), Perkinson’s analysis of Texas (2010), and Lynch’s analysis of Arizona (2009).

The second false culprit Pfaff identifies is private incarceration. Pfaff effectively highlights the low (albeit not negligible) share of private prisons in American incarceration, and convincingly argues that the industry’s lobbying efforts, albeit significant in themselves, are not nearly as influential on a grand scale as lobbying by public actors (similar and other points in this vein have recently been made by Feeley 2004; Shamir 2014; Dolovich 2005 and others.). These points are generally well taken, except in the context of prison guard union lobbying, since Pfaff himself admits that the California union is “uniquely powerful... a dramatic outlier” (15). Again, Pfaff’s critique of the focus on privatization is important: while he admits that the industry is morally flawed, he urges us to examine other avenues for reform.

The most original and valuable contribution of the book is, arguably, Pfaff’s discussion of the tradeoff between crime rates and incarceration rates. He rejects the received wisdom on the right that the rise in incarceration caused the crime decline, but also the received wisdom on the left that these two trends are unrelated. Admitting that the imprisonment growth partly contributed to the crime decline, he shows that this strategy has had diminishing returns, and at this point incarceration is no longer a valuable crime-fighting strategy (Pfaff’s argument here relies on FBI crime statistics, even though we have good reasons to mistrust them for the periods preceding the mid-1970s). More importantly, the book makes a courageous claim (and one made more often by economists than by public policy experts or criminologists): our search for penal reform always seeks to reduce incarceration *while maintaining crime rates constant*. It requires honesty to face the possibility that a decrease in incarceration accompanied by a modest rise in crime *could still yield net social benefit*, because of the destructive effects of mass incarceration.

Pfaff’s recommendations for areas of reform include the two big elephants in the room: violent crime and prosecutorial decision making. In highlighting the importance of tackling violent crime, Pfaff joins several recent commentators (Seeds 2016, Beckett et al. 2016) who point to the problematic bifurcation effect of policies addressing only the “low-hanging fruit” of nonviolent drug offenses. The key to these reforms lies not in focusing on the back

end of the incarceration cycle, but on the decision to press criminal charges in the first place, and those must involve a paradigm shift among county prosecutors, who hold immense power and almost unfettered discretion.

Admittedly, Pfaff's book recommends focusing on reform areas that do not lend themselves as easily to political bipartisan consensus—reducing admissions of violent offenders. But it is also a call to leftist scholars and activists to set aside facile critiques of mass incarceration and take an honest, data-based look at the real nature of the problem.

These recommendations are far from being naïve: Pfaff argues that punitivism is not necessarily a core conservative concern, and that “legislatures grow tougher on crime out of electoral necessity more than innate desire” (181), which offers some hope of bipartisan initiatives to focus on what matters.

In *Breaking the Pendulum*, Goodman, Page and Phelps also stress the need to seriously revisit the “standard story,” but they identify a different problem with the story—not its content, but rather the crassness and lack of nuance of the mainstream analysis. Goodman et al. argue that the “standard story” employs a “pendulum perspective,” describing the story of American incarceration as a series of crude shifts from punitivism to rehabilitation and back. This story suffers from three shortcomings: rupture (the assumption that one penal regime entirely supplants another), mechanical explanations (total explanations lacking in nuance) and homogeneity (the tendency to regard the American criminal justice system as a monolith). As an alternative to this characteristic analysis, and inspired by Bordieu's notion of the “field,” Goodman et al. posit an “agonistic perspective”: the notion that “penal development is the product of struggle between actors with different types and amounts of power” (8). The struggle over penal reform encompasses conventional political behavior, passive subversion of explicit policies, or efforts to disrupt existing policies; it can take both pragmatic and symbolic forms. The struggle is constant and continuous: while a particular period appears to be clearly defined by a dominant criminal justice approach, a closer examination reveals a multiplicity of voices contesting policies and incessantly negotiating the rhetoric and meaning of punishment. Moreover, socioeconomic and political forces, while influential, are not deterministic, and criminal justice can be malleable and subject to change.

To demonstrate the agonistic perspective, Goodman et al. focus on four seemingly monolithic periods in punishment: the antebellum controversies about prisons, the Progressive Era, the rehabilitative “correctionalist” period, and the rise of mass incarceration in the twentieth century. For each of these periods, they show the penal field as a site of fierce contention between conflicting

ideologies, and show change as the final outcome of a graduate and subtle irritation of “tectonic plates.”

In their discussion of the decline of the penitentiary idea before the civil war, Goodman et al. draw attention to conflicts among different groups of reformers, and also to the fact that, from its early days, even the flagship of penitentiary ideal—Eastern State Penitentiary—was much murkier in implementation than in rhetoric (their analysis dovetails with that of Rubin (2015)). Their analysis of external factors (racism and localism) shows that the decline of the penitentiary was not so much a conscious abrupt decision, but rather a subtle shift produced by a series of different factors.

The book is arguably at its best in the excellent Chapter 4, which unpacks a period that receives relatively less attention in criminological literature: the punitive/rehabilitative complex of the first half of the twentieth century. As Goodman et al. show, the concept of rehabilitation is stretched during this period, taking dramatically different meanings and manifestations in different locales and in the advocacy and policies of different actors, to the point of losing integrity as a valuable guideline. These nuanced observations undermine the tendency to romanticize the “rehabilitative ideal.” Combining these insights with those in Chapter 5 is an instructive lesson in criminological optimism. As Goodman et al. show here, even throughout the punitive period of the Nixon administration and beyond, definitions and strategies are strongly contested, and victories for reform are achieved, albeit obscured by the overall tenor of the era. These are lessons for reformers and advocates to keep fighting even through difficult period, because contention and dissent, even when fomented by groups that hold less power, can sow seeds of important change in the future.

It is perhaps helpful to examine the insights of *Breaking the Pendulum* through a criminological perspective barely mentioned in the book: labeling theory. By contrast to critical criminology, which tends to rely on inflexible notions of structural power and inequality, labeling theory explains legislation and reform as a struggle among social groups, forming coalitions and jockeying for position (Gusfield 1968; Luker 1998). One of the best examples is Daniel Okrent’s *Last Call* (2010), which shows prohibition as the outcome of coalitions and conflicts among many different constituencies with different ideals. In combination with Bourdieu’s concept of the “field,” these nuanced and flexible theories provide fuller explanations for trends in criminal justice, and could theoretically bolster Goodman et al.’s analyses.

Goodman et al.’s call for nuance is appreciated, and an important reminder to all those seeking to provide either strong support for, or repudiation of, the “standard story” of mass

incarceration. It is also an encouraging perspective, in that reformers should take heart that their efforts, even if not winning during a particular period, are not in vain, and could have far-reaching effects later. The book, however, engages in both too much and not enough criticism of criminal justice scholarship. The academic effort at making sense of mass incarceration faces the need to find a “sweet spot” between saying too much about too little (focusing on miniscule local developments and faithfully describing them without the ability to learn enough from them) and saying too little about too much (crafting an overgeneralized “grand narrative”). The realities of academic publishing are such that there is some pressure toward producing grand narratives, but I suspect that even the most seminal works that propagate these narratives (Garland 2001; Simon 2007; Wacquant 2009 and others) do not purport to argue that they constitute the *absolute and only truth* about mass incarceration at any place and time. The argument against grand narratives also makes a bit of a strawman out of other works, because many recent works do exactly what Goodman et al. claim they do not: oscillate between general trends and the particular circumstances that produce them, including sometimes clashes between individual personalities as the unit of analysis. In that respect, Goodman et al.’s effort to correct perceived biases in criminal justice scholarship necessarily resorts to generalizations not unlike those of the texts they criticize.

We live in interesting times, and the surprising and discouraging developments on the federal level offer us an opportunity to revisit what we think and know about criminal justice policy. The “standard story” disseminated by some academics and by the public offers important truths, but these truths cover other important truths. *Locked In* and *Breaking the Pendulum* are both welcome and important calls to return to nuance, data analysis, and effective reform strategies.

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