

Private Prisons in America

**A CRITICAL RACE
PERSPECTIVE**

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This book is dedicated to Hal Pepinsky, professor of criminal justice at Indiana University, Bloomington. I have been privileged to study and visit with Hal on many occasions, first as a student and later as a colleague. These visits are always lengthy conversations about peace, about real "social security," and about maintaining a healthy skepticism for legally imposed "order." Professor Pepinsky helped me to see punishment as something far more complex and deeply revealing than simple agendas for "crime control" imply. I must go further, however, and offer my thanks to Hal for what I know to be his personal commitment to students, of which I am one of many. More than any single person, Hal helped me to see that imprisonment in the Anglo world—rather than being a force for justice—is today a mechanism for injustice and social stratification as powerful as any undemocratic state. America's despotic lust for punishing and exploiting those who are different is rooted in our patriarchic and colonial past, as noted even by Alexis de Tocqueville. The practice of American imprisonment has long been a mechanism of social control that merely perpetuates and deepens the preexisting imbalances of power endured by those most often imprisoned. The power-laden social theater of imprisonment continues unabated today, only now (once again) for private profit.

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FOREWORD

RANDALL G. SHELDEN

During the past two decades American society has experienced a growing crisis in the way it responds to crime. On the one hand, if you compare the crime rate in 1971 with what it was thirty years later, you will find it is essentially the same. Yet incarceration rates have zoomed upward by almost 500 percent during this time, caused mostly by the "war on drugs" that has systematically targeted racial minorities and the poor—especially African Americans. The incarceration rate for African Americans is around eight times greater than for whites, whereas a black child has a one in four chance of ending up in prison. White prisoners are now in the numerical minority within the prison system. Urban communities have been devastated by this imprisonment binge. Meanwhile, mass imprisonment is good for many businesses and the growing "crime-control industry." Clearly, something is amiss in this country.

Michael Hallett's book gets to the heart of the matter. Hallett appears to be a sort of reincarnation of some of the notables of what used to be called "penology," namely,

people like Thorsten Sellin, Howard Becker, Georg Rusche, and Otto Kirchheimer. All of these men used classic sociological analysis in their examination of the modern system of punishment. The book you have before you is one of the few in the current era (aside from a few notable exceptions, such as David Garland) to extend this kind of analysis. The recent trend toward greater and greater reliance on incarceration as a tool for "social control"—more specifically, as a method of controlling the "surplus population" or "dangerous classes"—forces us to look beyond the trees and examine the forest. In Hallett's book we get a rare glimpse into the past and its link to the present and the future. This link, I believe, is the intersection of two crucial sociological variables: race and the profit motive of capitalism.

Toward the end of Chapter 3 Hallett provides a succinct summary of the major thesis of his book when he writes: "Private prisons reveal truths about our culture and social system that have little to do with crime control, but have much to do, instead, with the often racist and exploitative character of our capitalistic economic system." Paraphrasing the excellent work of Katherine Beckett, Hallett, again in this same chapter, notes how the perception of poverty has shifted from the "deserving" poor of rural whites during the Great Depression to the "undeserving" poor of urban blacks. From this perspective, incarceration has little to do with crime per se—and especially has little to do with reducing crime and suffering among our citizens. We lock people up not to reduce crime and protect victims, but to help control a growing surplus population, while simultaneously supporting private interests, such as profits for capitalists and votes for "law and order" politicians.

Hallett explores, in Chapter 2 (one of the best histories of punishment and imprisonment I have ever read), the rise of the "Convict Lease" system in the southern states after the close of the Civil War. This was, as all previous research has proven, an attempt both to control the former black slaves (and, in fact, perpetuate other forms of slavery) and to aid capitalist profit seeking. It is at this time that we find a correlation with the rise in the black incarceration rate (booming upward throughout the South, bypassing in both numbers and rates those for whites) and the early beginnings of prison privatization. Then, about one hundred years later, we find a dramatic increase in black incarceration rates—fueled by the "war on drugs"—along with, once again, the emergence of prison privatization, led by two corporations, Corrections Corporation of America and Wackenhut Corrections Corporation. As Hallett notes at the end of

the book: "The racial characteristics of modern private prisons cannot be ignored for what they still represent: a racialized, coercive, for-profit imprisonment practice disproportionately utilizing young black men for its system of economic production."

Hallett's critical analysis—too often missing in current criminological research (which too often benefits from corporate or governmental handouts, or both, for "correct" research topics)—looks even further and finds the timing of the recent incarceration binge with privatization corresponds precisely with the rise of a conservative domination of all governmental functions. This includes, very importantly, the emphasis (pushed with almost equal force by both Republicans and Democrats) on reducing the role played by the government (especially when it comes to traditional forms of welfare). "Get the government off our backs" is the rallying cry from conservatives and growing numbers of "liberals." What these groups fail to add is "unless it benefits big business" ("corporate welfare," and so on). Thus, it is not too surprising to find that since the early 1980s the distribution of wealth has been skewed ever more toward the richest proportion of the population, so that by the end of the 1990s the top 1 percent of wealth holders had about 48 percent of all financial wealth and the next 19 percent had just about all the rest, with the remaining 80 percent of the population holding onto less than 5 percent.

Hallett provides a unique look at one manifestation of this "less government" movement, with a critical analysis of so-called faith-based correctional programming. It is through this kind of analysis that we get an even deeper insight into what the conservative crime-control policies are all about. It is here that we see the movement away from understanding the quite obvious and well-documented (with more than one hundred years of research, especially the "social disorganization" perspective, which Hallett discusses at length in Chapter 4) social sources of crime [poverty and social inequality] to seeing crime as a "moral and ethical" problem. It reminds me of the old criminal-as-sinner perspective, which led to the so-called Pennsylvania Plan (not coincidentally, we find this model of prison alive and well in our growing "supermax" prisons with twenty-four-hour solitary confinement and "warehousing" of prisoners). Thus, the offender is not a product of his or her environment, but is rather some "evil" or "ungodly" or "immoral" person. Hallett's analysis of the rise of this "faith-based" movement utilizes some of the now classic works of Joseph Gusfield and Howard Becker by focusing on "moral

entrepreneurs" and "symbolic crusades." It has been a long time since anyone has done this and resurrected this method of analysis (those of us who began their criminological careers in the 1960s and 1970s remember this kind of research), and Hallett's chapter on this subject provides some important insights.

In his concluding chapter, Hallett brings his analysis to a critical juncture, namely, the fact that recent trends in "crime control" do not come close to effectively reducing crime, since maintaining a steady supply of criminals (even if they have to be invented, as through the drug war, for instance) is very profitable for those who benefit from the "crime-control industry." In short, as one of Hallett's chapter subheadings reads, we have "social disorganization as market opportunity." Large numbers of disfranchised, dispossessed, urban minorities, reduced to what Marx once called the "surplus population," are now viewed, like the slaves of the nineteenth-century South, as valuable "commodities" for not just those who operate private prisons but also literally hundreds of businesses, large and small, who are the much sought-after "vendors" of the criminal justice industrial complex, not to mention the abundant and almost unlimited supply of career opportunities for thousands of job seekers, especially college graduates from "criminal justice" programs. Crime control, in short, is big business, and Michael Hallett's book provides a deeper understanding of what we all face, both today and in the future.

ACKNOWLEDGMENTS

In May 1997, I became an "activist" associated with a state employees' labor union, the Tennessee State Employees' Association (TSEA), to help fend off a take-over bid by Corrections Corporation of America (CCA) for the entire Tennessee prison system. CCA had tried in the past to secure a ninety-nine-year lease on Tennessee's inmates, and state employee and prisoners' rights activists in the state were determined to fight. I ended up testifying, along with many others, before the Tennessee legislature's Select Oversight Committee on Corrections (SOCC) as an expert witness against the proposal, educating myself on many of the micromanagement issues associated with prison privatization presented in Chapter 6. Since that time, I have continued my research, testified in front of other legislatures on issues related to the topic, volunteered as a consultant to activist groups fighting private prisons around the country, and helped construct journalistic stories on private prisons appearing in the *Nation*, *Mother Jones*, and *Business Week*. Along the way,

I have encountered many souls on both sides of the issue who have helped shape my thinking.

First and foremost, I wish to thank Robert Coles, whose early work *Children of Crisis* and recent surprising correspondence with me helped steel my determination to see this project through. Like his frequent protagonists, Dorothy Day and Peter Maurin, Professor Coles's persistent theme in psychiatric biography—*that we must be caretakers of others in order to find our own path*—lies at the core of this project for me. I cannot fathom how it is that we undertake an agenda for profitability through imprisonment of human beings and come away with anything approximating democracy. To me, the story of for-profit imprisonment is a story about the world on fire.

Staughton and Alice Lynd, two longtime activists, invited me to Youngstown, Ohio, to visit with their group, the Prison Forum, in 1999. My visit with them in particular exposed me to the racial claims being made by CCA at the time (that CCA was good for the black community and provided good jobs for minorities at its Youngstown, Ohio, facility—in a for-profit prison that held 86 percent black males) and helped me realize some things about the racial dynamics of private prisons I was not yet prepared to see. My former boss Dr. Frank Lee encouraged and helped me in early research, and his quiet southern skepticism about privatization continues to be instructive. Charles Thomas, who will probably not recall our meeting in Oklahoma City where we sat on a panel together, served as an early foil for my inclinations regarding prison privatization and remains a key resource to the privatization research community. Eric Bates, Barry Yoemann, and Ashley Hunt are three journalists who have shared in the journey. David Shichor and Mike Gilbert provided much help on earlier work. Professor David Simon read portions of this work, as did James Austin, whose work I have used so much of in the classroom myself. Dr. Scott Camp, of the Federal Bureau of Prisons, reviewed my work and provided early support. As an author of the Abt Associates report on private prisons and other work, Dr. Camp's knowledge and collegiality have been inspiring to me. The work and endorsement of Professor Malcolm Feeley mean more to me than I can say.

Randall Shelden's work and critical support on this project have been pillars of this undertaking from the beginning, since I have drawn upon his "critical" perspective for years in the classroom and in my own thinking. Professor Michael Welch, with whom I got acquainted late in this project, has produced literally voluminous work on correc-

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