

City on a Hill, City Behind Bars: Criminal Justice, Social Justice, and American Exceptionalism

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Most graduate students in American politics are familiar with Tocqueville's *Democracy in America*. Yet few political scientists know that Tocqueville initially came to the United States in the early 19th century to study its prisons, not its democratic institutions and civil society. Tocqueville and his traveling companion Gustave de Beaumont came to study the American penitentiary, which had become world famous by the 1830s. Tocqueville collected notes for his classic study of the social and political conditions of the new republic as he and Beaumont traveled from prison to prison, interviewing wardens and prisoners and collecting information about everything from living conditions to disciplinary practices. Tocqueville's paeans to democracy in *Democracy in America* are widely cited. Yet his and Beaumont's dark observations about the connection between the penal system and American democracy are seldom noted. Tocqueville and Beaumont warned nearly 200 years ago: "While society in the United States gives the example of the most extended liberty, the prisons of the same country offer the spectacle of the most complete despotism" (1979, 79). Their dark observations are even truer today.

Throughout American history, politicians and public officials have exploited public anxieties about crime and disorder for political gain. Over the last three decades, these political strategies and public anxieties have come together in the perfect storm. They have radically transformed U.S. penal policies, spurring an unprecedented prison boom. Since the early 1970s, the U.S. prisoner population has increased by more than sixfold (Manza and Uggen 2006, 95). The emergence and consolidation of the U.S. carceral state is a major milestone in American political development that arguably rivals in significance the expansion and contraction of the welfare state in the postwar period. The government began to exercise vast new controls over millions of people, resulting in a remarkable change in the distribution of authority since the 1970s in favor of law enforcement and corrections at the local, state, and federal levels.

The United States has built a carceral state that is unprecedented among industrialized countries and in U.S. history.¹ Today the United States is the world's warden, incarcerating a higher proportion of its people than any other country. Nearly one in every 100 adults in the United States is in jail or prison today (Pew Center on the States, 2008). The U.S. incarceration rate is five to

twelve times the rate of Western European countries and Japan. A staggering 7.3 million people—or one in every thirty-one adults—are either incarcerated, on parole or probation, or under some other form of state supervision on any given day (Pew Center on the States 2009). This total does not include perhaps as many as one million more defendants under pre-trial correctional supervision by drug courts, alternate sentencing units, and other specialized programs (Pew Center on the States 2009, 10).

These figures understate the enormous and disproportionate impact that this bold social experiment has had on certain groups in U.S. society. On any given day, one in eleven blacks are under state supervision (Pew Center on the States 2009, 7). If current trends continue, one in three black men and one in six Hispanic men are expected to spend some time in prison during their lives (Bonczar 2003).²

The U.S. carceral state is distinctive not only for its sheer size and hyper-incarceration of certain groups but also for its enthusiastic embrace of harsh and degrading punishments that would be unthinkable in most other industrialized countries. These include boot camps, chain gangs, and widespread use of supermax prisons, where inmates are locked down nearly round-the-clock and are denied virtually any human contact.

Mass imprisonment is no longer “just” a problem largely confined to poor urban communities and minority groups—if it ever was. The U.S. penal system has grown so large that it has begun to metastasize. It has altered how key governing institutions operate, including elections and the census. Furthermore, mass imprisonment is bluntly and subtly remaking conceptions of citizenship. It is also creating a large and permanent group of political, economic, and social outcasts, which has enormous political implications. The carceral state appears to be cleaving off wide swaths of people in the United States from the promise of the American Dream or “American Creed”—the widespread faith that all Americans have an inalienable right to freedom, justice, and equal opportunities to get ahead and that all Americans stand equal before the law (Bobo and Thompson 2006). The political consequences of this are potentially explosive because the American Dream has arguably been the country’s central ideology, serving as a kind of societal glue holding otherwise disparate groups together (Hochschild 1995).

This essay first examines the enormous and growing political repercussions of having a vast penal system embedded in a democratic polity, including the political and electoral consequences of denying the right to vote to offenders and former offenders; increasing political, social, and economic inequality for people marked by the penal system; and the phenomenon of “governing through crime.” It then analyzes emerging strategies of resistance to U.S. penal policies and whether the current economic crisis marks the beginning of the end of the prison boom because the United States can no longer shoulder its crushing financial costs. It concludes by briefly discussing what the U.S. experience may portend for other countries.

I. Electoral Consequences of the Carceral State

Most established democracies place few, if any, restrictions on the right to vote for people with criminal convictions, including those currently in prison. The United States not only disenfranchises most of its prisoners but also is the only democracy that routinely disenfranchises large numbers of people on parole or probation, as well as ex-offenders who have completed their sentences. At least six states even disenfranchise misdemeanants (Manza and Uggen 2006, 9).

Laws barring offenders and former offenders from voting have had a profound impact on the electoral process in the United States. The voting irregularities of the 2000 and 2004 presidential elections drew public attention to the plight of the estimated five million Americans who are barred from voting by a maze of state laws that deny people with criminal records the right to vote, sometimes temporarily, sometimes permanently (Manza and Uggen 2006, 7). The political impact of felon disenfranchisement in the United States is so large because the number of people with felony convictions is so large—more than sixteen million Americans—and because felon disenfranchisement laws have stark racial origins and consequences (Hull 2006; Manza and Uggen 2006; Pettus 2005). More than one in seven black men in the United States is disenfranchised because of his criminal record. In several states it is as high as one in four (Manza and Uggen 2006, 10).

The disenfranchisement of prisoners, nonincarcerated felons, and ex-offenders represents more than just “a failure to make good on the promise of universal suffrage” (Manza and Uggen 2006, 8). It also has decisively influenced election outcomes. If Florida had not banned so many ex-felons from voting in the 2000 election, Al Gore would have carried the state by at least 30,000 votes, handily winning the White House (Manza and Uggen 2006, 192). Were it not for felon disenfranchisement laws, the Democratic Party might have controlled the U.S. Senate for much of the 1990s. The postwar electoral ascendancy of the Republican Party may have been as much a result of locking out wide swaths of the electorate as of crafting a new conservative message that successfully ruptured the remnants of the New Deal coalition.

Felon disenfranchisement laws persist even though they have few ardent public defenders. The Democratic Party has not been a brazen champion of restoring the vote to offenders, despite opinion polls suggesting that the American public generally favors removing some of these electoral barriers. Although felon disenfranchisement siphons off votes from the Democratic Party, adopting a punitive law-and-order stance in recent decades was thought to help the party secure votes from other key constituencies. Momentum is building, nonetheless, to restore the voting rights of people with felony convictions. In 2007, Maryland, Florida, and Rhode Island adopted potentially far-reaching measures that could restore the voting rights of hundreds of thousands of people with criminal records.

II. Wider Political and Economic Consequences of Mass Imprisonment

Forty years ago, the Kerner Commission concluded in its landmark study of the causes of racial disturbances in the United States in the 1960s: “Our nation is moving toward two societies, one black, one white—separate and unequal” (U.S. Kerner Commission 1968). Today we are still moving toward two societies—one incarcerated and one not. In his landmark book *Punishment and Inequality*, Bruce Western soberly concludes that mass imprisonment has erased many of the “gains to African American citizenship hard won by the civil rights movement” (2006, 191). Incarceration significantly reduces the wages, employment, and annual income of former inmates. Incarceration also decreases the likelihood that they will get married or stay married and increases the risk of domestic violence for their partners. The hyper-incarceration of African Americans may also help explain enduring racial disparities in morbidity and mortality (Pettit and Sykes 2008, 7–8). Many of these negative effects are concentrated among poor, uneducated blacks, drawing a sharp demarcation between poor blacks and the rest of society, including middle-class blacks.

Western’s work raises fundamental questions about race and social inequality. Young men from impoverished backgrounds were much less involved in nonviolent crime in 2000 than two decades earlier, and their rates of serious violence remained reasonably constant. Yet their chances of incarceration increased substantially (Western 2006, 40). In 2000, about one-third of black male high school dropouts between twenty and forty years old were in prison or jail on a typical day (19). By the time they are forty, 60 percent of black male high school dropouts have been incarcerated at least once (27). The 8-to-1 black-white incarceration ratio dwarfs the disparities found in many other major indicators of inequality (16), such as unemployment (2-to-1), infant mortality (2-to-1), and wealth (1-to-5).

Western challenges claims about the achievements of the 1992–2000 economic expansion, hailed as the largest peacetime expansion in US history. If the imprisoned population were included in official statistics, the jobless rate for young black males in 2000 would have been 32.4 percent, not the official 23.7 percent (90). The real unemployment rate for young black men who dropped out of high school actually increased from 41 percent to 65 percent between 1980 and 2000, discrediting the widespread claim that the 1990s economic expansion lifted all boats (91).

The portrait in *Punishment and Inequality* of the deteriorating economic position of poor, unskilled blacks is at odds with the conventional view that the U.S. labor market outperforms the labor markets of Western Europe. It undermines the claim that the United States, with its relatively unregulated labor market, weak unions, and skimpy welfare benefits, has had a better track record at reducing unemployment, especially for low-skilled workers, than “nanny states”

like France, Italy, and Germany (104–05). Western notes that state regulation of the poor did not recede in the United States in the 1990s; it merely took a new form as the criminal justice system swept up more poor, uneducated men and women in its widening dragnet.

The burdens that mass imprisonment confers on the most disadvantaged members of American society have remained largely invisible for many reasons, some political, some analytical, and some a combination of the two. Large surveys run by the U.S. Census Bureau to determine poverty rates, unemployment rates, and wage levels exclude people who are incarcerated (Western 2006, 87). Other major demographic and health surveys also exclude prisoners, skewing the results (Pettit and Sykes 2008, 9). The U.S. Census Bureau of course enumerates prisoners in the decennial census. But it records them as residents of the towns and counties where they are incarcerated even though most inmates have no personal or civic ties to these communities and almost always return to their home neighborhoods upon release (Manza and Uggen 2006, 201–02; Gottschalk 2007).

The way prisoners currently are enumerated in the census has enormous and unsettling political consequences. In every state except Maine and Vermont, imprisoned felons are barred from voting. Yet these disenfranchised prisoners are included in the population tallies used for Congressional reapportionment and for redistricting state legislatures, county governments, and city councils. This practice dilutes the votes of urban areas. Nearly 40 percent of the inmates in Pennsylvania’s state prisons come from Philadelphia, which has no state prisons in its city limits. For census and redistricting purposes, these Philadelphia citizens—nearly all of whom are black or Hispanic—are considered residents of the counties where they are imprisoned. These tend to be predominantly white, rural districts that typically vote Republican. The evidence of political inequities in redistricting due to how the Census Bureau counts prisoners is “compelling” (National Research Council 2006, 9).

The current census practice also contributes to misleading conclusions in vital areas like economic growth, migration, and household income. For example, in the 2000 census, 56 counties nationwide—or one in 50—with declining populations were misleadingly reported to be growing, thanks to the inclusion of their incarcerated populations (Heyer and Wagner 2004). Nearly 200 counties nationwide now have at least 5 percent of their “residents” in prison, and about 20 counties have more than 20 percent of their “residents” incarcerated (Lotke and Wagner 2004; Wagner 2004). The Census Bureau’s current practice is reminiscent of the ignoble compromise of the Constitutional convention when the founders agreed more than two centuries ago to count each disenfranchised slave as three-fifths of a white person. This decision allowed the slaveholding South to maintain its dominance in national politics for decades.

The country’s criminal justice policies raise other difficult and largely unexplored issues about political participation and citizenship. Mass

imprisonment is helping to create and legitimate a whole new understanding of citizenship and belonging. Former felons risk losing not only the right to vote but also are subject to other acts of civil death that push them further to the political, social, and economic margins. Many former felons forfeit their right to serve on a jury and are ineligible to receive pensions, disability benefits, veterans' benefits, public housing, student loans, or food stamps. States prohibit former offenders from working in scores of professions, including plumbing, palm reading, food catering, and even haircutting, a popular trade in many prisons.

Many jurisdictions forbid discrimination against job applicants solely because of their criminal records, unless the offense is directly relevant to the job. But employers disproportionately deny jobs to people with criminal records anyway (Pager 2007) and rejected job seekers have great difficulty getting redress in the courts (Hull 2006). The enormous number of barriers to full civic and political participation in the United States makes it that much more difficult for offenders to develop the "coherent, prosocial identity" that Maruna (2001, 7) identifies as a key factor in desisting from a life of crime.

In a remarkable development, elaborate gradations of citizenship are on their way to becoming a new norm in the United States. "Partial citizens" (Manza and Uggen 2006, 9) or "internal exiles" (Simon 2007, 175), be they felons, ex-felons, legal resident aliens, or undocumented immigrants are now routinely denied a range of rights and access to state resources. Some ex-felons succeed in having their political rights restored, but it often involves elaborate, capricious, intrusive, and daunting procedures that establish a new standard of worthiness for political participation (Manza and Uggen 2006, 87).

In the case of immigrants, documented and undocumented, a whole new penal apparatus has been quietly under construction for decades. It operates under the auspices of the U.S. Immigration and Customs Enforcement (formerly the Immigration and Naturalization Service), but has been largely shielded from public and legal scrutiny. Changes in immigration policy over the last 25 years or so have become new drivers of the U.S. penal system. Two landmark pieces of legislation in 1996—the Antiterrorism and Effective Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act—dramatically expanded the categories of crimes for which legal residents could be deported and eliminated many opportunities for waivers. A conviction for simple battery or shoplifting with a one-year suspended sentence could trigger mandatory detention and deportation (Dow 2004, 173–74). The number of people held by Immigration and Customs on any given day has increased more than elevenfold since the early 1970s (calculated from Dow 2004 and Kolodner 2006), as the immigration service has become a mini-Bureau of Prisons. People suspected of immigration violations have far fewer legal protections and rights and often are subjected to more capricious and brutal conditions of confinement than citizens charged with crimes. People held under suspicion of immigration violations in federal detention centers are not even entitled to have their injuries, illnesses, or

deaths in custody reported to their lawyers and family members in a timely fashion (Bernstein 2008).

The criminalization of immigration policy is just one example of how the “technologies, discourses, and metaphors of crime and criminal justice” have been migrating to all kinds of institutions and public policies that seem far afield from crime fighting (Simon 2007, 4). A new civil and political order based on “governing through crime” has been in the making for decades. The war on crime has created imbalances in the political system. The U.S. Department of Justice and the office of the attorney general have swollen at the expense of other parts of the federal government. The power of the prosecutor has expanded at the expense of judges, defense attorneys, and other actors in the criminal justice system. Perhaps even more significantly, the all-powerful, largely unaccountable prosecutor has become the new model for exercising executive authority in the United States. In word and deed, mayors, governors, and presidents increasingly fashion themselves as “prosecutors-in-chief.” They “define their objectives in prosecutorial terms,” frame “political issues in the language shaped by public insecurity and outrage about crime,” and push for vast expansions of executive power (Simon 2007, 35).

The war on crime has fundamentally recast both governmental and nongovernmental institutions in the United States, according to Simon. In the new regime, criminal analogies are wielded in many diverse settings, from homes to schools to the workplace. Principals, teachers, parents, and employers all gain authority and are viewed as acting legitimately if they can redefine family, education, or work place issues as criminal matters.

Decades ago “racial inequality was the pivot around which the federal government mandated a vast reworking in the way schools were governed at the state and local levels” (Simon 2007, 9). Now, Simon contends, it is crime. The federal Safe Schools Act of 1994 and the state-level Safe Schools Acts it spawned singled out crime control as the main vehicle for improving public education. In introducing his No Child Left Behind Act in 2001, President George W. Bush cast educational failure and crime in the schools as parallel problems. As a result of these and other measures, educational policy has been criminalized. Schools have been prisonized with the proliferation of school-based police officers, drug sweeps, uniforms, metal detectors, zero-tolerance rules, and the greater use of sanctions like detention and expulsion (222–26).

Governing through crime has transformed the everyday lives of not just the poor and disadvantaged but also the middle class. Lyons and Drew (2006) describe in chilling detail how paramilitary police and a menacing K–9 unit of drug-sniffing dogs carry out “lockdowns” and random drug searches at an affluent suburban high school. In their tale of two schools in Ohio—a suburban high school and an inner-city one—they show how politicians and lawmakers strategically cultivate an excessive fear of crime and violence “to divest from any notion of public education as a democratic social good” (4). Students, teachers,

and communities internalize the “zero-tolerance culture” foisted on them, making it difficult to resist the “transformation of schools from sites of democratic education to sites of social control and punishment” (90).

The suburbs and suburban life have been fortified. So has the workplace. With the decline of organized labor and collective bargaining and the retreat of the state in regulating the workplace, employers are increasingly using the crime issue to establish their dominance on the job (Simon 2007, 246). Their tools include the widespread use of drug testing and other forms of intensive surveillance and the dismissal of employees for off-the-job infractions like domestic violence and drug abuse.

The decline of unions is just one reason why the avenues to collectively resist these moves by employers have narrowed. Another key factor is the valorization of the crime victim. Lawmakers “have defined the crime victim as an idealized political subject ... whose circumstances and experiences have come to stand for the general good” (Simon 2007, 110). Thus, characterizing oneself as a victim is one of the few options remaining to seek redress from the state and employers.

III. Resistance to the Carceral State

The war on crime and its evil twin, the war on terror, are deleterious to American democracy. But bold new social movements and political leaders have yet to emerge to challenge the carceral state. Leading African Americans have been slow to enlist in the battle against the carceral state, even though U.S. penal policies have created a “deep crisis of legitimacy for the legal system in the eyes of black America and a real threat to the promise of equality before the law” (Bobo and Thompson 2006, 446). African Americans are acutely aware of the carceral state’s disproportionate impact on blacks and deeply disillusioned with the current situation. Yet so far they are “neither of one mind nor acutely politicized about these trends” (Bobo and Thompson 2006, 447).

Historically, black leaders have been uneasy about focusing on criminal justice issues (Curtin 2000; DuBois 1970; Oshinsky 1996). Some of the same factors that prompted leading African Americans to distance themselves from the AIDS crisis in its early years may be pushing them to turn a blind eye to the crisis of blacks and the carceral state.³ Their reluctance to embrace and publicize the plight of the disproportionate number of incarcerated African Americans may be rooted in fears that this will reflect unfavorably on blacks as a whole. As such, it will impede their efforts to identify with what they perceive to be the middle-class moral values of the mainstream. Many black legislators and other black leaders initially were enthusiastic recruits in the war on drugs. They even supported the enormous sentencing disparity between crack and powder cocaine, which disproportionately affects African Americans, sending more blacks than whites to prison for possessing small amounts of drugs (Kennedy 1997, 370–72).

But the winds are changing. Some black leaders and civil rights groups have

made ending the crack/powder cocaine disparity a top priority. They also have indicted the war on drugs for decimating poor, urban neighborhoods and families. The massive mobilization in 2007 on behalf of the Jena 6 in Louisiana briefly riveted national attention on mass imprisonment and its disproportionate impact on African Americans. The felon disenfranchisement question is beginning to reconfigure the politics of civil rights. Some civil rights organizations have moved to the forefront in challenging laws that disenfranchise people with criminal records (Manza and Uggen 2006, 124–25). The idea of requiring racial impact statements to alert legislators and the public to what, if any, racial or ethnic disparities would result from a proposed change in sentencing legislation is also gaining popularity (Mauer 2007).

Strategies to unhinge the carceral state by highlighting civil rights issues, particularly the stark racial and ethnic disparities that permeate U.S. jails, prisons, and death row are not risk free. There is a risk that penal conservatives will respond with another wave of what Whitman (2003, 155) describes as leveling down in penal policy in the name of liberal egalitarianism. Instead of lessening the punishments for blacks and other minorities, they may attempt to subject more whites to tougher sentences and invoke the death penalty more often for whites.

Penal reformers are enlisting not only civil rights but also international human rights laws and norms to challenge the U.S. penal system. Through their detailed reports on capital punishment, the widespread use of life sentences, supermax prisons, abuse of female prisoners, prison rape, and other disturbing conditions in U.S. prisons, human rights organizations (including Amnesty International and Human Rights Watch) and leading penal reform groups (like The Sentencing Project) have been drawing increased national and international attention to how U.S. penal practices are way out of line with those of other developed countries.

Mass imprisonment is becoming not only a pressing civil and human rights issue but also a major women's issue. With more than two million people behind bars, the overwhelming majority of them men, millions of women are the mothers, daughters, wives, partners, and sisters of incarcerated men. In addition, since 1977 the number of women in prison has increased at nearly twice the rate of incarcerated men (Talvi 2007). The enormous expansion of the penal system may bring about a day of reckoning for feminists and women's groups on the issue of law enforcement and the state. The campaigns against domestic violence, rape, and pornography beginning in the 1970s and 1980s made exceptional strides in addressing the problem of violence against women. But by focusing so heavily on criminal justice solutions to combat violence against women, feminists and women's groups helped foster a more punitive climate that eased the enactment of a slew of tough sanctions, many of them unrelated to violence against women (Gottschalk 2006; Simon 2007; Bumiller 2008).

Over the last decade or so, the chorus of doubts about relying so heavily on penal solutions to address violence against women has grown louder across a broad range of groups—feminists, crime experts, academics, and social workers.

Concerns have been growing about mandatory arrest, presumptive arrest, no-drop policies, and tougher sentencing. These legal remedies do not necessarily reduce violence against women but have contributed to greater state control of women, especially poor women, and have destabilized marginalized communities (Coker 2001; Sontag 2002; Ms. Foundation for Women 2003; Peterson 2008; Dixon 2008; and Buzawa and Buzawa 2008). The rising number of women behind bars for minor drug violations or for being the unwitting or reluctant accomplices to abusive partners has highlighted the persistent problems with the drug war, as has the growing number of imprisoned mothers with young children. Scholars and activists are drawing increased attention to the devastating impact that incarceration is having on the children and communities that offenders leave behind (Golden 2005; Bernstein 2005; Clear 2007; Gilmore 2007; Comfort 2008). Some poor neighborhoods in urban areas have been “hotbeds of mobilization” around criminal justice issues (Miller 2007, 313).

IV. Economic Insecurity and Public Insecurity

The financial crisis coupled with the election of Barack Obama has raised expectations that the United States will begin emptying its jails and prisons because it can no longer afford to keep so many people locked up. As Attorney General Eric Holder told the American Bar Association (A.B.A.) in August 2009, the country’s extraordinary incarceration rate is “unsustainable economically” (Pallasch 2009).

Evidence is growing that economic hardship may force a major change shift in penal policy that will significantly reduce the country’s incarceration rate, for years the highest in the world. Dozens of states cut their corrections budgets in 2009, and many proposed closing penal facilities to cover gaping budget gaps. In 2008, 17 states enacted a slew of penal reforms aimed at shrinking their prison populations, including expanding the use of alternative sentences and drug courts, loosening restrictions on parole eligibility, and reducing revocations of parole and probation for minor infractions (King 2009). Nationwide the rate of prison growth slowed considerably in 2008, and 16 states actually experienced decreases in their prison populations, the largest number in decades (West and Sabol 2009).

Talk is widespread that the “war on drugs” may have run out of steam. Congress and the Obama administration are seriously considering eliminating the sentencing disparity between crack and power cocaine, repealing the ban on federal funding for needle exchanges, and softening the ban on federal loans for college students with drug convictions. Obama appointed R. Gil Kerlikowske, who has a generally progressive reputation on drug-related issues, as the nation’s new drug czar. Several states and municipalities have designated enforcement of marijuana laws their lowest priority, and a number of states are seriously considering decriminalizing marijuana.

The current economic distress certainly provides an opening to rethink the

direction of U.S. penal policies. But we should be cautious about automatically assuming the crushing economic burden will unhinge the carceral state. Recent figures on the country's total jail and prison population are sobering. In the face of mounting economic pressures, the U.S. incarcerated population nonetheless increased between mid-2006 and mid-2008 by about 66,000 people to 2.3 million inmates, an expansion almost equal to the size of the entire incarcerated population in Germany.

Framing the problem of the carceral state primarily as an economic issue may yield some short-term benefits. But focusing so heavily on the economic burden of the penal system may come at the cost of drawing attention to how the vast carceral state is beginning to fundamentally alter how key social and political institutions operate and to pervert what it means to be a citizen in the United States. The economic argument also slights or undercuts the compelling civil and human rights arguments that the carceral state raises as it removes wide swaths of blacks, Latinos, and poor Americans from their neighborhoods, devastating the families and communities they leave behind. This development raises fundamental questions not only about the fairness and legitimacy of the criminal justice system but also of the political system more broadly. Moreover, if history is any guide, rising public anxiety in the face of persistent economic distress and growing economic inequalities could ignite more hard-line penal policies.

Economic crises create enormous societal anxieties and insecurities that could end up fostering public punitiveness for several reasons. Rising economic despair, spreading poverty, unprecedented foreclosure rates, escalating unemployment, growing uncertainty about the economy's future, and massive dislocations in the labor, real estate, and financial markets today could fortify the "culture of control" that David Garland (2001) identified as the lifeblood of the prison boom that took off three decades ago. In Garland's account, societal angst stemming from deep structural changes in U.S. society and economy in the postwar decades—including suburbanization, the flow of women into the workforce, rapid advances in technology, transportation, and communications, the democratization of social and cultural life, and the rise of the electronic media—fostered a new culture of control. So did widespread perceptions of state impotency to address the economic upheavals of the 1970s. The U.S. government's inability to tame the economic demons in the current financial crisis and its alleged culpability in releasing those demons in the first place once again cast doubt on the efficacy, legitimacy, and *raison d'être* of the state. While the government struggles to restore economic health, some public officials may be tempted to act out in impulsive, unreflective ways, promoting highly punitive measures for their immediate symbolic and expressive value (Garland 2001, 132–33).

Furthermore, there is a well established "relationship between economic insecurity and scapegoating behavior" (Matravers and Maruna, 128). Not surprisingly, claims that immigrants are stealing jobs from citizens have more

salience in today's plunging economy, justifying harsher attacks on them. High-profile raids of workplaces that employ large numbers of immigrants have become more commonplace. Local police are collaborating more closely with the federal authorities to detain and deport immigrants. As mentioned earlier, immigration detention is a growth industry today. In a remarkable development, Latinos now represent the largest ethnic group in the federal prison system. This is a consequence of the dramatic rise in immigration raids and prosecutions for immigration violations, and the drop in federal prosecutions of other crimes, including gun trafficking, corruption, organized crime, and white-collar crime (Gorman 2009).

The imprisonment rate tends to rise with the unemployment rate, regardless of whether the crime rate is rising or falling, studies of the United States and other industrialized countries have shown (De Giorgi 2006, 3-33). Experts disagree about the underlying causal relationship between the unemployment rate and the incarceration rate. We do know that public opinion about crime and punishment is highly susceptible to political manipulation. Some suggest that during economic hard times, it is easier for government officials and politicians to exploit the popular stereotype of a marauding underclass should they choose to do so. Judges, prosecutors, legislators, the media, and the public end up supporting more punitive measures out of fear that crime rises as the economy falls, even though the relationship between macroeconomic conditions and the crime rate is far from clear-cut. But, to borrow from the sociologist W. I. Thomas, if people define situations as real, they are real in their consequences.

Belief is widespread that as economic conditions deteriorate and unemployment rises, more people will turn to crime to survive. But this is hardly the consensus view among experts on crime. Studies that use unemployment as a proxy for economic distress have not settled the question of whether rising unemployment causes spikes in crime. There appears to be a general tendency for certain crimes to rise in recessions and recede in good times, but this relationship is not ironclad. For example, crime rose during the boom years of the 1960s. But it fell during the Reagan recession of the early 1980s and rose during the recession of the late 1980s and early 1990s, probably due in part to the destabilization of established drug markets with the introduction of the crack trade. Some evidence suggests that the crime rate for certain offenses actually drops during tough economic times as people go out less, shop less, and carry less money around. This may explain why crime spiked in the Roaring '20s but plummeted after the 1929 stock market crash. Alternate measures of macroeconomic distress appear to have found a more nuanced relationship between economic distress and crime. For example, unemployment per se may not be the key factor in driving crime rates but rather the deterioration in labor market conditions for young, unskilled men, particularly an erosion of their wages (Gould, Weinberg, and Mustard 2002). The crime rate may also be inversely related to changes in consumer confidence about the economy (Rosenfeld and

Fornango 2007).

Crime does not necessarily rise during periods of severe economic distress but protests, strikes, and civil unrest often do as the unemployed, unions, the elderly, veterans, the poor, the sliding middle class, and other groups uprooted by the economic downturn take to the streets. In times of political and social unrest, government officials, politicians, and prominent commentators often conflate crime and social protest, providing an opening to build up the law-and-order apparatus. The imposing armories that dot American cities were built in response to the wide-scale urban unrest of the Gilded Age, including the infamous strike wave in 1877 and the 1886 Haymarket riot (Bowles and Jayadev 2007, 1). During the Great Depression, massive numbers of Americans took to the streets, fueling fears that the social and economic fabric of the United States was coming apart. Armed soldiers stood guard at government buildings in Washington, and “[c]ommentators talked casually of the need for dictatorship” (Badger 2009). This political unrest sparked calls for more policing powers to regain control.

Labeling demonstrations and other acts of civil disobedience as crimes is an age-old strategy to justify expansions of law enforcement and to delegitimize challenges to the prevailing political and economic order. The response to the civil rights movement is a good case in point. When Sen. Barry Goldwater (R-Ariz.) denounced the “growing menace” to personal safety in his electrifying speech before the 1964 Republican convention, he was appealing to not only fears of crime but also to fears of racial integration and the burgeoning civil rights movement. A full decade earlier in the mid-1950s, conservative Congressional Democrats were already strategically using the street crime issue to delegitimize the civil rights movement even though the crime rate had not budged (Murakawa 2005, 81-82). Southern conservatives initially cast their opposition to major civil rights legislation in criminological terms, arguing that “integration breeds crime” (Murakawa 2005, 82). In the 1960s, conservatives reformulated the connection between civil rights and crime so as to make it more palatable in a rapidly changing political environment in which overt racial appeals were increasingly discredited. As riots broke out in major cities across the country in the mid-to-late 1960s, they exploited growing fears of crime. The new conservative doctrine in the 1960s “worked vociferously to conflate crime and disobedience, with its obvious extensions to civil rights” (Weaver 2006, 29).

This was a doctrine not just of words but also of deeds. Conservative southern Democrats shrewdly used civil rights bills as a vehicle to stiffen and broaden criminal penalties. For example, they added an anti-riot measure onto the liberal open housing law of 1968 (Weaver 2006, 27). These add-ons to civil rights legislation experimented with certain sanctions that later became central features of the major federal and state-level crime bills of the 1980s and 1990s, including stiff mandatory minimum sentences, denial of federal benefits to people convicted of certain felonies, and sentencing enhancements for vaguely and capaciously defined violations, like rioting (Weaver 2006, 27-28).

One remarkable feature of the current economic crisis in the United States is the political quiescence thus far in the face of rapid economic deterioration and massive irresponsibility, trickery, and corruption in the financial sector. Except for the electoral mobilization to turn a vote for Barack Obama into a no-confidence vote on the Bush administration and Republican Party, public angst and anger have not been channeled into collective actions like massive street demonstrations or sit-ins on the job that fundamentally challenge the economic and political order, as we saw during the Gilded Age, the Progressive era, the Great Depression, and the civil rights era. Should this occur, calls to beef up law enforcement will likely increase, as will efforts to tarnish collective protests as criminal behavior.

V. The New Deal and Penal Policy

The Great Depression and New Deal offer a cautionary tale to those who claim that mounting fiscal pressures will automatically soften U.S. penal policies and ultimately reverse the prison boom. The New Deal demonstrates that economic crises provide an opportunity to legitimize the expansion of all sorts of federal and state powers, from control of the economy to law enforcement (Gottschalk 2006, 65–70). The profound social anxiety associated with massive economic distress made the public quite susceptible to calls from President Franklin D. Roosevelt and J. Edgar Hoover, director of the Federal Bureau of Investigation (F.B.I.), to get tough on criminals—whatever the cost—even though crime rates fell in the 1930s. Furthermore, building prisons and expanding law enforcement were seen as attractive public works programs to boost the flailing economy during the Depression.

Elected in a landslide just a few months after the notorious Lindbergh kidnapping and murder, Roosevelt had less compunction than Herbert Hoover about exploiting sensational crimes to expand federal powers and sell his relief program. F.D.R. and members of his administration regularly appealed to the public for greater coercive powers to tackle crime, which they presented as a dire issue (O'Reilly 1982, 642). Roosevelt directly linked the fight against crime with the struggle for economic recovery and identified crime prevention as an important byproduct of his broader economic and social agenda. He argued that his social welfare programs would strike at “the very roots of crime” by providing subsistence income to needy families who might otherwise be forced to turn to illegal activities (Roosevelt 1939 quoted in Johnson, Kantor, and Fishback 2007, 3).

Under Homer Cummings, F.D.R.'s first attorney general, the federal government began aggressively using the new powers granted in the 1932 crime package enacted under President Hoover. Meanwhile the Roosevelt administration developed a crime package of its own. In May 1934, Congress, without even making a record of its vote, approved six major crime bills requested

by Cummings and drafted by his Justice Department. A handful of legislators regarded these bills as an alarming usurpation of states' rights. Roosevelt's signing of the six bills was front-page news. F.D.R. called the enactment of the legislation "an event of the first importance" (*New York Times* 1934).

The country's dire economic straits in the 1930s did not preclude investing heavily in prisons and other tough sanctions. Shortly after Cummings took office, the federal Bureau of Prisons took over the military prison at Alcatraz in northern California and announced plans to turn it into the nation's toughest civilian prison. Funding from key New Deal programs like the Works Progress Administration was used to conduct the first comprehensive nationwide survey of parole practices, repair local jails and build new ones, and construct new federal penal facilities (Keve 1991, 155-63; McKelvey 1977, 307).

Upon assuming office, Roosevelt and Cummings encouraged J. Edgar Hoover, the director of the F.B.I., which was then a small and obscure division in the Justice Department, to develop and mobilize the bureau's investigative resources and publicity department. Cummings was behind a grandiose public relations campaign to turn the G-men into public heroes. Beginning in the 1930s, the public relations department of the F.B.I. under Hoover's direction convinced newspapers to portray criminals like John Dillinger, Bonnie and Clyde, Pretty Boy Floyd, and Ma Barker as major threats to society. As legislators in Washington debated F.D.R.'s crime package in early 1934, the country was riveted by the exploits of Dillinger, who had escaped from an "escape-proof" jail in Indiana and managed to stop for a haircut, buy cars, and have Sunday dinner with his family while 5,000 law enforcement officers were reportedly in hot pursuit. Hoover's G-men became the heroes of the day as they killed or apprehended outsized criminals. Hoover controlled the image of crime and crime fighters not just by cajoling editors, journalists, movie producers, radio executives, and novelists, but also by manipulating the national crime statistics to stoke the public's fear of crime and polish the image of the G-men (Leuchtenburg 1963, 334; O'Reilly 1982, 645; and Woodiwiss 1988, 35-36). The 1930s were a wildly successful period for the F.B.I., despite the economic hard times. The 1934 crime package vastly expanded the F.B.I.'s authority. In 1935, the bureau opened the National Police Academy, and top F.B.I. officials began organizing and participating in dozens of state and local law enforcement conventions. In the mid-1930s, the bureau fomented a national obsession with universal fingerprinting, imploring communities to take up the civic cause to fingerprint all their residents and turn the prints over to the F.B.I. (Walker 1977, 157-58).

VI. Stimulating the Economy and Law Enforcement

As the Great Depression illustrates, in times of economic crisis, expanding law enforcement and the penal apparatus are attractive options for political and economic reasons. This may be true in today's economic meltdown as well. As

Congress debated an economic stimulus package in late 2008, the U.S. Conference of Mayors promulgated a \$5.5 billion public safety wish list that included requests for all kinds of S.W.A.T. equipment, including helicopters, armored vehicles, military grade rifles, and even unmanned drones (Stimulus Watch n. d.).

The 2009 economic stimulus package resuscitated two controversial law enforcement programs that had thankfully been on their way out during the Bush administration. The stimulus bill pumped \$1 billion into Community Oriented Policing Systems, or C.O.P.S., which provides federal grants to local police forces. C.O.P.S. was one of the signature programs of the Clinton administration's draconian 1994 crime bill. C.O.P.S. was supposed to reduce crime by promoting community policing tactics whereby police officers are out walking the beat, acting more like members of the community rather than aggressive outside enforcers. But C.O.P.S. also fostered more aggressive styles of policing by funding S.W.A.T. teams and encouraging the wider use of paramilitary tactics and equipment (Balko 2008). Over the years, C.O.P.S. has had a minimal effect on reducing the crime rate (Eisler and Johnson 2005). Democrats have persistently defended C.O.P.S. while many conservatives and Republicans called for phasing it out. In the stimulus package debate, Sen. Patrick Leahy (D-Vt.), chairman of the Senate Judiciary Committee, defended resurrecting C.O.P.S., saying it would aid the economy "as fast, or faster than, other spending." In pushing for C.O.P.S., Leahy, joined by police chiefs and law enforcement organizations, played on public fears of rising crime during economic downturns (Lewis 2009).

The stimulus package threw a lifeline to another controversial federal law enforcement program, the Byrne Justice Assistance Grants, established under the Anti-Drug Abuse Act of 1988 and a cornerstone of the war on drugs. Over the years Byrne money has supported a wide range of activities, including after-school programs, victims' assistance, and substance abuse programs. But the bulk of these grants has gone to fund law enforcement programs, most notably special drug enforcement units and anti-gang initiatives. These controversial drug units, which are largely unaccountable to local police chiefs and sheriffs, have proliferated across the country thanks to these grants. Byrne grants encourage law enforcement officials to focus on low-level drug arrests rather than pursuing big dealers because the funds are typically awarded based on the number of arrests—not the significance of the arrests (Balko 2009). The American Civil Liberties Union has documented numerous abuses by Byrne drug task forces. A Byrne-funded drug unit was responsible for the debacle a decade ago in Tulia, Texas, in which dozens of African Americans were given lengthy sentences for drug dealing based on the uncorroborated testimony of a single undercover police officer.

Championed by police unions and other law enforcement organizations, the Byrne program has come under withering attack from the right and left over the years, including critics at the Heritage Foundation, the National Taxpayers Union,

the A.C.L.U., the National Black Police Association, and the Drug Policy Alliance (Balko 2008) In December 2007, Congress unexpectedly slashed Byrne grants by two-thirds to a record-low allocation of \$170 million. State and local officials pushed hard for the Byrne grants in the stimulus package, promoting them as a key crime-stopping measure but also as a way to generate jobs (Gramlich 2009). The economic recovery act included more than \$2 billion in new Byrne funding (more than double the amount provided in any single year up until then) and an additional \$600 million or so for stepping up state and local law enforcement across the country (*Drug War Chronicle* 2009).

A stated goal of the Obama administration's stimulus package was to favor projects that are "shovel ready." Thanks to the unprecedented prison boom of the last three decades, many states now have vast experience and capacity to build prisons fast. Some states plan to use some of the stimulus money they receive from Washington to expand or maintain their prison capacity.

In his address to the A.B.A. last summer, Attorney General Holder lamented that spending on incarceration has continued to increase even as crime rates have flattened. "We will not focus exclusively on incarceration as the most effective means of protecting public safety," he promised (Pallasch 2009). But the proposed 2010 budget for the Department of Justice slashes spending for juvenile justice programs and significantly increases allocations for law enforcement, including the Byrne and C.O.P.S. programs. The D.O.J. budget also boosts the budget of the federal Bureau of Prisons, including money to build two new federal penitentiaries and to contract out 1,000 beds to private providers (Justice Policy Institute 2009). The D.O.J.'s \$100 million allocation for the Second Chance Act to provide services to people reentering the community after prison is a drop in the department's \$26.7 billion budget and comprises barely .001 percent of the nearly \$70 billion spent nationwide on corrections each year.

VII. Penal Keynesianism

New scholarship is providing a more accurate understanding of who does and does not benefit economically from the penal system. For antiprison activists, the limited contribution of prisons to local economies has provided important ammunition to resist the state pressures to build new prisons in their backyards in the name of economic development. Evidence is mounting that prisons provide few economic benefits to local communities, notably rural areas that have been the primary sites of new prison construction since the 1980s. Residents of rural counties with prisons are no less likely to be unemployed than people living in counties without prisons nor do they have higher per capita incomes (Gilmore 2007; King, Mauer, and Huling 2003). We now know that many of the new jobs created by prisons go to people living outside the county where the prison is built. Prisons also fail to generate linkages to the local economy, because local businesses often are unable to provide the goods and services needed to operate

penal facilities.

This new evidence does not necessarily neutralize other economic development arguments in favor of prisons, even when budgets are tight in an economic slump. First, the massive incarcerated population in the United States artificially suppresses the official unemployment rate for males by at least 2 percent, making macroeconomic indicators look better than they actually are and making the U.S. economy look more successful than it actually is (Beckett and Western 1999, 1040) Furthermore, there is no getting around that corrections and law enforcement have become major sources of employment nationally even if individual prisons do not necessarily give a boost to the local market. In 2006, the country spent more than \$68 billion on corrections, which employs an estimated 500,000 prison guards, \$100 billion on police, and \$47 billion on the judiciary (U.S. Department of Justice 2008). In an economic downturn, mass incarceration may “exert a Keynesian, stabilizing effect, to be sustained for economic reasons” (Downes 2001, 74). As Cavadino and Dignan explain, “In a perverse variation of Keynes’s hypothetical cure for recession—get the state to hire large numbers of people to dig holes and then fill them in again—the USA has hired one lot of people to keep another lot locked up” (2006, 58).

The current economic distress certainly provides an opening to rethink the direction of U.S. penal policies. But we should be cautious about automatically assuming the crushing economic burden will unhinge the carceral state. Severe budget deficits in the wake of the 2001 recession forced some states to close prisons and lay off guards. Dozens of states began experimenting with new sentencing formulas, mostly directed at nonviolent offenders. Fiscally conservative Republicans previously known for being penal hard-liners championed some of these relaxations in penal policy. This fueled speculation that law-and-order Republicans, troubled by mounting costs, were well poised to roll back the penal system, much as Richard Nixon was ideally situated to breach the great political wall with China. But the spurt of sentencing and drug law reforms after the 2001 recession made no real dent in the total number of people incarcerated in the United States. Although some states relaxed their drug laws, the penalties remained very stiff. Moreover, many states toughened up their sanctions for sex crimes, which will likely result in an explosion in the number of incarcerated sexual offenders over the next two decades (JFA Institute 2007, 12).

In short, mounting fiscal pressures will not necessarily spur communities, states, and the federal government to empty their jails and prisons. It was mistakenly assumed three decades ago that shared disillusionment on the right and the left with indeterminate sentences and prison rehabilitation programs would shrink the inmate population. Instead, it exploded. The race to incarcerate began in the 1970s, at a time when states faced dire financial straits. It persisted despite wide fluctuations in the crime rate, public opinion, and the economy over the next thirty years.

The current economic crisis certainly presents an opportunity to redirect U.S.

penal policy that opponents of the prison boom should certainly exploit. But framing this issue as primarily an economic one will not sustain the political momentum needed over the long haul to significantly reduce the prison population. In the absence of more compelling arguments against the prison buildup and of a durable movement to push these arguments, it becomes that much easier to go back to the bad habit of funding a vast carceral state, no questions asked, once the economy revives.

VIII. U.S. Penal Policies in a Comparative Perspective

The U.S. experience with mass incarceration raises a critical question: Will other countries emulate the get-tough practices of the United States? Interest in U.S. exceptionalism has spurred greater interest in comparative work on crime control and penal policy and in how exceptional institutional and political factors create exceptional penal policies.

Most experts on crime and punishment agree that crime patterns generally explain little about why some countries are more punitive than others. From the 1960s to the early to mid-1990s, crime rates generally increased in the United States and most other industrialized countries (with some fluctuations over this period). But only the United States, the Netherlands, England, and New Zealand experienced sharp increases in their incarceration rates (Tonry 2007, 2-3), though the US incarceration rate remains in a league all its own. The risk of lethal violence is much greater in the United States, but Americans are not that much more likely to be victims of burglary, robbery, or theft than citizens of other developed countries. In some cases, they are actually less likely to be victimized by such crimes (Tonry 2001). The U.S. homicide rate remains in a league of its own, but has been at a 50-year low in recent years. Since homicide is such a small proportion of the total number of crimes, it has made only a trivial contribution to the U.S. incarceration rate.

Stable incarceration rates and penal policies cannot be taken for granted. The Netherlands and Japan are good cases in point. Several somewhat independent events are rapidly eroding the protective factors that had made the Netherlands and Japan two of the most lenient countries in the world. In three decades, the Dutch imprisonment rate has quintupled as the “culture of tolerance” that characterized Dutch penal policy in the immediate decades after World War II eroded (Downes 2007, 98). Japan appears poised to follow the Netherlands down a more punitive path—only much more quickly. Over the last decade or so, Japan’s penal policies have become markedly more severe and less focused on rehabilitation. Sentences are substantially tougher. The imprisonment rate has accelerated. The courts are handing down more death sentences. Crackdowns on foreign residents have intensified. Policing powers are growing, as is the size of the national police force, for the first time in many years. A sophisticated web of surveillance is ensnaring more public and private space in a remarkable example

of governing through crime. For the first time in decades, Japan's Justice Ministry is calling for more prisons and wardens. In a pattern reminiscent of the United States, economically depressed rural regions are now competing for prisons, seeing them as a growth industry. In another parallel with the United States, a victims' rights movement that frames the interests of victims and offenders in zero-sum terms is burgeoning and is pressing policy makers to get tough.⁴

Japan's new punitive turn has its roots in the late-modern angst David Garland identified in *The Culture of Control* (Johnson 2007). Rapid changes in economic, social, and family life and growing income inequality have fostered intense public insecurities and anxieties in Japan. Getting tough on foreigners, youths, and lawbreakers has become an outlet for these anxieties. A series of police scandals and notorious crimes have eroded public confidence in the capacity of the police and other professional experts to control crime, feeding into public angst and politicians' willingness to engage in law-and-order politics. The political and policing scandals are to blame, as are "broader shifts in the balance of power in Japan between politicians, bureaucrats, and civil society" (Johnson 2007, 410). This punitive turn is all the more remarkable because Japan's homicide, theft, and robbery rates, already among the lowest in the world, have generally been plummeting. The Japanese case affirms Garland's culture of control thesis—but with a twist. Apparently late-modern angst can spur get-tough strategies even when high crime rates have not become a "normal social fact" (Garland 2001, 106).

Despite some indications of growing punitiveness in Japan and Europe, the United States remains in a league all its own. As Franklin Zimring once remarked, comparing increases in incarceration rates over the last three decades in Europe to those in the United States is like comparing a haircut to a beheading (quoted in Downes 2007, 103). But the new punitiveness in Japan and Europe does raise the question, "Is a haircut the prelude to a beheading?" (Downes 2007, 103).

Conclusion

The experience of other industrialized countries may shed some light on how to mitigate the carceral state in the United States. The "root causes" approach to progressive penal reform, however well intentioned, may be shortsighted (Brodeur 2007, 77). This approach seeks to solve the crime and punishment dilemma by focusing on ameliorating structural problems like widespread poverty, high unemployment, dysfunctional schools, an ineffective health-care system, and outcomes dramatically stratified by race.

Fifteen or so years ago, the focus on the structural roots of crime and punishment was critical to help neutralize the culture of poverty and the moral poverty arguments that supported the development of the carceral state. Attention

to structural causes—and how they create cultural pathologies—at a time of rising (and then falling) crime rates and media hysteria over crime also helped mitigate somewhat the demonization of people living in high crime, inner-city communities. But if the aim today is to shrink the country’s extraordinary incarceration rate over the next few years—not the next few decades—perhaps the focus on structural causes and solutions is misplaced.

By giving structural problems primacy in efforts to end mass incarceration, we are essentially accepting that the extensive U.S. penal system is here to stay for a very long time to come. After all, structural problems call for comprehensive, often expensive, long-term solutions and commitments. Long-term fixes are problematic not just because they take a long time. They are nettlesome because they are harder to sustain from one change of administration to the next. In the case of the United States, the absence of a respected, expert, nonpartisan civil service that maintains policy continuity, despite political shifts, compounds the problem. The focus on structural problems overshadows the fact that about half of the people in prison are serving time for nonviolent offenses, many of them property or petty drug offenses that would not warrant a sentence in many other countries. It also deflects attention away from the fact that prisons exacerbate many social ills that contribute to crime and poverty and are unlikely to significantly rehabilitate anyone. Other countries that once had exceptionally high incarceration rates, notably Finland, successfully brought down their rates by focusing on changes in penal policy rather than by mounting a sustained attack on structural problems and the root causes of crime (Lappi-Seppälä 2007, 234; Brodeur 2007, 75).

Four decades ago, the United States had many of the same structural problems it has today, but it did not have such an expansive penal system. Since then, the United States has embarked on a war on drugs and a broader war on crime characterized by penal policies and penal conditions unprecedented in modern U.S. history and unheard of or disdained in other developed countries. A deeper commitment to lifting many more people out of poverty is an admirable goal. But by making that the centerpiece of any penal reform agenda, opponents of the carceral state risk losing a sense of urgency.

Criminal justice is fundamentally a political problem, not a crime and punishment problem. A huge penal system is well on its way to becoming the new normal and a key governing institution in the United States. Like the vast military-industrial complex that quickly insinuated itself into the political and economic fabric in the postwar decades, it has become so large and so integral to the U.S. polity and economy that we almost do not see it anymore. The city behind bars is invisible to the city on the hill.

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NOTES

1. For an overview of recent scholarship on the origins and development of the carceral state, see Gottschalk 2006.
2. These ratios would be even more alarming if they included the likelihood of spending time in prison and/or jail.
3. For a development of these points on the AIDS crisis and African Americans, see Cohen 1999.
4. This discussion of Japan is based primarily on Johnson 2007, 398, 407, and 413-14.