

Hiding in Plain Sight: American Politics and the Carceral State

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Abstract

Over the past three decades, the United States has built a carceral state that is unprecedented among Western countries and in US history. The emergence and consolidation of the US carceral state are a major milestone in American political development. The explosive growth of the prison population and the retributive turn in US penal policy are well documented. But the political causes and consequences of this massive expansion are not well understood. This is starting to change. During the past decade or so, scholars in criminology, sociology, and law, recently joined by a few political scientists, have produced outstanding works on the connection between politics and the origins of the carceral state. Recently, the wider political consequences and analytical implications of the carceral state are a new and expanding area of interest. The carceral state has grown so huge that it has begun to transform fundamental democratic institutions, from free and fair elections to an accurate and representative census. The findings of scholars of the carceral state prompt us to rethink claims about issues in the study of American politics that may seem far afield from criminal justice, including voter turnout and the “vanishing voter,” the achievements of the US model of neoliberal economic development in the 1990s, and the triumph of the modern Republican Party in national politics. Scholarship on the carceral state also raises other important issues about power and resistance for marginalized and stigmatized groups.

INTRODUCTION

The study of crime, punishment, and politics remains a major blind spot in political science. Graduate students in American politics are expected to be familiar with Tocqueville's *Democracy in America*, but few political scientists know that prisons, not democracy, were what initially brought Tocqueville to the United States. Pressured by the Chamber of Deputies to hasten reform of France's penal system, the Minister of the Interior awarded a commission to 25-year-old Tocqueville and his traveling companion Gustave de Beaumont 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 data 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, except by a small circle of criminologists. Beaumont & Tocqueville (1979 [1833], p. 79) 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."

Their grim conclusions are even more true today. Over the past three decades, the United States has built a carceral state that is unprecedented among Western countries. Nearly one in every 100 adults in the United States is in jail or prison¹ (calculated from Harrison & Beck 2006, p. 1, and US Census Bureau, Population Division, n.d.). In a period dom-

inated by calls to roll back the government in all areas of social and economic policy, we have witnessed its massive expansion in the realm of penal policy since the 1970s. The US incarceration rate is now more than 737 per 100,000 residents (Harrison & Beck 2006, p. 2), or 5–12 times the rate of Western European countries and Japan (International Centre for Prison Studies 2007). The reach of the US carceral state extends far beyond the 2.3 million men and women currently imprisoned in the United States. On any given day, more than seven million people—1 in every 32 adults—are incarcerated or on probation or parole or under some form of community supervision (Glaze & Bonczar 2006, p. 1). This rate of state supervision is unprecedented in US history, but even these startling figures hardly hint at the enormous and disproportionate impact that this bold social experiment has had on certain groups in US society. If current trends continue, one in three black men and one in six Hispanic men are expected to spend some time in jail or prison during their lives (Bonczar 2003, p. 1).

The emergence and consolidation of the US carceral state constitute a major milestone in American political development that arguably rivals in significance the expansion and contraction of the welfare state in the postwar period. What we have witnessed is a "durable shift in governing authority," to use Orren & Skowronek's (2004, p. 123) elegant definition of what constitutes political development. The state began to exercise vast new controls over millions of people, resulting in a remarkable change in the distribution of authority in favor of law enforcement and corrections at the local, state, and federal levels.

This explosion in the size of the prison population and the retributive turn in US penal policy are well documented. But the underlying political causes and wider political consequences of this massive expansion are not well understood. Political scientists have traditionally left the study of crime and

¹Prisons generally are state or federal facilities for the long-term housing of convicted felons. Jails are county or city facilities that hold pretrial defendants, offenders convicted of misdemeanors, and felons serving short sentences.

punishment to the criminologists,² and orthodox criminologists have tended to view the political aspects of crime and punishment “as both too simple and too elusive to warrant their attention” (Scheingold 1998, p. 860). The study of crime and punishment has been a ripe field for historians, but their insights and findings have had little bearing on discussions of the politics of contemporary penal policy in the United States.

Political science’s recent neglect of the politics of crime and punishment is surprising. After all, punishment “is a universal attribute of regimes” and yet is “one of their most difficult tasks” (McBride 2007, p. 4). The problem of the prison was central to the work of major political theorists of the eighteenth and nineteenth centuries. The role of punishment and imprisonment in maintaining social order, legitimating the state, and reforming the soul were key concerns of Mill, Bentham, Kant, Montesquieu, Tocqueville, and Francis Lieber, regarded as the first political scientist. Years ago, prisons also transfixed the public. American penitentiaries were a prime sightseeing destination for foreign and domestic tourists. By contrast, the contemporary carceral state has been largely invisible. The causes of the country’s incarceration boom, and the political, social, and economic consequences of this unprecedented experiment in public policy, have not been a major focus of social science research or public concern.

This is starting to change. In the past decade or so, research into the phenomenon of mass imprisonment has produced some outstanding works in criminology, sociology, and law on the connection between politics and the rise of the carceral state. Drawing on this work, a handful of political scientists have begun to shift their gaze to the carceral state. Initially, they focused on its political origins.

²There are important exceptions, such as John J. DiIulio, Jr., Tali Mendelberg, Austin Sarat, Stuart Scheingold, Wesley G. Skogan, and James Q. Wilson.

Recently, the wider political consequences and analytical implications of the carceral state have become an expanding area of interest. There is a growing recognition that the existence of such a large carceral state embedded in a democratic polity has enormous repercussions that reverberate throughout the political system and beyond. The metastasizing carceral state has begun to threaten fundamental democratic institutions, everything from free and fair elections to an accurate and representative census. Furthermore, the rise of the carceral state has helped to legitimate a new mode of “governing through crime” that has spread well beyond the criminal justice system to other core institutions, including the executive branch, schools, and the workplace (Simon 2007). The findings of scholars of the carceral state are cause for us to rethink claims about a wide range of issues in the study of American politics, some of them far afield from criminal justice: voter turnout and the “vanishing voter,” the much-vaunted achievements of the US model of neoliberal economic development in the 1990s, and the triumph of the modern Republican Party in national politics, to name just a few.

ORIGINS OF THE CARCERAL STATE AND AMERICAN POLITICAL DEVELOPMENT

Explanations for the establishment of the carceral state vary enormously, but many of them do have one thing in common. They adopt a relatively short time frame as they focus on trying to identify what changed in the United States since the 1960s to disrupt its generally stable and unexceptional incarceration rate and to bring back capital punishment with a vengeance. The main political explanations include an escalating crime rate and related shifts in public opinion (DiIulio 1997; Wilson 1975, p. xvi), the war on drugs (Caplow & Simon 1999, pp. 92–93; Gordon 1994; Tonry 1995), the emergence of the profitable prison-industrial complex (Abramsky

2007, ch. 6; Burton-Rose et al. 1998; Dyer 2000; Hallinan 2001; Sarabi & Bender 2000), changes in American political culture (Garland 2001), politicians exploiting the law-and-order issue for electoral gain (Beckett 1997; Davey 1998; Edsall & Edsall 1991; Flamm 2005; Western 2006, pp. 58–62, 67–73; Zimring et al. 2001), and the collapse of the urban labor market for unskilled men due to deindustrialization and globalization (Parenti 1999, Western 2006).

This focus on relatively recent developments to explain the rise of the carceral state makes some sense. After all, from the mid-1920s to the early 1970s, the US incarceration rate was remarkably stable, averaging about 110 state and federal prisoners per 100,000 people (Cahalan 1979), or about one fifth the current rate.³ Although the US incarceration rate historically has been higher than that of other Western countries, it was not until the 1970s and 1980s that it began to radically exceed them. Likewise, until the mid-1970s, the United States appeared to be traveling down the same path as Western Europe and Canada toward abolition of the death penalty.

Contemporary factors are critical to understanding the origins of the carceral state. But accounts that stress recent developments seem to suggest that this major expansion of the state and radical shift in public policy have shallow historical and institutional roots. This line of thinking is misleading because the origins of contemporary penal policy actually predate the 1960s. Just as prisons are all around us, but we choose not to notice them (Christianson 1998, p. ix), crime and punishment have been central features of American political development, but we choose not to notice. Both state capacity to incarcerate and the legitimacy of the federal government to handle more criminal matters were built up slowly but surely well before the incarcera-

tion boom that began in the 1970s. Understanding the specifics of how this came about is a necessary precondition for understanding the construction of the carceral state.

As Skowronek (1982) reminded us more than two decades ago, “states change (or fail to change) through political struggles rooted in and mediated by preestablished institutional arrangements” (p. ix). Long before the 1960s, historically embedded institutional developments laid the foundation for the construction of the carceral state (Gottschalk 2006). Some of the most important ones are the historical underdevelopment of the US welfare state; the establishment of an extensive network of rights-based and other public interest groups stretching back to the 1920s, which helped lodge capital punishment in the courts, not the legislature; the exceptional nature of the origins and development of the public prosecutor in the United States; and the country’s long history of morally charged crusades that helped build the law enforcement apparatus by fits and starts. In addition to these early institutional developments, a variety of other factors with deep historical roots—such as ideology, race, and gender—need to be understood in order to trace the origins of the carceral state.

Ironically, the much-heralded “liberal” features of American political culture may have contributed to making the US penal system harsher, more degrading, and less forgiving (Whitman 2003). In the absence or rejection of an aristocratic political culture and society, prison reform in the United States has historically been based on extending a brute egalitarianism, on giving all prisoners, regardless of their social or political status, the same low-status treatment. By contrast, Germany and France have deeply entrenched histories of making sharp distinctions between the treatment of low-status prisoners, i.e., common criminals, and high-status ones, such as political prisoners or members of the aristocracy. Prison reform in the modern era in France and Germany has meant extending the privileges traditionally accorded to

³The figure for the state and federal prison population (which excludes people in jail) is 491 inmates per 100,000 US residents (Harrison & Beck 2006, p. 1).

high-status prisoners to more and more categories of offenders. This “leveling up” has been so extensive that by now offenders “are not to be thought of as persons of a different and lower status than everybody else” (Whitman 2003, p. 8).

Attention to the development of the carceral state problematizes the conventional characterization of the past four decades as the country’s first real “law-and-order” era, when issues of crime and punishment were nationalized and politicized for the first time in US history. Law and order was a recurrent and major theme in American politics long before the 1960s and long before the modern Republican Party strategically wielded this issue to achieve national political domination. The United States had an early identity as a convict nation (Christianson 1998, p. 13). Penal concerns informed broader debates about republicanism, utilitarianism, and law and order during the founding decades (Dumm 1987, Hirsch 1992, Masur 1989, Meranze 1996, Pestritto 2000, Rothman 1990). Disagreements over the establishment of the penitentiary were tied up with disputes over slavery and abolition in the antebellum years (Ayers 1984, Hindus 1980, Hirsch 1992). After the Civil War, the convict-lease system was pivotal in the politics of Populism, Progressivism, race relations, and the economic development of the South (Carleton 1971, Curtin 2000, Fierce 1994, Lichtenstein 1996, Mancini 1996, Myers 1998, Oshinsky 1996, Shapiro 1998, Walker 1988). Penal labor was a leading issue for organized labor and a central feature in electoral politics in the mid to late nineteenth century and early twentieth century (McLennan 2008). During the 1930s, President Franklin D. Roosevelt and his attorney general Homer Cummings shrewdly and quite successfully exploited sensational crimes, most notably the Lindbergh kidnapping, to advance their broader agenda of extending federal jurisdiction into crime control (Alix 1978, pp. 90–91; Cummings & McFarland 1937, p. 482; O’Reilly 1982, pp. 640–45; Potter 1998; Simon 2007, pp. 47–

49). Roosevelt directly appealed to the public for a more expansive state and a more powerful executive branch to address a crime problem he characterized as dire. His approach to crime control was a template for the better-known features of the New Deal that emerged subsequently (Leuchtenburg 1963, p. 333).

The construction of the carceral state also complicates our understanding of the role of race in American political development. With my call for a more historical focus, I do not mean to suggest, as others have (e.g., Wacquant 2001), that the creation of the carceral state was merely the latest chapter in a book that began with slavery and moved on to convict leasing, Jim Crow, and the ghetto to control African Americans and other “dangerous classes.” Although there are similarities between these social-control institutions, it is important not to flatten out their differences, and the differences in the political, institutional, and economic context that created and sustained them. Treating these institutions as one and the same minimizes the unprecedented nature of the incarceration boom in the United States since the 1970s. For all the horrors of the convict-lease system, relatively few blacks were subjected to it in the decades following the Civil War, though many more feared it. Today’s incarceration rate of 7000 per 100,000 African-American males dwarfs the number of blacks imprisoned in the South under convict leasing (Gottschalk 2006, p. 269, n. 42). Although today’s policies of mass imprisonment are undeniably related to race and social control, it is important to look more specifically at the political and institutional context that sustains them.

Certainly American political development is exceptional because of the twin and related legacies of slavery and race. But the United States did not end up with the carceral state merely because racial cleavages have been so central to American political development. Prisons became one of the main arenas in which to respond to the unrest of the 1960s and 1970s because of the way race interacted with a complex array of other specific political

and institutional developments, some of which I have already mentioned. As Dawson & Cohen (2002) remind us in their critical overview of the study of race in American politics, every time we use race as an explanation, we need to problematize and contextualize it (see also Bobo 2004, p. 15).

The country's racial divide both thwarted and facilitated the establishment of the carceral state. For much of US history, racial, ethnic, and regional divisions periodically acted as a check on the development of criminal justice institutions, especially at the federal level, even as they fueled popular passions to criminalize certain behaviors and certain groups. The moral crusades over such issues as "white slavery," Prohibition, and juvenile delinquency that regularly convulsed the country were a backhanded way of building the criminal justice apparatus by fits and starts (Morone 2003; Gottschalk 2006, ch. 3). Once Jim Crow came tumbling down in the post-war decades, the path was clearer for the rapid development of the criminal justice system, which today disproportionately incarcerates African Americans. This ironic outcome underscores King & Smith's (2005) point that a "white supremacist" order and a "transformative egalitarian" order have been and continue to be central features, if not mainsprings, of American political development. These two orders remained powerfully linked to one another and are constantly evolving.

Recent scholarship on the carceral state and the civil rights movement supports this contention. The conventional view of the origins of the contemporary law-and-order era is that rising crime rates in the 1960s prompted national leaders, most notably presidential candidates, to address the issue of street crime. This provided an opening for the Republican Party, beginning with conservative standard bearer Barry Goldwater in 1964, to undermine the New Deal liberal coalition by making appeals to law and order that were really thinly veiled racialized appeals to white voters. But new research provides a much more nuanced account of how racial politics got

funneled through criminal justice policies. It seems to suggest that the construction of the carceral state was a deeply bipartisan project from early on. Politicians who are readily identified today as penal hard-liners, including Richard Nixon, Ronald Reagan, and even segregationist Lester Maddox of Georgia, did not immediately march in lockstep toward the prison and the execution chamber after Goldwater denounced the "growing menace" to personal safety in his electrifying speech before the Republican convention in 1964 (Gottschalk 2006, pp. 10, 213–24, 234). Nor did these public officials single-handedly impose the carceral state.

Indeed, the strategic use of the street-crime issue was initiated by conservative congressional Democrats a full decade earlier in the mid-1950s, before crime rates began to escalate (Murakawa 2005, pp. 81–82). Southern conservatives initially cast their opposition to major civil rights legislation in criminological terms, arguing that "integration breeds crime" (Murakawa 2005, p. 82). As riots broke out in major cities across the country in the mid to late 1960s, they reformulated the connection between civil rights and crime, working "vociferously to conflate crime and disobedience, with its obvious extensions to civil rights" (Weaver 2006, p. 29).

This was a doctrine not just of words but of deeds. Conservative southern Democrats shrewdly used civil rights bills as a vehicle to stiffen and broaden criminal penalties. These add-ons to civil rights legislation experimented with certain sanctions that later became the central features of the major federal and state-level crime bills of the 1980s and 1990s, including stiff mandatory minimums, denial of federal benefits to people convicted of certain felonies, and sentencing enhancements for vaguely and capaciously defined violations such as rioting (Weaver 2006, pp. 27–28).

Many urban white voters in the North initially maintained a delicate balancing act on the civil rights issue. While they opposed racial integration at the local level, they

supported national candidates who were pro-civil rights. This split political personality became less tenable as crime and disorder “became the fulcrum points at which the local and national intersected” (Flamm 2005, p. 10). Many northern liberal politicians initially opposed the conservative southerners’ efforts to criminalize the civil rights movement and to attribute the rising crime rate to a “poverty of values” rather than structural failings. But this made them increasingly vulnerable to conservative claims that the War on Poverty had worsened urban violence (Flamm 2005, p. 2). Liberal politicians were not entirely of one mind on the crime issue. Some key liberal Democrats were early architects of the carceral state. As President John F. Kennedy’s attorney general, Robert F. Kennedy catapulted crime to the center of the national agenda and exploited it “as no administration had since the first Roosevelt term” (Simon 2007, p. 49). As a candidate for president in 1968, he blamed deteriorating personal values for the rising crime rate to bolster his support from white voters and neutralize the perception that he was “the black people’s candidate” (Flamm 2005, p. 148).

The significance of race in undermining the New Deal coalition and building the carceral state has long been recognized, if not always well understood. By contrast, gender is just beginning to emerge as an important contributing factor to mass imprisonment. New scholarship reveals that politicians of all stripes, including Goldwater, George Wallace, Lyndon Johnson, and Richard Nixon, strategically used highly gendered appeals related to crime and punishment to further their political and electoral agendas (Flamm 2005, pp. 42, 45, 51, 178). They promulgated the politically potent—but highly misleading—image of white women, preyed on by strangers, as the most likely victims of violent crime. But leading politicians were not the only culprits in feminizing the crime issue.

Women’s groups and feminists in the United States have a long and conflicted his-

tory on issues related to crime, punishment, and law and order. Periodically, they have played central roles in defining violence as a threat to the social order and pushing for more enhanced policing powers to address law-and-order concerns. If one looks back at the history of penal policy and reform, it is striking what an uncritical stance many women reformers have taken toward the state. The women’s reform movements and waves of feminist agitation that have appeared off and on since the nineteenth century in the United States helped to construct institutions and establish practices that bolstered stridently conservative tendencies in penal policy. The contemporary women’s movement in the United States is no exception. Its commitment to greater gender equality by reducing rape and domestic violence got funneled through a specific political and institutional context and was transformed in the process. The result was a more punitive environment that contributed to the construction of a carceral state that warehouses a disproportionate number of blacks and other minorities (and a rapidly increasing number of women).

Demands by the US women’s movement in the 1970s and 1980s to address the issues of rape and domestic violence had more far-reaching penal consequences in the United States than in other countries where burgeoning women’s movements also identified these two issues as central concerns. Ironically, some of the very historical and institutional factors that made the US women’s movement relatively more successful in gaining public acceptance and achieving its goals for women (Gelb 1987) were important building blocks for the carceral state that emerged simultaneously in the 1970s (Gottschalk 2006, chs. 5 and 6). Key institutional variables include the greater permeability of the US Department of Justice to outside political forces compared to, say, the Home Office in Britain; the relative weakness of the welfare state in the United States; the greater presence of diverse mass membership organizations like the National Organization for Women (NOW);

the expansive role of the courts in the United States; and the decentralized and fragmented nature of the US political system. Several ideological variables also conditioned the wider political context in which these institutions developed and operated, most notably the stronger liberal–equal rights tradition in the United States and the weaker influence that Marxism, socialism, and other radical traditions have exerted on feminism here. These institutional and ideological factors help explain why the US women’s movement was not an effective check on the law-and-order thrusts of conservative politicians but indeed helped them hit their mark. As a consequence, women’s groups and the women’s movement became a vanguard of conservative law-and-order politics in the United States but not in Europe.

To sum up, the carceral state has become a key governing institution in the United States. Its construction has deep historical and institutional roots. Contrary to the popular view, law and order has been a central, not incidental, issue in national and local politics for much of US history. Struggles over penal policy and punishment have had “important and lasting consequences” for “the structure and legitimating fictions of American social order more generally” (McLennan 2008, p. 3). Political elites in the United States have a long history of raising law-and-order concerns in an attempt to further their own political fortunes. And Americans have a long history of periodic intense anxiety about crime and disorder. Yet only recently have these concerns and anxieties resulted in such a dramatic and unprecedented transformation of penal policies in a more punitive direction. By understanding the subtleties of this institutional and political context, we can begin to grasp why elite political preferences for a war on crime had such profound consequences for penal policies despite contemporary public opinion polls showing that Americans can be quite ambivalent about the crime issue. Recent scholarship on the carceral state also complicates our understanding of how the issue of law and

order transformed American politics over the past five decades or so. In particular, it complicates our understanding of the undoing of the New Deal coalition and of the role of race and gender in American politics.

POLITICAL AND ANALYTICAL IMPLICATIONS OF THE CARCERAL STATE

For a long time, the expansion of the carceral state was understood to be a problem largely confined to poor urban communities and minority groups. But the carceral state has grown so huge that it has begun to directly impinge on fundamental democratic institutions. Although much more work still needs to be done on the origins of the carceral state, a number of scholars and penal reformers have begun focusing on the wider political and analytical consequences of mass imprisonment. The carceral state bears down on a number of central issues in contemporary American politics, ranging from broad questions about how we conceptualize the American state to more specific ones concerning voting rights, voter participation, public opinion, and changing conceptions of citizenship.

First, the political development of the carceral state challenges the common understanding of the US state as weak. The US state has developed an awesome power and an extensive apparatus to monitor, incarcerate, and execute its citizens that is unprecedented in modern US history and among other Western countries. This development raises deeply troubling questions about the health of democratic institutions in the United States and the character of the liberal state.

Among a handful of contemporary political theorists, the emergence of the carceral state in the United States has revived interest in punishment as a “uniquely revealing lens into how political regimes work” (McBride 2007, p. 3). Theorists have focused in particular on how punishment is “a central problem for political administration that requires careful negotiation of the stated ideals of a

polity in the exercise of power” (p. 3). Some of them have been especially interested in the relationship between the contemporary death penalty, state sovereignty, and the late liberal state (Kaufman-Osborn 2002; Sarat 1999, 2001).

The relationship between voting rights and the carceral state is another growing area of interest. The voting irregularities of the 2000 and 2004 presidential elections drew enormous public attention to the maze of state laws that deny an estimated 5 million Americans with criminal records the right to vote, temporarily or permanently (Manza & Uggen 2006, p. v). Many established democracies place few, if any, restrictions on the right to vote for people with criminal convictions, including those in prison. The United States not only disenfranchises most of its prisoners but also is the only democracy that routinely disenfranchises large numbers of nonincarcerated offenders and ex-offenders—people on parole or probation or who have completed their sentences (Manza & Uggen 2006, pp. 38–39). The political impact of felon disenfranchisement in the United States is huge because the number of people with felony convictions on their records is huge—more than 16 million Americans, according to Manza et al. (2006)—and because felon disenfranchisement laws have stark racial origins and racial consequences (Brown-Dean 2004; Hull 2006, ch. 2; Manza & Uggen 2006, ch. 2; Pettus 2005, chs. 3 and 5). More than one in seven black men in the United States is disenfranchised because of his criminal record (Manza & Uggen 2006, p. 10).

Felon disenfranchisement raises fundamental questions about how we define (and re-define) citizenship (Ewald 2002; Pettus 2005; Brown-Dean 2004, ch. 2). It also has decisively influenced election outcomes. Manza & Uggen (2006) calculate that if Florida had not banned an estimated 800,000 former felons from voting in the 2000 election, Al Gore would have carried the state by at least 30,000 votes (and perhaps as many as 80,000) and handily won the White House

(p. 192). Democrats might have controlled the Senate for much of the 1990s had many former felons been permitted to vote (p. 196). Manza & Uggen’s work implicitly challenges claims about the sources and degree of political dominance of the Republican Party in the 1980s and 1990s. If felon disenfranchisement is factored in, the ascendancy of the Republican Party may have been as much a product of locking out wide swaths of the electorate as crafting a new, more conservative message that successfully appealed to Democrats disenchanted by the remnants of the New Deal coalition.

The felon disenfranchisement issue is cause to rethink another fundamental question in the study of American politics: Is the American voter vanishing? Building on earlier work (McDonald & Popkin 2001),⁴ Manza & Uggen contend that much of the so-called drop in voter turnout may be a consequence of faulty calculations and assumptions used in official turnout statistics. The standard accounts fail to properly consider the large number of noncitizens, prisoners, people on parole or probation, and ex-felons who have been disenfranchised by electoral laws, and thus they overstate the decline in voter turnout (Manza & Uggen 2006, p. 177).

But the impact of mass imprisonment on voter turnout cuts even deeper. Having a criminal conviction is a more significant factor in depressing voter turnout among offenders and ex-offenders than formal legal barriers to voting (Burch 2007). All things being equal, offenders are less likely to vote than people without criminal records. Because people with convictions are concentrated within certain racial groups and certain geographic areas, the carceral state has created the troubling phenomenon of “concentrated disenfranchisement” (Burch 2007, chs. 5 and 6). Research by Burch and others on the impact

⁴An updated version of the time series is available from McDonald & Popkin at http://elections.gmu.edu/Voter_Turnout.2004.htm

of penal policies on political and civic participation, and by Bobo & Thompson (2006) on criminal justice and public opinion, suggest that the carceral state may be rapidly cleaving off wide swaths of people in the United States from the promise of the American Dream. The political consequences of this are potentially explosive because the American Dream has arguably been the country's central ideology and has served as a kind of societal glue holding together otherwise disparate groups (Hochschild 1995).

Evidence is growing that many of today's crime-control policies fundamentally impede the economic, political, and social advancement of the most disadvantaged blacks and members of other minority groups in the United States. Prison leaves them not only less likely to vote but also less likely to participate in other civic activities, find gainful employment, and maintain ties with their families and communities (Pattillo et al. 2004, Roberts 2003/2004). The landmark work on the collateral consequences of imprisonment is Western's *Punishment and Inequality* (2006). Western soberly concludes, after a careful analysis of wage, employment, education, and other socioeconomic data, that mass imprisonment has erased many of the "gains to African American citizenship hard won by the civil rights movement" (p. 191). Incarceration significantly reduces the wages, employment, and annual income of former inmates (ch. 5). Incarceration also decreases the likelihood that they will get married or stay married and increases the risk of domestic violence for their partners (ch. 6). These negative effects are concentrated among poor, uneducated, black men, drawing a sharp demarcation between poor and middle-class blacks and between poor blacks and the rest of society. "By cleaving off poor black communities from the mainstream, the prison boom left America more divided," Western concludes (p. 7).

Western's work challenges claims about the achievements of the 1992–2000 economic expansion, hailed as the largest peacetime expansion in US history. Mass imprisonment

distorts what has really happened in the labor market and the economy, he contends. If prison and jail inmates are counted, the US unemployment rate for males would have been at least two percentage points higher by the mid-1990s (Western & Beckett 1999, p. 1052). Official statistics mask an invisible inequality generated by mass imprisonment. Large surveys run by the Census Bureau to determine the poverty rate, unemployment rate, and wage levels exclude people who are incarcerated (Western 2006, p. 87).

The portrait in *Punishment and Inequality* of the deteriorating labor-market position of poor, unskilled blacks is at odds with the conventional view that the US labor market outperforms those of Western Europe. It undermines the widespread claim that the United States, with its relatively unregulated labor market, weak unions, and stingy welfare benefits, is better at reducing unemployment, especially for low-skilled workers, than "nanny states" such as France, Italy, and Germany. "The invisible disadvantage produced by mass imprisonment challenges this account of how meager social protections benefit the least-skilled workers," according to Western (2006, p. 104). Moreover, state regulation of the poor did not recede in the United States in the 1990s, it merely shifted course. The government significantly increased its role in regulating the lives of poor, uneducated men and women by sweeping more and more of them up into the criminal justice system's growing dragnet (p. 105).

The disadvantages 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. For example, the US census veils and distorts the wider impact of the carceral state (Gottschalk 2007). How to tabulate prisoners may be the most vexing issue for the US Census Bureau as it prepares for the 2010 census. The bureau considers prisoners to be residents of the towns and counties where they are incarcerated. But most inmates have no

personal or civic ties to these communities and almost always return to their home neighborhoods upon release.

The way prisoners currently are counted has enormous and unsettling political and economic 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, city councils, and county governments. This practice dilutes the votes of urban areas. Nearly 40% 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 are considered residents of the counties far from their homes where they are imprisoned. These tend to be predominantly white, rural districts that are Republican strongholds.

The evidence of political inequities in redistricting due to how the Census Bureau counts prisoners is "compelling," according to a recent report by the National Research Council of the National Academies (Cork & Voss 2006, p. 9). A provocative analysis by the Prison Policy Initiative suggests that several Republican Senate seats in New York State would be in jeopardy if prisoners in upstate correctional institutions were counted in their home neighborhoods in New York City (Wagner 2002, pp. 1–6). A recalibration of New York's prison population could put the Republican Party's decades-old majority in the state Senate at risk. In May 2006, a federal appeals court suggested that counting tens of thousands of African-American and Latino prisoners from New York City as upstate residents may be illegally diluting the voting rights of people downstate under Section 2 of the landmark federal Voting Rights Act (Roberts 2006).

The current census practice grossly distorts demographic and socioeconomic data, leading to incorrect conclusions in such vital areas as economic growth, migration, household income, and racial composition (Lotke &

Wagner 2004, Wagner 2004). For example, in the 2000 census, 56 counties nationwide—1 in 50—with declining populations were misleadingly reported to be growing, thanks to the inclusion of their captive populations (Heyer & Wagner 2004). Pennsylvania's Union County, which has an archipelago of federal penitentiaries, is 90% white, according to the 2000 census. But without its 5000 prisoners, Union would be 97% white (Prisoners of the Census 2006).

The carceral state raises other troubling and largely unexplored issues about political participation and citizenship. Mass imprisonment is helping to create and legitimate a new understanding of citizenship and belonging (Roberts 2003/2004). Former felons not only risk losing the right to vote but also are subject to other forms of "civil death" (Ewald 2002) that push them further and further to the political, social, and economic margins. Many former felons forfeit their right to serve on a jury; to receive pensions, disability, or veterans' benefits; and to secure public housing (Simon 2007, pp. 194–98), 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 (Hull 2006, p. 33; Gottschalk 2006, p. 22, n. 45). Many jurisdictions forbid employers to discriminate against job applicants solely because of their criminal record unless their offense is directly relevant to the job. But applicants with criminal records are disproportionately denied jobs anyway (Pager 2003, 2007), and rejected job seekers have great difficulty getting redress in the courts (Hull 2006, pp. 32–34).

In a remarkable development, elaborate gradations of citizenship are on their way to becoming a new norm in the United States. The carceral state has helped to legitimate the idea of creating a separate political and legal universe for whole categories of people. These "partial citizens" (Manza & Uggen 2006, p. 9; Katzenstein 2005) or "internal exiles" (Simon 2007, p. 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 the effort often involves elaborate, capricious, intrusive, and daunting procedures that establish a new standard of worthiness for political participation. For example, at a restoration hearing in Florida, Republican Governor Jeb Bush asked one man, “How’s the anger situation going?” and told another, “I’m praying that you’re not going to start drinking again” (Goodnough 2004). This is a modern-day reincarnation of earlier standards of worthiness, such as the infamous literacy test.

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 US 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 past 25 years or so have become new drivers of the carceral state (Bohrman & Murakawa 2005). In the early 1980s, the Reagan administration ended the prevailing practice of releasing undocumented immigrants pending administrative proceedings. 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, pp. 173–74). During the debate over the immigration reform bill that imploded in mid-2007, an amendment was even proposed that called for the mandatory detention of anyone who overstayed his or her visa (*New York Times* 2007). The number of immigrants held in special detention centers and elsewhere on any given day has increased

more than eleven-fold since the early 1970s (calculated from Dow 2004, pp. 7–9, and Kolodner 2006, p. C-1) as the immigration service has become a mini-Bureau of Prisons.

Ironically, because people who enter the United States illegally are not technically considered criminals, they have fewer legal protections and rights and often are subjected to more capricious and brutal conditions of confinement than citizens charged with crimes (Dow 2004). Secret detentions; physical abuse; closed court proceedings; denial of contact with family members, attorneys, and the media; notoriously arbitrary administrative reviews; “institutionalized anti-Arab bias” (Dow 2004, p. 211); indefinite detentions; and state resistance to habeas corpus reviews have long been the standard operating procedures of the parallel universe of immigrant detention. Recent scholarship on immigrant detention and the carceral state is cause to rethink and reexamine the conventional view that the 9/11 attacks were the catalyst for a drastic shift toward more hardline immigration policies. In fact, there appears to be a remarkable continuity between the pre-9/11 and post-9/11 treatment of immigrants, with the differences being primarily in degree, not kind (Dow 2004, p. 14).

“GOVERNING THROUGH CRIME”

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, p. 4). A new civil and political order based on “governing through crime” has been in the making for decades. In Simon’s view, the war on crime has fundamentally disequibrated the exercise of power and authority in the United States. The 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 (Simon 2007, ch. 4; Gertner 2007). Perhaps even more significantly, the all-powerful, largely unaccountable prosecutor has become the new model for exercising executive authority in the United States (Simon 2007, ch. 2). 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, p. 35). One notable example is the way in which the nation’s governors strategically used the reinstatement of capital punishment in the 1970s to reenergize their role in American politics and get a leg up in pursuing the White House (Simon 2007, pp. 60–70).

The war on crime has fundamentally recast both governmental and nongovernmental institutions in the United States, according to Simon and others. In the new regime, criminal analogies are wielded in many diverse settings, from schools to homes to the workplace. Principals, teachers, parents, and employers all gain authority and legitimacy if they can redefine family, education, or workplace issues as criminal matters (Simon 2007, p. 4). Families, which were once the segment of society most insulated from criminal law, are now one of the areas most subjected to it (Simon 2007, ch. 6). Criminal accusations increasingly govern family life, from divorce proceedings to the termination of parental rights.

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, p. 9). Now 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 (Simon 2007, pp. 214–20). 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 (Simon 2007, pp. 228–29). 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 growing use of sanctions such as detention and expulsion (Simon 2007, pp. 220–26).

This development is not confined to inner-city schools. Lyons & Drew (2006) describe in chilling detail how paramilitary police and menacing drug-sniffing K-9 units carry out “lockdowns” and random drug searches at an affluent suburban high school (pp. 1–4). In their remarkable tale of two Ohio high schools—one suburban, the other in an inner-city neighborhood—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” (p. 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” (p. 90). For Lyons & Drew, this helps explain why spending on corrections as a percentage of Ohio’s state budget more than doubled from 1976 to 2001 (3.6% to 8.5%) while expenditures on education fell from almost 59% to about 52% (p. 109).

“Governing through crime” has transformed our everyday lives in other ways. The suburbs have been fortified, most notably by gated communities. 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 trumped-up crime issue to establish their dominance on the job (Simon 2007, p. 246). Their tools include the widespread use of drug testing and other forms of intensive surveillance, the return of “at-will employment,” and the dismissal of employees for off-the-job

infractions such as 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. Characterizing oneself as a victim is one of the few options left open to seek redress from the state. 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, p. 110). When employees “want to contest the decisions of managers in the postunionized, at-will labor market, they must define themselves as potential victims of crimes by customers, coworkers, or others, or as victims of immoral behavior,” such as sexual harassment (p. 77). This severely limits their power to challenge workplace conditions both individually and collectively.

RESISTANCE TO THE CARCERAL STATE

The carceral state raises other important issues about power and resistance. Some scholars suggest that a new social movement may be coalescing around opposition to the carceral state (Katzenstein & Rubin 2002, Gilmore 2007). This embryonic movement raises a question central to the study of politics: How do marginalized and stigmatized groups organize and effectively assert political power?

Mainstream African-American organizations and leaders have been slow to enlist in a battle against the carceral state. Historically, black leaders have had a persistent unease about focusing on criminal justice issues (Curtin 2000, pp. 9–10, ch. 10; DuBois 1970 [1932]). Some of the same factors that prompted African Americans to distance themselves from the AIDS crisis in the black community in the 1980s and 1990s (Cohen 1999) may be causing them to turn a blind eye to the crisis of blacks and the carceral state today. The reluctance to embrace and publicize the plight of the disproportionate

number of incarcerated African Americans may result from fears that this will reflect unfavorably on blacks as a whole and impede black leaders’ efforts to identify with what they perceive to be the middle-class moral values of the mainstream. For example, some civil rights groups have been reluctant to use the federal Voting Rights Act to challenge felon disenfranchisement laws “for fear of a backlash that might jeopardize the rights of the more privileged members of the black community” (Warren 2000). Many black legislators and other black leaders initially were enthusiastic recruits in the war on drugs and even supported the enormous sentencing disparity between crack and powder cocaine, which disproportionately hurts African Americans (Kennedy 1997, pp. 370–72).

Some mainstream African-American leaders and groups have begun to speak out and mobilize against the war on drugs and the carceral state (Clemetson 2004). In 1993–1994, the Congressional Black Caucus (CBC) was a major factor in getting crime prevention programs included in the federal crime bill. The CBC also waged a valiant though unsuccessful battle to enact the Racial Justice Act, which would have permitted introducing statistical evidence of racial discrimination in capital punishment cases. The Rev. Jesse Jackson, Sr., and ret. Gen. Colin Powell were the only national political figures to identify mass imprisonment as a major issue in the 2000 election. The felon disenfranchisement question is beginning to reconfigure the politics of civil rights. The Legal Defense Fund of the NAACP (National Association for the Advancement of Colored People) and some other civil rights organizations have moved to the forefront in challenging laws that disenfranchise former felons.

Penal reformers are enlisting not only civil rights but also international human rights laws and norms to challenge the carceral state. The accelerated political and economic integration of Europe over the past couple of decades has increased pressure on European countries to compare their penal policies and prison

conditions to those of their neighbors. This has helped neutralize some of the growing internal political pressures to be more punitive in Britain, which has one of the highest incarceration rates in Europe. The United States is likewise highly vulnerable to unfavorable cross-national comparisons of penal policies and penal conditions. Through detailed reports on capital punishment, the widespread use of life sentences, supermax prisons, abuse of female prisoners, prison rape, and other disturbing conditions in US prisons, human rights organizations such as Amnesty International and Human Rights Watch, as well as leading penal-reform groups such as The Sentencing Project, have been drawing increased national and international attention to the great disparity between US penal practices and those of other Western countries.

The carceral state has the potential to reconfigure the politics of feminism and women's issues. 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 men entombed in the carceral state. Moreover, since 1995, women have been the fastest growing segment of the US prison population (Harrison & Beck 2006, p. 4). The enormous expansion of the carceral state may finally bring about a day of reckoning for feminism and women's groups on the issue of law enforcement and the state. Over the past decade, the chorus of doubts about relying on penal solutions to address violence against women has grown louder across a broad range of feminists, crime experts, academics, and social workers. Concerns have been growing about mandatory arrest, presumptive arrest, no-drop policies, and tougher sentencing, because these legal remedies do not necessarily reduce violence against women and have contributed to greater state control of women, especially poor women (Coker 2001, p. 807; Coker 2004; Das Gupta 2003; Gruber 2007; Lombardi 2002; Minow 1998; Sontag 2002; Stark 2004; Zorza & Woods 1994). The rising number of women incarcerated for mi-

nor 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 (Talvi 2007). A number of critics suggest that the women's movement needs to address the problem of violence against women not by strengthening its ties with law enforcement and victims' groups but by connecting with other progressive reform movements calling for social justice, an expanded welfare state, and a retreat of the carceral state (Harris 1987; Snider 1994, p. 110).

The most significant political challenges to the carceral state appear to be occurring at the subnational level. Recent efforts at the state level to reverse the incarceration boom have bolstered interest in understanding the reasons behind state-level variations in punitiveness. The construction of such an expansive and unforgiving carceral state in the United States is a national phenomenon that has left no state untouched. Despite the highly decentralized character of the US criminal justice system and wide variations in regional and state incarceration rates, penal trends have converged significantly across the country. All 50 states have experienced a sizable increase in their incarceration rates over the past 30 years or so (Schneider 2006). That said, the diversity of imprisonment rates across the states is enormous, far greater than the range across Western Europe (Harrison & Beck 2006, p. 1). This great variation and the fact that crime control in the United States is primarily a local and state function, not a federal one, suggest that state, local, and perhaps regional factors might help explain US penal policies.

Today many states are attempting to slow their incarceration rates, with varied degrees of success. A report sponsored by the Pew Charitable Trusts forecasts that the state and federal prison population will likely swell by more than 13% over the next five years unless legislators enact significant policy changes (JFA Institute 2007, p. ii). Only three states—Connecticut, Delaware, and New York—are

expected to have no growth in their prison populations. No state is likely to see an actual drop in its total number of inmates (JFA Institute 2007, pp. ii, iv). Scholars have shown that differences in socioeconomic variables, demographic factors, and/or crime rates help explain some of the state-by-state variation in incarceration and criminal justice policies (Beckett & Western 2001, Greenberg & West 2001, Hawkins & Hardy 1989, Jacobs & Helms 1996). “Yet, we still need to account for how and why these social factors may vary in different political contexts with varying effects on imprisonment” (Barker 2006, p. 6). For example, Barker (2006) demonstrates that differences in the structure of state governance and in the practice of civic engagement help explain why California has pursued far more punitive policies than New York or Washington State. Other accounts also stress political and institutional differences at the state level (e.g., Davey 1998, Domanick 2004, Jacobson 2005, Lynch 2007, Zimring et al. 2001).

Whereas many national civil rights organizations and leaders have been reluctant to take on the carceral state, poor neighborhoods in urban areas have been “hotbeds of mobilization” around criminal justice issues (Miller 2007, p. 313). Some urban neighborhoods have been intensely engaged in developing policing and other criminal justice policies at the local level (Skogan 2006). Urban community groups appear to take a less punitive approach to penal matters. They situate menaces such as criminal violence and the illegal drug market within a wider social context that highlights how racial discrimination, high unemployment, inadequate housing and health care, and failing schools are all part of the “crime problem” (Miller 2007, p. 311). For a variety of institutional and political reasons that analysts are just beginning to excavate, these local groups in high-crime areas have been persistently locked out of the crime and punishment debate at the state and national levels (Miller 2008).

African-American and Hispanic women have been establishing important grass-roots

and statewide organizations to challenge the carceral state on a number of fronts, from three-strikes laws to the siting of new prisons. Gilmore (2007) traces how the organization Mothers Reclaiming Our Children, founded in California in the early 1990s, evolved from being a self-help group “into a pair of political organizations trying to build a powerful movement” to challenge what she calls “domestic militarism” (p. 239). Mothers ROC “critically deploys the ideological power of motherhood to challenge the legitimacy” of the carceral state by emphasizing that each prisoner is someone’s child (Gilmore 1999, p. 27). Mothers ROC and other reform organizations also stress the devastating impact that incarceration is having on the children and communities that offenders leave behind. As Gilmore (2007, p. 17) poignantly explains, prisons “wear out places by wearing out people, irrespective of whether they have done time.” Scholars and activists are drawing increased attention to how US penal policies constitute a “war on the family” that leaves the millions of children of imprisoned and formerly imprisoned parents shattered and traumatized (Bernstein 2005, Golden 2005).

Political economy is emerging as another point of attack for opponents of the carceral state. We are beginning to get a much more sophisticated understanding of who does and does not benefit economically from the carceral state. This work is starting to challenge the narrowly economic view, popular for a long time among many antiprison activists on the left, that attributes the origins of the carceral state to the private interests that profit from building prisons, running prisons, and exploiting prison labor. Gilmore (2007) develops a more subtle political-economy argument to explain the creation of a “golden gulag” in California. She singles out the specific contours of the state’s wrenching economic and political restructuring, beginning in the 1970s, that created surplus capital, land, labor, and state capacity (p. 88). She also identifies important political and institutional factors in California, including

certain internal changes in its Department of Corrections (pp. 89–94, 96), in its statutory relationship with the legislature (p. 94), and in the way its public bond market is organized, regulated, and manipulated (pp. 97–102).

Antiprison activists are using new economic and political arguments and forging new rural-urban coalitions and alliances with environmental groups to unhinge the carceral state (Braz & Gilmore 2006, Gilmore 2007). For example, a coalition of family ranchers and farmworker families in Farmersville, California, successfully fought the construction of a new prison in their community. Their strategy was to show that prisons do not solve the economic problems of rural areas but do create new ones as they endanger the water supply, aggravate class and racial inequalities, and raise rates of domestic violence (Gilmore 2007, p. 177).

Another potential site of resistance is hip-hop culture. Hip-hop artists have been among the most visible critics of the carceral state for decades (Butler 2003/2004). The hip-hop nation may have enormous political potential to challenge the carceral state (Butler 2003/2004, Kelley 1996)—or may not (Reed 2000a,b). The same is true for the many faith-based groups that have taken up the cause of the carceral state.

EXPERTS AND THE CARCERAL STATE

Reform of the carceral state presents a challenge not only to political and cultural leaders, policy makers, and activists but also to scholars of crime, punishment, and politics. Crime control and penal policy are not just technical, administrative endeavors devoid of politics. Political scientists need to accord the study of penal policy and crime control a central place in the study of American politics. David Bazelon, the chief judge of the US Court of Appeals in Washington, DC, reminded the American Society of Criminology in 1977, “[P]olitics is at the heart of American criminology” (1978, p. 3). We need to

recognize that crime control strategies are profoundly political because they both reflect and direct the distribution of power in society (Scheingold 1998, p. 857).

Many critical areas remain to be explored. For example, the need is great for more sophisticated studies of public opinion on a range of criminal justice issues and also of the impact of public opinion on criminal justice policy (Zimring & Johnson 2006). While public attitudes about crime and criminals appear to have hardened (Gaubatz 1995; Sharp 1999, pp. 52–53), it is misleading to justify more punitive policies by portraying the public as overwhelmingly punitive. The role of public opinion in penal policy is extremely complex. For all the talk about a more punitive public mood, the public’s anxiety about crime is “subject to sudden, dramatic shifts, unrelated to any objective measure of crime” (Frase 2001, p. 268). The widespread impression that public concern about crime skyrocketed in the 1960s with the jump in the crime rate and the general uneasiness associated with the riots and demonstrations of those years is not solidly supported by public opinion data (Beckett 1997, pp. 23–25; Chambliss 1999, p. 20, Tab. 1.1; Loo & Grimes 2004). The public certainly “accepts, if not prefers” a range of hardline policies such as the death penalty and three-strikes laws. But support for these more punitive policies is “mushy,” partly because public knowledge of criminal justice is so sketchy (Cullen et al. 2000, p. 1; Roberts & Stalans 1998, pp. 37–38). The public consistently overestimates the proportion of violent crime and the recidivism rate (Gest 2001, p. 267). Possessing limited knowledge of how the criminal justice system actually works, people in the United States and elsewhere generally believe the system is more forgiving of offenders than it really is (Roberts 1997, pp. 250–55; Roberts & Stalans 1998, p. 50; Roberts et al. 2003). Overly simplistic public opinion surveys reinforce the “assumption of an unflinching punitive ‘law and order’ tilt of US public opinion on crime” and mask “large and recurrent” differences between the

views of blacks and whites on the criminal justice system (Bobo & Johnson 2004). Moreover, policy-making elites also appear to misperceive public opinion on crime, viewing the public as more punitive and obsessed with its own safety than is in fact the case (Gottfredson & Taylor 1987).

Some of the more sophisticated surveys and focus groups reveal a potentially more forgiving public (Roberts 1997, pp. 250–51). Polls in the United States and elsewhere consistently show that when people are asked broad questions about whether they believe judges are too lenient, the overwhelming majority answer yes. But when respondents are asked to choose an appropriate sentence after being given the details of a specific crime, the offender, and the judge's reasoning, the sentence lengths they choose generally correspond to what judges choose, or in some cases are shorter than what criminal justice officials recommend (Doob 1995, p. 210, fn. 23; Roberts 1997, pp. 253–54; Roberts & Stalans 1998). Although it is commonly accepted that public support for rehabilitation has vanished, surveys show that support for rehabilitating offenders remains deep, sometimes exceeding support for punishment (Cullen et al. 2000, pp. 28–33; Hart Research Associates 2002; Justice Policy Institute 2001; Roberts 1997, pp. 253–54). Recent work on public opinion indicates that the public has a much more nuanced view of spending on criminal justice than is commonly portrayed in the popular media or public policy debates. Public opinion research indicates overwhelming support for more spending on the police, crime prevention programs for young people, and drug treatment for nonviolent offenders. It also suggests strong public opposition to additional spending on prisons (Cohen et al. 2006).

New and innovative scholarship on public opinion and capital punishment indicates that the death penalty debate may be in the midst of a dramatic transformation. Whereas US public opinion remains “supportive of capital punishment *in theory*,” Americans are “in-

creasingly concerned that the system might not work as intended *in practice*” (Baumgartner et al. 2008, pp. 8–9, emphasis in the original). Focusing on “framing effects” and the emergence of the innocence movement, Baumgartner et al. show that opponents of the death penalty have upended the debate during the last decade by successfully shifting the focus to innocent people sent to death row. As a consequence, we may be witnessing “one of the most dramatic and unlikely policy reversals in modern times” (Baumgartner et al. 2008, p. 13).

Other key questions for analysts to investigate are whether a radically new penal model is taking root in the United States and, if so, what are the political implications of this development. The breathtaking and unprecedented increase in the number of people under state supervision in the United States has overshadowed a “profound qualitative transformation” in penal policy over the past two to three decades (McLennan 2001, p. 408). Important changes include the growing exploitation of prison labor by private corporations; the proliferation of private prisons; the privatization of food, medical, and other prison services; the elimination of the ideal of rehabilitation from official penal discourse; drastic cuts in education and other programs as prisons are increasingly viewed as little more than warehouses for criminals; the widespread use of paramilitary technologies and techniques in penal and police operations; the blurring of the distinction between police and military forces; the escalating number of incarcerated women; and the proliferation of supermax cells and other degrading and inhumane conditions of confinement, including boot camps, chain gangs, and prison rodeos (Abramsky 2007, Gómez 2006, Kraska 2001, McLennan 2001, Rhodes 2004, Sudbury 2005). More research is needed on whether these changes herald the ascent of a new penal model. The emerging penal system's structural characteristics and sources of legitimation “appear to be of a different order” from the bureaucratic-rehabilitative model that took hold in the

twentieth century and the penal models that prevailed in the nineteenth century (McLennan 2001, p. 415). McLennan suggests that this new penal state, which has excommunicated “the poorest, least educated Americans from the juridical bonds of national membership,” is “an instrument of a process of denationalization whose full significance and extent are as yet obscure” (p. 415). She and others contend that the new penal model is not exclusively a domestic phenomenon but is a product of important transnational forces, including globalization, the “war on terror,” and growing militarization (Gilmore 2007; McLennan 2001, p. 416; Strange 2006).

The subfield of American political development within the discipline of political science is particularly well situated to take up some of the analytical and political challenges of the carceral state because of its emphasis on historical and comparative approaches to understanding public policy; its sensitivity to how institutions, social movements, political coalitions, and ideological communities develop over time, often in unanticipated ways with unanticipated consequences; and its growing appreciation of how cross-national and international developments affect public policy (Bensel 2003). Perhaps most importantly, the subfield of American political development has tended to be less squeamish about responding to the call of the *perestroika* movement within political science for political and policy relevance and for producing scholarly work aimed at real-world problems.

Scholarly attention to political questions related to the carceral state could serve as

a catalyst to help establish and legitimate a “public political science” to match the recent movement within sociology for a “public sociology” that “seeks to bring sociology to publics beyond the academy, promoting dialogue about issues that affect the fate of society” (Burawoy et al. 2004, p. 104; American Sociological Association 2005; Clawson et al. 2007). A number of scholars of the carceral state have been drawn to this issue not only because of the intellectual and analytical challenges it poses but also because of the normative ones. Many of them not only teach about prisons but also teach in prisons, bringing the prison to higher education and bringing higher education back to the prison. The Inside-Out Prison Exchange Program established by Lori Pompa at Temple University has become a national model for those seeking to teach behind the walls (<http://www.temple.edu/inside-out/>). It has trained about 150 academics, including some political scientists, in how to establish and teach joint classes on the “inside” where college students from the “outside” attend class alongside incarcerated men and women. Scholars in political science and other disciplines need to view engaging the public in discussions about the future of the carceral state as part of their professional responsibility. To do so, they need to overcome their reluctance to take politics and policy seriously. The need is great for more and better political science research on the carceral state, presented in ways that are readily accessible to other disciplines, policy makers, and the general public.

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The author is not aware of any biases that might be perceived as affecting the objectivity of this review.

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