

Reading Questions, *Prison By Any Other Name*
Chapters 1-4

This week's readings were particularly striking to me given that I want to be a public defender and many of the alternatives to incarceration listed in *Prison by Any Other Name*, are alternatives that I previously thought would do more good than harm

Big Questions for the Whole Book

1. On p. 89, Schenwar and Law discuss how Europe and the US have comparable crime rates, but the US probation rate outpaces Europe's by over 400%. Similarly, the US has a drastically higher rate of imprisonment and immigration detention than European countries. The US also has a much starker concentration of wealth than European countries. How are those things related? What might be the causes and impacts of the range of US policies that produce so much criminalization and poverty? What kinds of policies are likely to be contributing to different outcomes in Europe?
2. The authors cite James Kilgore (p. 49) raising concerns about "the punishment paradigm." The criminal legal system is often justified with reference to "punishment," "accountability," and "rehabilitation." What is the difference between punishment and accountability for causing harm? What is the difference between punishment and rehabilitation? How is punishment racially targeted in our system? What does the information in this book make you think about who is being punished, who is being held accountable for what, who needs rehabilitation, who gets rehabilitation, and what rehabilitation actually is? How would you map out these concepts and their relationship to the criminal legal system? How would you map out how these concepts are unevenly applied with respect to race, ability, gender, sexuality, and class?
3. Throughout the book, we see the ways in which various mandated programs and treatments in the criminal legal system control, surveil, belittle, isolate, humiliate, and degrade people subject to them. Many of these programs do so in the name of fixing or rehabilitating people subject to them. Some people have compared the system to an abuser, noting that these same behaviors are common to abuse dynamics in families and between intimate partners. The majority of people subject to these programs are abuse survivors. What does this mean for the possibilities for healing and repair for people in the system and for anyone who has been impacted by their actions, if they have done harm in the past?
4. In several instances in the book, the authors discuss how when "softer" programs are added, such as drug courts, electronic home monitoring, and prostitution "diversion" programs, police become more likely to arrest people for the kinds of behaviors such programs address, attorneys encourage people to take plea deals leading to enrollment, and judges become more willing to criminalize people who will serve time in these

- programs. What examples of this did you see in the book? What does this mean about reforms that offer purportedly softer punishments?
5. Many programs and services that operate as “alternatives” studied by Schenwar and Law exclude criminalized people if they have been charged with or convicted of a “violent” crime. What do you think about this? How might this have impacts that increase incarceration of targeted populations?

Chapter 1, “Your Home Is Your Prison”

1. Why do Schenwar and Law think that replacing incarceration with electronic monitoring is a bad idea? Is electronic monitoring a “softer” way of punishing people? What do they mean when they say that introducing such alternatives is “net widening”?
2. On p. 29, Schenwar and Law describe how, in response to a 2011 Supreme Court case finding that California’s prison overcrowding violated the Eighth Amendment and ordering that the prison population be drastically reduced, the state created a “realignment” scheme. This plan pushed incarcerated people from state to county control, which resulted in increased use of electronic monitoring. What are the authors’ concerns with this development? What might this suggest about the limits of prison reform litigation for reducing the harms of the criminal legal system?
3. What are the authors’ concerns with the much lauded federal First Step Act? P. 30. How does their critique of the First Step Act exemplify the broad argument this book makes about reform?
4. On p. 30, the authors describe how in Chicago, “a strong grassroots campaign against money bail and pretrial incarceration” led to a reduced jail population. What does a campaign like that look like? How do grassroots activists put pressure on the criminal legal system to shrink? Are there other examples you have seen of such work?
5. Why does it matter that Rudy Giuliani proposed that all Muslims on the federal government’s terrorist watchlist be put on electronic monitoring? (p. 32) What does this tell us about how this technology is emerging and being deployed and how it might be?
6. How does electronic monitoring impact plea bargain negotiations? (p. 35)
7. Schenwar and Law tell us that a 2018 Brookings Institute study found that “intensive supervision actually increases, rather than decreases, the chance that someone will be rearrested and reconvicted.” Make a list of the reasons for that, based on what you read and other things you know.
8. Throughout the book, Schenwar and Law criticize various alternatives to incarceration that place people “in community,” raising the concern that these systems of surveillance and punishment actually prevent people from getting any of the benefits of community participation and support. How does electronic monitoring prevent people from participating in society and building relationships that prevent future incarceration? (p. 36) How might it harm relationships with families, partners, and children? (p. 39) How might having a parent on electronic home monitoring harm children? (p.40)

9. On p. 42, and in several other places, the authors talk about how both private companies and jurisdictions placing people on electronic monitoring gain revenue from doing so. What are your concerns about this?

Chapter 2 “Locked Down in ‘Treatment’”

1. Why are many court-mandated treatments no effective as therapies for healing? Why is this so with compulsory drug treatment? Why is it so with compulsory mental health treatment?
2. It is often considered a progressive view to see drug use as a health issue rather than a criminal issue. However, reforming the criminalization of drugs by adding mandatory treatment yields many problems. How so? What would it look like to truly approach drug use as a health issue without it being under the purview of the criminal legal system? How would treatment look different? Which populations already get something closer to this approach? Why might it be a problem to entirely see addiction as a “disease” (p. 59)?
3. Why do Schenwar and Law say “drug court is a false solution”? (p. 54) How does drug court “widen[] the drug war net” (p. 60)?
4. Why do they argue that many psychiatric asylums were closed in the 20th Century? Who is calling for re-creating such asylums? (p. 55-57, p. 69-70)
5. Why do people fail to finish drug court sentences so frequently?
6. In the “Bring Back the Asylums” section that begins on p. 64, the authors talk about how people often experience trauma from police, in prisons, psychiatric institutions and other mandated spaces that are supposed to help towards rehabilitation. What examples can you think of from the book for from other things you know? What does this mean about the potential for using the criminal legal system to rehabilitate people?
7. On p. 68, Schenwar and Law talk about Gov. Inslee’s plans to decrease the populations of Washington’s two largest psych hospitals but build a number of new ones throughout the state. A similar trend has been happening in juvenile punishment, with new efforts to shrink or close large juvenile prisons and build many more throughout a state. How would you assess this reform based on our discussions of this book and the other materials we are studying?
8. Why haven’t the increased penalties and the sex offender registries passed during the panic about “stranger danger” reduced sexual violence?
9. Do you have any concerns about the legal categories “sexually violent predatory” or “sexually dangerous person”? What are they? What do the authors tell us about how these labels are applied on pages 76-77?
10. On p. 83 the authors talk about how various psychiatric labels, such as borderline personality disorder and schizophrenia, are applied in gendered and racialized ways. What did you learn? What does that mean about psychiatry and plans to reform our criminal system by opening more psychiatric hospitals? Why do they say that “psychiatric labels become vehicles for race- and gender-based harm?”

Chapter 3 “Confined in ‘Community’”

1. What does it mean to say that probation is a “driver of mass incarceration”? (p. 89).
2. Education programs, like parenting classes, anger management classes, and other mandatory programs aimed at reforming people are often conditions of probation. Progressives often think of education as a good thing, with slogans like “schools not jails.” However, the idea of educating people to make them behave better or improve their morals is also central to many systems that target, stigmatize and control marginalized populations. How might what you are learning in this book might generate new critical questions about programs that “fix bad people” through various forms of mandatory education? What are signs or signals that an education project is harmful or undermines self-determination, and what are signs or signals that an education project is supporting justice and self-determination?
3. Why does Kay Whitlock say that the probation industry “is built upon disdain for poor and low-income people, and a determination that their wretchedly limited resources should only support the illusion of administrative justice but simultaneously provide business owners and courts with new revenue.” (p. 93).
4. What is wrong with the idea of “saving” people in the sex trades from their work? What did you learn about Project Rose that illustrates your concerns? What did you learn about human trafficking courts that is related? How do the authors think these programs “grow the reach of the prison nation”? (p. 97)
5. What might be the problems with fixing the criminal system through adding “diversion” programs in general?
6. What is wrong with mandatory services?
7. People involved in the sex trades do face dangers at work. What would help them be safer, if criminalization does not? Some organizations you can look at to find more information about what people in the sex trades are advocating and how they keep themselves safe, are Sex Worker Organizing Project (swopusa.org), Young Women’s Empowerment Project (<https://youarepriceless.org/>) and Red Canary Song (canarysong.org).
8. On p. 100 the authors share the insights and experience of Sadie Ryanne Baker, a mental health provider frustrated by her role in a system giving services to people forced into a mandatory program. We also learn about other social workers and mental health workers in these systems, some of whom have also previously been negatively impacted by these systems, struggling with their roles. Many people end up doing poverty service provision in some way or another because of their own life experiences, but then end up having enforcement roles in these systems. How should we navigate that? Have you had a role like that or do you fear having such a role? What is an ethical approach to being in a role where you are enforcing rules or systems that you think are unjust and ineffective?

Chapter 4

1. What impacts might it have on parents or children who are living together in prison nurseries?
2. Schenwar and Law argue that the criminal and child welfare systems blame problems that stem from socioeconomic injustice on individual bad parenting and create systems that “prioritize controlling mothers rather than helping them meet their basic needs such as housing, income, childcare, and health care.” (121) What evidence did you see in this chapter for this argument?
3. Some scholars have argued that, just as the contemporary prison system emerges from the system of chattel slavery, the child welfare system also does. Under slavery, enslaved people had no rights to their children. The children belonged to the slave owner. This arrangement is called “natal alienation.” Today, the child welfare system targets Black families for surveillance and separation. Similarly, separating native children from their families has been an explicit part of the US colonial project, and the contemporary child welfare system targets native families for separation. What is the significance of looking at the system in this way? Why would it be useful for colonialism and white supremacy to separate native and Black children from their families, then and now?
4. What are the authors’ concerns with mandatory reporting laws?
5. Schenwar and Law tell us that “people who have been in foster care have significantly higher rates of post-traumatic stress disorder than war veterans, and on average, even children who have been abused or neglected have fared better when they’ve remained in their homes than when they’ve been placed in foster care.” (127) Why do you think this is the case? And what does this mean about the legitimacy of the system’s power to remove children from their homes?
6. Why do you think the child welfare system gets so much less attention as a racist system than the criminal legal system?
7. What do you think of Mariame Kaba’s suggestion that social workers are “kinder, gentler cops”? (131)
8. Why does child maltreatment go up when people get poorer? (131-132) Can we acknowledge that without buying into the stereotype that poor people are worse parents? Why don’t middle and upper class people and white people lose their kids to the child welfare system as often?