Resisting mass supervision

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Dimensions of mass supervision

- Scale or Volume
- Social distribution (and subjects)
- Shapes and forms (law and practice)
- Legitimation (social and political)
- Intensity (as a lived experience)
- Effects (human, systemic and social)
PERVERSIVE PUNISHMENT
MAKING SENSE OF MASS SUPERVISION

"AN IMMENSELY READABLE ACCOUNT THAT IS COMPASSIONATE, EMPATHETIC, AND HUMANE — YET SHARPLY OBSERVED AND DEEPLY CRITICAL"

PROFESSOR DAVID GARLAND, NEW YORK UNIVERSITY, USA

JUSTICE ALTERNATIVES
EDITED BY PAT CARLEN AND LEANDRO AYRES FRANCA
An unhappy ending...

- Episode VIIa: Administering shocks and sickness
Technological incarceration

- Bagaric, Hunter and Wolf (2018)
  - ‘The alternative to prison that we propose involves the fusion of three technological systems. First, offenders would be required to wear electronic bracelets that monitor their location and ensure that they do not move outside of the geographical areas to which they would be confined. Second, prisoners would be compelled to wear sensors so that unlawful and suspicious activity could be monitored remotely and by computers. Third, conducted energy devices would be used remotely to immobilise prisoners who attempt to escape their areas of confinement or commit other crimes’ (p73).
  - ‘Body sensor harness’, body-cam, facial recognition, Al

U.S. Correctional Populations

8 million people


Source: https://thesocietypages.org/papers/visualizing-punishment/
Scotland’s penal enthusiasm

- Scotland has the highest ‘probation rate’ and third highest ‘correctional rate’ (i.e. proportion of people either in prison or on probation) across Europe, with 548 people per 100,000 (411 probation + 137 imprisonment);
- The correctional rate for England and Wales was 459
- The Europe-wide median was 318
Mass penal control in Australia? (via David Brown)

- National imprisonment rate in Australia from 2008-9 to 2017-18 has increased 29.5 per cent to 217 per 100,000. Community corrections rate increased very slightly from 344.3 in 2008-09 to 361 per 100,000 in 2017-18. (PCR, 2019 Justice, 8.5). [N.B. In both cases, these are census figures for one date: ‘Stock’ not ‘Flow’]. Correctional rate of 578 per 100,000

- The national ‘crude’ imprisonment for Aboriginal and Torres Strait Islander people was 2,466 per 100,000 in 2017-18 compared with a rate of 159 per 100,000 for the non-Indigenous population (PCR, 2019: table 8A.5)
  - Disproportion in imprisonment of nearly 15x
  - Disproportion for community corrections is 8x (age-weighted) or 11x (crude)
  - Disproportion for juveniles is 17x for community supervision and 25x for detention (AIHW, 2017: 98),
  - Indigenous women are 16x over-represented (ALRC: 105).
State level variations

• Imprisonment rates vary from 900 per 100,000 in the Northern Territories to 147 per 100,000 in Victoria.
• Three states account for three-quarters of the supervision population: Queensland (21k), NSW (20k) and Victoria (14k).
• In the NT, 76% of those on supervision are Aboriginal or Torres Strait Islander people, but the overall supervision rate is still lower than the imprisonment rate.
• Different populations in different places are being punished, managed, controlled (or helped) in different ways.
‘[Comparative research reliant on imprisonment rates] fundamentally misconstrues state variation... Rather than a monolithic expansion, states followed diverse trajectories, likely driven by local, social, political and economic conditions, producing a multi-faceted array of control strategies... Thus a full account of the carceral state requires us to understand each of the various mass punishments’ (Phelps, 2017: 66, emphasis in original).
1. Punishment pervade in ways that we fail to see, study and imagine, both in society and in the lives of those subject to it.

2. Punishment changes in ways that reflect not just broader social changes, but also reconfigurations of ‘the penal state’ and local contestation (or struggles) in ‘the penal field’

3. If we start ‘counting supervision’, we notice that the scale of supervision outstrips the scale of imprisonment in most Western jurisdictions (by about 3:1); and that the social distribution of supervision, like imprisonment is concentrated in marginalised communities on the receiving end of social inequalities.
4. Legitimating mass supervision has relied on narratives linked to managerialism, punitiveness, (risk-based) rehabilitation and reparation. Because (a) we hoped it would divert, (b) assumed it wouldn’t harm, (c) thought it might protect and help, we expanded it carelessly

5. *BUT* ‘experiencing mass supervision’ involves suffering, degradation and disqualification, even when it is administered fairly and helpfully
6. In order to start’ seeing mass supervision’, we need to promote serious dialogue and deliberation and that requires innovative work drawing on counter-visual, sensory and public criminologies.

7. What is the future? ‘Supervision: Unleashed or restrained? We can and must choose between dystopian or utopian futures. At the very least, we should commit to parsimony, proportionality and productiveness. But that might not be enough.
Public Criminologies
- Dialogical approaches

Creative Criminologies
- Re-imagining imaginaries

Sensory Criminologies
- Counter-visual criminologies
Resisting mass supervision: 3 resources for dialogue

• The Invisible Collar
• Supervisible and Seen and Heard
• System Hold EP (Jo Mango and Friends)
Illustrating the approach

https://www.youtube.com/watch?v=PaMwzRNyo1E
Reforming mass supervision

- **Parsimony:**
  - Scaling down mass supervision (and mass penal control)

- **Proportionality:**
  - Clarifying and circumscribing its legitimate purposes and intrusions

- **Productiveness:**
  - Developing and delivering restrained, legitimate, helpful, constructive supervision
• To punish, philosophers and jurists argue, is to correct a wrong, repair an injustice, amend a culprit, and protect society. The ultimate legitimacy of punishment is therefore the restoration of a fair social order, which had been threatened by the incriminated act. Yet if punishment is not what we say it is, if it is not justified by the reasons we invoke, if it facilitates repeat offenses instead of preventing them, if it punishes in excess of the seriousness of the act, if it sanctions according to the status of the offender rather than to the gravity of the offense, if it targets social groups defined beforehand as punishable, and if it contributes to producing and reproducing disparities, then does it not become precisely what undermines the social order? And must we not start to rethink punishment, not only in the ideal language of philosophy and law but also in the uncomfortable reality of social inequality and political violence? (Fassin, 2018: 125).
In her Gifford lectures, Butler showed how that the liberal subject was, implicitly, male, white and propertied; the defence of his autonomy and independence, and of his right to pursue self-interest and own property, reflects his unspoken, unrecognised position and privilege. Yet he did not emerge from nowhere as a supposedly autonomous, self-interested subject. Rather, like all of us, he was gestated and born into dependency and matured into interdependency rather than independence.
• Reflective essays...
• The insight that these reflections collectively generated is that supervision’s intrusions and constraints can be accepted, even welcomed, and experienced as productive, only when framed within a relationship of reciprocal care.
Resisting mass supervision

- ‘The liberal principles of parsimony and proportionality, even in seeking to rationalise and restrain that penal violence, also serve to legitimate it (whether suspended or meted out) as a response to criminal violence by individualised subjects. These principles do offer important restraints and protections within liberal democracies, but clearly they cannot correct liberal democracy’s faulty origin story; and, for that reason, their restraints and protections are unevenly effective. They also say nothing about and do nothing to enable relationships of reciprocal care’ (McNeill, 2019b).
'Safety, here, is reconfigured as accountability through relational logics of care and support but also the very real and serious acts of intervention, raising a host of questions that are foreclosed in dominant constructions of safety. [...] In this way, abolition forces us to ask what we effectively do when we seek to call the police or exile those who are inextricably part of our daily lives and worlds; it asks us to interrogate the forms of policing – practices of judgment, classification, and ordering – in our own consciousness, the police that are in our head. As philosopher Andrew Dilts writes, this requires us to problematize our need for punishment and to question the retributive logics within which we are constituted. [...] At the heart of these local, intimate struggles is a deep dive into the failures and contradictions of criminal justice, out of which develops a structural critique grounded in the insurgency of transformative justice.’ (Brown, 2019).
Reform v Abolitionism

• Is criminal justice safe? Safe for whom?
• Is abolitionism safe? Safe for whom?
• I’m not sure
  – Gail Super’s work on informal community justice in South Africa.
  – Bruce Western and David Garland’s response to Fassin.
‘...while in the short term we may need a gentler and more even-handed Leviathan, the more fundamental challenge is to find ways of recognizing, nurturing and sustaining our relational interdependencies. Whatever Hobbes thought, our nature is no more ‘red in tooth and claw’ than it is ‘soft in fur and feathers’. We fight and we forgive; we compete and we cooperate; we hurt and we heal; we destroy and we nurture. Progress depends on building a society that enables our better selves to thrive. In my practical utopia, that entails an evolution of justice in which we always strive to right wrongs through reparative conversation and cooperation rather than coercion and control, wherever and whenever that is possible. Ultimately, if we can criminalise and penalize less, then we will supervise and incarcerate less; and the way to criminalise and penalize less is to repair more and harm less, in the collective interest’ (McNeill, 2019).
• Book was published November, 2018.
  • https://books.emeraldinsight.com/page/detail/Pervasive-Punishment/?k=9781787564664
• EP, ‘System Hold’ by Jo Mango and friends, out now (Olive Grove Records)
  • https://open.spotify.com/album/7B0kZTRqaolYU6lxfsdSSe?si=NIYM26XUQj611pZRiLRoEA
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