substantial subgroup of people that would otherwise enhance the deliberative process and strengthen the jury system as a whole.

Despite the many strengths of the book, I found myself wanting more in a couple respects. Binnall uses the phrase "empirically informed" to describe the work, and that is the right term to use in light of some of the methodological limitations of the studies presented. The data and results described are path breaking for sure and will undoubtedly pave the way for important future research. Yet the samples recruited are not random or representative and the studies are performed in single state contexts. This is understandable for the sake of breaking ground in a seldom studied and complex area of research and Binnall appropriately characterizes the findings as "exploratory" and "suggestive." I hope that future research by Binnall (and others this work will inspire) will address some of these challenges.

In addition, the book contains conspicuously scant attention to the intersection of race, sex, and felony status. Discussion of these intersections is by no means absent, but the impact of felon-juror exclusion on certain subgroups, in particular Black men, is worthy of greater attention than is given in the book. And while the title is clever—a reference to my collaborative work estimating the number of people with felony convictions (Shannon et al. 2017) and the classic film *12 Angry Men*—women are also affected by these laws. While men make up more than 90% of prisoners, women make up one-quarter of the probation population. In our *Locked Out 2020* report for the Sentencing Project, my colleagues and I estimated that 1.2 million women are banned from voting due to felony convictions (over one-fifth of all who are disenfranchised) (Uggen et al., 2020). The number of women impacted by felon-juror exclusions is far higher given the broader reach of felon-juror exclusion laws and thus worthy of more attention in this conversation.

After reading the book, I find myself puzzling, as Binnall does, over why felon-juror exclusion laws do not receive more public scrutiny and how greater momentum might be built to change them. Recent successes in reducing felon disenfranchisement in several states suggest that similar change to felon-juror exclusion laws is possible, though perhaps the case for access to the ballot box is more compelling than to the jury box given the potential scale of the consequences (e.g., results of a national election vs. any given court case). In any case, scholars and activists need look no further than Binnall's book for a powerful exposition of the flaws in felon-juror exclusions and compelling evidence that allowing felon-jurors to serve would enhance "our purest form of civic engagement" (144).

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Punishing Poverty: How Bail and Pretrial Detention Fuel Inequalities in the Criminal Justice System. By Christine S. Scott-Hayward and Henry F. Fradella. Oakland: University of California Press, 2019. 312 pp. $29.95 paperback

Reviewed by Sandra G. Mayson, University of Pennsylvania, Philadelphia, PA, USA

Bail reform is at a crossroads. Two years ago, it was a solidly bipartisan issue gaining momentum in both courts and legislatures. But a lot has happened in two years. The country has been riven by a pandemic and the public murder of George Floyd. Gun violence is spiking. Bail reform efforts in

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Alaska, New York, and California have been rolled back. In a recent oral argument, the federal Fifth Circuit Court of Appeals seemed poised to abdicate any duty to enforce constitutional rules in state bail systems. The future of the bail reform movement is uncertain.

Punishing Poverty provides a clear, compelling, and well-grounded case for bail reform at this critical time. It is not the only recent book about bail; Shima Baradaran Baughman published *The Bail Book* in 2018. But *Punishing Poverty* is a welcome and valuable addition. Whereas Baughman's book takes an encyclopedic approach, Scott-Hayward and Fredella offer a more focused argument about contemporary money bail in America.

The book's thesis is that our current pretrial system, with its careless reliance on money bail, punishes poverty, exacerbates inequality in the criminal legal system, and violates the Constitution. The authors build their case in four careful chapters that weave together social science, constitutional doctrine, and individual stories. The first, *The Origins and History of Bail in the Common Law Tradition*, presents an introduction to bail and then a surprisingly nuanced history of American bail from the fall of the Roman Empire to the present day. The second chapter, *Pretrial Release Decisions and Outcomes*, chronicles current pretrial release and detention practices. It describes how money bail schedules and commercial sureties, in particular, result in the routine and unnecessary detention of those without resources. Chapter 3, *The Problems with Risk-Assessment-Based Bail Determinations*, takes on the fraught debate about the use of actuarial risk assessment in pretrial custody decisions. It concludes that actuarial tools may have a useful role to play, but only with certain safeguards and assurances that do not currently exist. Chapter 4, *The Impact of Pretrial Detention*, marshals the social science literature to explain the adverse effects of pretrial detention on case outcomes and on detainees and their communities. Having made the case for changes to current practice, the authors lay out a set of recommendations in Chapter 5, *The Path Forward*.

The strength of this book lies in synthesis. For those steeped in the field, the content and arguments will be familiar. But for anyone new to the field, the book provides an extremely helpful and focused introduction. Even for those already involved in bail reform efforts, *Punishing Poverty* brings the relevant material together in effective and sometimes novel ways. The text is measured and rigorously cited throughout.

Certain parts of the book are especially valuable. As already noted, the brief history in the opening chapter is remarkably nuanced for its length. Few other pieces about modern bail discuss the Statute of Westminster of 1275 at length; even fewer discuss its relationship to the Supreme Court's 1954 analysis in *Stack v. Boyle*. The chapter on risk assessment also brings additional perspective to the current debate. By describing the evolution of risk assessment practices *outside* the pretrial arena, the authors demonstrate that, relative to other domains, pretrial risk assessment is in its infancy. This is cause for both skepticism of current practices and optimism about the potential for improvement.

For this reader, the most interesting part of the book is the final chapter, in which the authors quickly endorse reform measures that already benefit from broad support, like the elimination of rigid money bail schedules, and then hone in on structural strategies to reduce the number of people funneled into pretrial detention: (1) restricting arrests, (2) disciplining prosecutorial case charging, and (3) providing defense counsel at or before initial appearance. The authors also, briefly, recommend the adoption of careful detention procedures (and the elimination of money bail to ensure that courts do not use high bail to detain); and the collection and analysis of basic data about pretrial custody decisions and outcomes.

The authors' treatment of arrest practice, case charging, and provision of counsel is sophisticated and compelling. For instance, the authors would like to prohibit arrest for nonjailable traffic offenses and nonviolent misdemeanors—hardly a radical proposition! But the Supreme Court has held the Fourth Amendment to permit such arrests. The authors explore various options. The Court could overrule its precedent. State courts could interpret *their* constitutions to set a higher bar for arrest. Or states could use statutes and policy to limit arrest discretion, but would have to provide an effective enforcement mechanism. The authors address each possibility with thoughtfulness and

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pragmatism, integrating a deep understanding of Fourth Amendment caselaw, the role of state constitutional interpretation, opportunities and challenges for statutory and policy reform, and practical realities on the ground. The discussions of case charging and provision-of-counsel are similarly nuanced. (Why not provide defense counsel *at police stations*? Other countries do it!)

Like any book, this one has limitations. It does not tackle the hardest questions confronting the bail reform moment. Those include theoretical questions, like when preventive detention is justified in moral and political terms, how we *should* handle people who are creating a public disturbance or hazard, and whether the criminal legal system must find other ways of ensuring swift-and-certain accountability if pretrial detention ceases to serve that function. They also include doctrinal questions, like what constraints the Constitution places on pretrial detention, and practical questions, like how to limit pretrial detention in the face of rising violence and fear. But these simply are not questions the book sets out to answer.

The book's other major limitation is that it is already somewhat outdated, because both the field of pretrial justice and conditions on the ground are evolving rapidly. It does not account for recent landmark decisions of the Nevada and California Supreme Courts, Ohio's new bail legislation, the Uniform Law Commission's Pretrial Release and Detention Act, the Fifth Circuit's *en banc* rehearing of *Daves v. Dallas County* (which will likely set the course for bail litigation in the federal courts), the impact of the pandemic, or the epidemic of urban gun violence.

As an argument for structural changes to our pretrial system, though, *Punishing Poverty* is masterful. Not least among its virtues is that it clocks in at only 199 pages (excluding notes). Scott-Hayward and Fredella have written a thorough, subtle, moving, and fair-minded introduction to the contemporary bail reform movement. It is a valuable resource for anyone who cares about fairness and rationality in the administration of justice. Here is hoping that it finds the broad audience that it deserves.

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The Prevention of Torture: An Ecological Approach. By Danielle Celermajer. Cambridge and New York: Cambridge University Press, 2018. 372 pp. $120 hardback

Reviewed by Nick Cheesman, Department of Political and Social Change, Australian National University, Canberra, Australian Capital Territory, Australia

Does torture prevention work? This is a pithy question but also a somewhat misleading one. Like "does torture work?" it presupposes a straightforward relation between an end, torture prevention, and the means to get to it. It directs us to think instrumentally about what tools we might craft and use to this end; what measures might "work" to address proximate causes. The answers we get may not be altogether wrong, but they are likely to be muddled. That is because, as Danielle Celermajer shows in *The Prevention of Torture: An Ecological Approach*, the question of whether or not torture prevention works does not help us to disentangle conditions that produce torture from the strategies needed to prevent it.

To do that we need a better question. Celermajer's opening one is: "what is it that causes, conditions, and sustains torture?" (8). Torture, this question recognizes, is not merely, or even significantly, a problem of the proximate causes of torturers' objectives or dispositions, or the material conditions of detention. Rather, it is caused, conditioned and sustained by what Celermajer refers to, citing Bronfenbrenner (1992), as its ecology.

An ecological approach to torture takes situational factors seriously. We have no shortage of evidence that these are what count when it comes to explaining systematic institutional violence. The problem, according to Celermajer, is that strategies to prevent torture have not made the most

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