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**Book Review**

*Locked in: The True Causes of Mass Incarceration and How to Achieve Real Reform*

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Basic Books

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## Introduction

This is a book review of *Locked In: The True Causes of Mass Incarceration and How to Achieve Real Reform* by John Pfaff. Pfaff's book is unique because of the sheer depth of analysis of the issues which cause mass incarceration in the United States. The book is unapologetically academic, which is not surprising being Pfaff is a Professor at Fordham Law School (Fordham University School of Law, n.d.). Pfaff is skilled at utilizing statistics to both analyze incarceration issues and contrast incarceration rates to other countries. Yet, Pfaff is equally capable of understanding the political realities of implementing change.

Pfaff is able to sell his arguments by describing the current schema of most criminal justice professionals. He does this by describing what he calls "the standard story". As part of the standard story, he describes common narratives regarding the war on drugs and long prison sentences. Pfaff contends the standard story is oversimplified or gives too much importance to the wrong factors which cause mass incarceration. Then, Pfaff introduces his views as anomalies to counter the standard stories. He describes his counter arguments as "a new narrative". These issues including prosecutors who are too powerful, and the lack of attention given to reforming violent offenders (Pfaff, 2017). This book review will evaluate the most noteworthy themes in the standard story and the new narrative. Furthermore, the author's contentions and evidence will be presented and critically evaluated.

## War on Drugs and Violent Crime

Pfaff contends mass incarceration is not a result of locking up low-level drug offenders as a result of the "war on drugs" as so many people believe. According to Pfaff, the term "war on drugs" is a subjective term without a clear definition. Pfaff sites research which shows only about 16 percent of state prisoners are actually incarcerated because of drug charges. Furthermore, of that 16 percent only 5 or 6 percent are considered low-level and non-violent (Sevigny & Caulkins, 2004). Furthermore, Pfaff makes the point if we released every prisoner convicted of drug crimes in the United States, we could only reduce our incarceration rate by 16 percent (Pfaff, 2017). Yet, Pfaff contends it is not realistic to release 16 percent of the prison population. Pfaff cites survey data from 1997 where researchers attempted to determine how many drug offenders were low-level and non-violent. In this research, only 1 percent of all prisoners and 2 percent of federal drug convicted inmates met that description (Pfaff, 2017). As a result, Pfaff concludes the war on drugs is merely a distraction from tackling the more important issue of violent crime. Pfaff notes over half of state inmates are in prisons for violent crimes. Essentially, Pfaff argues nearly all those incarcerated with long sentences have been convicted of violent crime. As a result, those seeking reform should not focus on minor offenses but on reforming violent offenders to reduce mass incarceration (Pfaff, 2017).

In my review of the author's contentions, I find the author tried to make the argument the war on drugs should be only limited to those convicted of drug offenses. I agree the "war on drugs" can be an ambiguous term. Yet, looking at the drug problem from a micro perspective as Pfaff undermines the author's position. For example, if a drug addict commits a property crime to fuel their drug addiction or a gang member commits a violent crime to protect their drug sales in a geographical area is this not all related to drugs? The responses to these crime by authorities is directly related to the war drugs even though the crimes committed are not classified as a drug conviction. Furthermore, the author relies on data from 1997 to make an important aspect of his case. The data is too outdated to carry persuasive weight. History is clear the United States used high prison populations as a way to curb drug possession, sales, and manufacturing. In addition, researchers have noted the ineffectiveness of U.S. drug policy relating to the war on drugs (Alarid & Reichel, 2018). The author makes a strong case related to the need for reformers to tackle the difficult program of violent offenders related to high incarceration rates. However, the issue should

not be framed as either solve drug crime or violent crime, but not both. In my view, both problem areas of the war on drugs and violent criminal reform should be addressed simultaneously.

### **Long Prison Sentencing and Prosecutorial Toughness**

Pfaff contends mass incarceration is not a result of long prison sentences driving growth as so many criminal justice professionals contend. Pfaff alleges the effort to reduce aggressive sentencing laws by reformers is misplaced. In addition, reformers are too focused on emphasizing the wrong agenda by focusing on sentencing. In Pfaff's estimation, reformers should be dedicating all their energy on minimizing the actions of aggressive prosecutors. While Pfaff does acknowledge the United States official sentencing laws are harsher compared to other countries, he argues time actually served is less than the sentences criminals receive.

Pfaff poses the question, "If inmates were serving longer and longer sentences in large enough numbers, we should expect to see the number of releases grow more slowly than the number of admissions." (Pfaff, 2017, figure 2.1). Pfaff cites research which concludes more prisoners were admitted than released in the early 1990's, but then it leveled out and by the 2000s it actually reversed. Now the number of those entering prison and leaving prison appears fairly constant despite the focus and changes to sentencing laws in recent times (Pfaff, 2017).

Pfaff makes the argument prosecutors are extremely powerful and driving prison growth. However, they are mostly ignored by reformers. Pfaff points to the 1990's and 2000's when crime and arrest rates dropped, yet during this time cases filed in state courts by prosecutors rose significantly. Pfaff takes issue with the prosecutors being a politically powerful group. Prosecutors are better funded than defense attorneys nationwide and are independent of meaningful oversight. Prosecutors have many different and overlapping criminal charges they can wield against defendants. As a result, Pfaff mentions research which claims about 95 percent of the cases that prosecutors decide to prosecute end up with guilty pleas by the suspect (Pfaff, 2017).

In my evaluation, Pfaff makes a strong case that prosecutors have too much power. Prosecutors can choose which cases to bring forward, who to charge and even what the sentence will be. As a result, I believe Pfaff is correct that prosecutorial power leveraged to its fullest can invalidate the right to trial by jury by coercing defendants to plea bargain and ultimately plead guilty. Also, much of these intense negotiations between prosecutors and defendants take place with little oversight. Furthermore, I think this situation has the potential to lead to wrongful convictions if an innocent person plea bargains simply to avoid an aggressive prosecutor threat. However, again I find issue with "either or thinking" used by Pfaff to make his case. Just because prosecutors have too much power is not a reason to abandon sentencing reform altogether. Both issues have room for improvement, and both should be given appropriate attention.

Sentencing is an important issue. A trend is taking place in the state legislative branches where more focus is on better implementation of community-based programs rather than relying on costly and less productive prison sentences (Alarid & Reichel, 2018). This is a positive trend which needs sustained attention to get the maximum benefit. As noted by Alarid and Reichel, "Since 2000, more than 30 states have reduced their prison populations and related costs by, among others, (1) repealing or easing mandatory penalties and (2) reclassifying offenses to not require imprisonment." (Alarid & Reichel, 2018, p. 68).

### **Conclusion**

Pfaff strengths is his skill at defining problems related to criminal justice reform and the complexity involved in reform. Additionally, Pfaff challenges readers to not tacitly accept common narratives related to criminal justice reform, but to think about alternatives issues impacting prison rates. I also noticed Pfaff's attempts to avoid political bias and objectively, yet truthfully describe realities of political environments involving reform.

Pfaff's weaknesses, as noted previously is his reliance on "either or thinking" related to the issues. In fairness, I believe Pfaff used this approach based on the book *Made to Stick* by Chip and

Dan Heath. In the book, Chip and Dan explain to make your ideas stickier, you should make sure the message is surprising, unexpected, and counterintuitive. By Pfaff attacking the standard story and replacing it with his narrative makes his message more memorable (Heath & Heath, 2007).

Overall, I did not find Pfaff's arguments against the war on drugs and sentencing exceedingly persuasive. However, after reading Pfaff's book, I do more deeply realize the issue of prosecutors having too much power which drives prison growth. As a result, I believe there is room for prosecutorial oversight such as plea-bargaining guidelines which could function similar to sentencing guidelines used by the courts (Alarid & Reichel, 2018).

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