PERVASIVE PUNISHMENT

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PERVASIVE PUNISHMENT

Making Sense of Mass Supervision

BY

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INVESTOR IN PEOPLE

For Gordon and all the Paulines.

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ABOUT THE AUTHOR

Fergus McNeill is Professor of Criminology and Social Work at the University of Glasgow where he works in the Scottish Centre for Crime and Justice Research and in Sociology. Prior to becoming an academic in 1998, he worked for 10 years in residential drug rehabilitation and as a criminal justice social worker.

His many research projects and publications have examined institutions, cultures and practices of punishment and rehabilitation – particularly in the community – and questions about their reform. Between 2012 and 2016, he chaired an EU-funded research network on 'Offender Supervision in Europe' which involved about 70 researchers from across 23 jurisdictions. This book reflects upon and consolidates learning from that network.

Fergus has co-written or co-edited several previous books including *Offender Supervision: New Directions in Theory*, *Research and Practice*, *Offender Supervision in Europe*, *Reducing Reoffending: Social Work and Community Justice in Scotland*, *Understanding Penal Practice and Youth Offending and Youth Justice*. His most recent books include *Community Punishment: European Perspectives* (co-edited with Gwen Robinson); *Probation: 12 essential questions* (co-edited with Ioan Durnescu and Rene Butter); *Beyond the Risk Paradigm in Criminal Justice* (co-edited with Chris Trotter and Gill McIvor); and *Reimagining Rehabilitation: Beyond the Individual* (co-written with Lol Burke and Steve Collett and published by Routledge in 2018). *Pervasive Punishment* is his first sole-authored monograph.

Currently, Fergus is leading 'Distant Voices: Coming Home', a major 3-year Economic and Social Research Council/Arts and Humanities

Research Council project using creative practices to explore crime, punishment and reintegration. The project is a partnership between Vox Liminis (a third sector organization that Fergus helped establish), the University of Edinburgh, the University of Glasgow and the University of the West of Scotland.

ACKNOWLEDGEMENTS

This book has been a long time in the making, and I owe too many debts to acknowledge them all here … but I'm going to name a few.

Pervasive Punishment might never have been written but for the generosity of the British Academy in awarding me a Mid-Career Fellowship (Award No. MD160022). I'm especially grateful to David Garland for his support for my application. During session 2017−2018, the British Academy award paid for the wonderful Caitlin Gormley to cover much of my teaching (so well that I fear that colleagues and students won't want me back!).

The Fellowship also allowed me to travel to meet with some remarkable and generous scholars and friends so that I could road-test some of the ideas in this book. I had the great pleasure of visiting Reuben Miller (University of Chicago), Josh Page and Michelle Phelps (University of Minnesota), Jon Jacobs (John Jay College, City University of New York), Kristel Beyens (Free University of Brussels) and Miranda Boone (University of Leiden). I am also very grateful to colleagues and students who took time to attend seminars, offered insightful comments and showed me wonderful hospitality. As well as my 'official' hosts, particular thanks are due to Jess Bird, Jay Borchert, David Green, Lila Kazemian and Jennifer Peirce.

British Academy Mid-Career Fellowships also provide some funds for public engagement. I used these resources to establish the Pervasive Punishment blog (www.pervasivepunishment.com) and to support book-related events organized by the Howard League Scotland in Edinburgh and the Howard League for Penal Reform in Oxford. I'm very grateful to both organisations for these opportunities to share the work in progress. These events also included performances of songs related to punishment, reintegration and supervision written in workshops organized and run by Vox Liminis, a Scottish charity that brings creative practice to criminal

justice and its reform (www.voxliminis.co.uk). Louis Abbott (in Edinburgh) and Donna Maciocia (in Oxford) provided these beautiful performances. It is a pleasure and a privilege to work with Louis and Donna and everyone else associated with Vox. I owe you all – and especially Alison Urie (that other Wayward Puritan) – a very great deal for teaching me so much about so many things; not least the importance and potency of creativity.

On the subject of creativity, I also want to thank Martin Cathcart Froden and Phil Thomas for some early advice in relation to the short story that is woven through this book's chapters, to Gabi Fröden for the cover art, and to Jo Collinson Scott for agreeing to write an EP of songs inspired by the story and the book. We say more about this process and about the relationships between the research, the story and the songs in the book's post-script. The cover art and EP were also funded by the British Academy Fellowship. It is a genuine delight to have been able to assemble all these different ways of seeing, hearing and sensing supervision with help from so many talented friends.

All but one of the photographs that illustrate this book were taken by supervisees and supervisors in the 'Supervisible' and 'Picturing Probation' projects (discussed in chapter 5). These projects were part of the COST Action IS1106 on Offender Supervision in Europe which I chaired between 2012 and 2016. Wendy Fitzgibbon inspired and led the Supervisible project, and Picturing Probation was led by Nicola Carr, Gwen Robinson and Anne Worrall. I am grateful for their permission to use some of these projects' photographs in the book, but my debt extends to all 70-odd active members of the Action. This book is, in large part, an attempt to consolidate what I learned from and with all of them. I want to pay special tribute to the Action's core leadership group – Miranda Boone, Niamh Maguire, Martine Herzog-Evans, Christine Morgenstern, Elena Larrauri, Ioan Durnescu, Christian Grafl, Gwen Robinson, Kerstin Svensson, Martin Lulei, Ineke Pruin and Sandra Scicluna and to pay special tribute to Kristel Beyens who, as Vice-Chair, offered me invaluable and unfailing support for those four years.

In places in this book, I have leant on and re-developed or re-purposed previous publications, some involving co-authors. Working with these scholars has been crucial to my development and, in some cases, I have to admit that I don't really know where their ideas end and my ideas begin. In particular, I've been co-writing with Gwen Robinson since we agonized

over 23 drafts of our first co-authored conference paper in 2002−2003. Chapter 2 of this book draws on a more recent book chapter that we co-wrote (McNeill & Robinson, 2016); the section on Foucault leans very heavily on Gwen's contribution to that chapter. Chapter 4 redevelops elements of two earlier collaborations (Robinson & McNeill, 2015; Robinson, McNeill, & Maruna, 2013). It is typically generous of Gwen to let me use our previous work in this way, and I am also grateful to the editors at Palgrave, Sage and Routledge for giving their permission for me to use these earlier works here. Chapters 5 and 6 draw on my recent paper in *Punishment and Society* (McNeill, 2018); I am grateful to Kelly Hannah-Moffat and Sage for permission to do so. Thanks are also due to Wendy Fitzgibbon and Christine Graebsch for their permission to recycle the title of our co-authored chapter about the Supervisible project (Fitzgibbon, Graebsch, & McNeill, 2017) as the title of this book. Jo Collinson Scott and Oliver Escobar kindly allowed me to lean on their musicological (Jo) and political science (Oliver) expertise in writing Chapter 6, drawing on their contributions to our ongoing ESRC/AHRC funded Distant Voices project (www.distantvoices.org.uk).

While I have benefitted enormously from an extensive network of colleagues and friends, not just in the COST Action, but also in the American, British and European Societies of Criminology, I also owe a huge debt to all of my colleagues here at home − in the Scottish Centre for Crime and Justice Research. Since 2006, SCCJR has provided me not just with a great place to work among talented, critical scholars and students, but also with time and space and support. In particular, I want to thank the Centre's founding Directors − Michele Burman, Gill McIvor and Richard Sparks − and the current Director, Sarah Armstrong. Michele has been a hugely supportive, encouraging and effective supporter not just of me but much more importantly of the development of Scottish criminology. More than anyone else, I think, she has laid the foundations for and built the infrastructure to support a whole new generation of scholars who are doing remarkable and important work. My thinking has been continually challenged and enormously enriched by working with the constellation of stellar doctoral researchers clustered around the Scottish Centre for Crime and Justice Research. For example, I owe a debt to Maureen McBride for advice in relation to the brief discussion of

sectarianism of sectarianism in Chapter 3, and to Javier Velasquez Valenzuela for comments on Chapters 5 and 7.

Several other people have also provided invaluable comments on drafts of parts of this book. Peter Conlong and Alan Fleming provided very useful feedback on my use of Scottish Government data in Chapter 3. Jo Collinson Scott sharpened up Chapters 5 and 6, and David Hayes did likewise for Chapters 6 and 7. However, I am most especially indebted to the two wise friends who, over the course of the last year, have provided me with critical but encouraging feedback chapter by chapter: Michelle Phelps and Gwen Robinson. Whatever its limitations, this book is much the better for your advice.

Looking much further back, my career began not in academia but with a decade in practice; first in drug rehabilitation and then in criminal justice social work. That experience still informs what I do even though I realise that it has lost its currency. Being a practitioner in both settings left me with respect and admiration for 'those who do'; especially those who persevere in pursuing justice and providing help despite the obstacles oftentimes placed in their way by society, by government, and by policies and systems. That's why this book is dedicated to Gordon McKean (a good friend and former colleague) and to 'all the Paulines' (if you read the short story, that dedication will start to make sense).

Finishing a book is often the hardest part. I want to thank Heather Irving lending me her lovely house in the beautiful Fife town of Anstruther in early June 2018 for the few days that I needed to piece together the fragments. Here's to the next Tall Ship Session.

Special thanks to my editor Jules Willan and to everyone at Emerald for supporting this project, for being interested in mass supervision and for accommodating my eccentricities. It's great to be part of something new and exciting. I hope this is the first book of many that Emerald will publish on this topic.

Finally, thank you Morag, Caitie and Calum. You keep my feet on the ground but let my head stay in the clouds – at least some of the time.

CHAPTER 1

PUNISHMENT PERVADES

THE WAITING ROOM

Joe sat on the bench in the waiting room. Looking down, he noticed that the bench was screwed to the floor. Not even the furniture here was free. Perspex screens and locked doors separated him and the others waiting

Figure 1. Untitled 1.

from those for whom they waited; the veils between the untrustworthy and those to whom they were entrusted. Joe absent-mindedly read the graffiti carved into the bench; testimonies of resistance that made the place feel even more desperate.

Joe scanned the postered walls, shouting their messages in pastel shades and bold print. Problems with drugs? Problems with alcohol? Problems with anger? Stay calm. Apparently, help was at hand – or at the end of a phone-line. But meanwhile remember that abusive language and aggressive behaviour will not be tolerated. Not in this room that itself felt like an installation of abuse and aggression. To Joe, it said 'You are pathetic, desperate or dangerous. You are not to be trusted. You must wait'.

He fidgeted and returned his eyes to the floor, downcast by the weight of the room's assault, avoiding contact, avoiding hassle, staying as unknown as possible in this shame pit. Better to be out of place here than to belong. This was no place to make connections.

Joe wondered what she would be like – Pauline – the unknown woman who now held the keys to his freedom. Her word had become his law: This was an 'order' after all. He was to be the rule-keeper, she the ruler – cruel, capricious or kind. She might hold the leash lightly or she might drag him to heel. Instinctively, he lifted his hand to his neck, but no one can loosen an invisible collar. At least it was not a noose. Joe swallowed uncomfortably, noticing the dryness of his mouth and the churning in his gut. He was not condemned to hang. He was condemned to be left hanging.

Joe wondered what Pauline would be like.

PERVASIVE PUNISHMENT?

Pervading, adj.: *That pervades; that passes or spreads through.*

Pervasive, adj.: *Having the quality or power of pervading; penetrative, permeative, ubiquitous. (Oxford English Dictionary)*

The opening episode printed *in italics* at the beginning of this chapter – like similar passages at the start of each chapter in this book – forms part of a short story. That story is a work of creative, imaginative writing but it

is a fiction that, like the italic font in which it is presented, leans on research and practical experience of criminal justice supervision, both others' and my own – the same research and experience that forms the basis for the more conventional academic analyses that constitute each chapter of this book.

The purpose of the short story is to imaginatively bring to life the themes and content of this book. Ideally, I want you, the reader, to become curious about Joe and to care about what is happening to him and to the other characters we will meet in other episodes. I hope that by helping us to imagine how it feels to be supervised, and to be the supervisor, this fiction will help us to become curious and to care about the entirely real but largely hidden and neglected forms of suffering and support that this book aims to expose and explore. These are forms of suffering and support that affect millions of people around the world every day and that are imposed, at least in theory, on 'our' behalf, for the collective good. It follows that we all have a duty to imagine, examine and enquire about them carefully, and to consider whether we are content with these forms of pervasive punishment.

That title – *Pervasive Punishment* – perhaps already hints at the difficulty in delimiting such a project. This book concerns a diverse set of institutions and practices about which it is impossible to agree a common or settled language; institutions and practices that have evolved differently in different places. At least some of these definitional complexities will be unravelled later (mainly in Chapter 4). For now, the Anglophone terms 'probation' and 'parole' serve as useful starting points; suffice is to say that our focus here is on sanctions or measures imposed by criminal courts that involve some form of supervision in the community, whether instead of a custodial sentence (as in certain forms of suspended or conditional sentences), as a community-based sentence in its own right (like probation, in some jurisdictions), or as part of a sentence that begins with imprisonment but extends beyond it (as in parole). When US-based scholars write and talk about populations under 'correctional supervision', they sometimes mean *both* people in prison or jail *and* people on probation or parole. Here, I will use the term 'supervision' in the more limited European way, to refer *only* to those under some form of penal supervision in the community.

The title *Pervasive Punishment* is borrowed from a book chapter that I co-authored with Wendy Fitzgibbon and Christine Graebsch. That

chapter explored how people chose to represent their experiences of supervision in and through photographs, as part of a project called 'Supervisible',[1] which will be discussed in more detail in Chapter 5 (Fitzgibbon, Graebsch, & McNeill, 2017). I will use images from that project and from its sister project 'Picturing Probation' (see Worrall, Carr, & Robinson, 2017) throughout the book to illustrate the short story; for example, the picture in Figure 1 is taken from the Picturing Probation project.[2]

Fitzgibbon et al. (2017) concluded their chapter by arguing that:

> […] much of the Anglophone literature on probation practice (and on experiences of supervision) focuses on probation (or supervisory) meetings. The implicit assumption in these studies is that it is in these human encounters that supervision 'happens'. Our findings suggest that the experience of supervision is a much more diffuse and pervasive one; for our supervisees at least, it seems to extend in time and in impact across the life of the supervisee.
>
> Equally importantly, this pervasive impact of supervision is experienced as being painful. Looking across the common themes above, we might argue that this pain consists largely in the combination of being (continually) judged and constrained over time, and in the presence of a suspended threat. (Fitzgibbon et al., 2017, p. 318)

In other words, we argued that the effects of supervision are often diffuse − they pervade the lives of supervisees − and that, even when experienced as helpful, they hurt. By way of illustration, one Scottish participant in the Supervisible project engaged the help of a friend in taking the picture shown in Figure 2. In it, cast as shadows, they dangle from a climbing frame in a children's play-park. Another Scottish participant, interpreting this picture, told me that it reminded him of a spider's web. He saw the two shadows as supervisor and supervised, one elevated and one degraded, both trapped in the justice system: 'the more you struggle, the more tightly it binds you'. However, unlike imprisonment (and here the spider's web metaphor breaks down), supervision seeks to bind not by confining the supervisee to a place, but rather by moving with him or her.

Figure 2. Untitled 2.
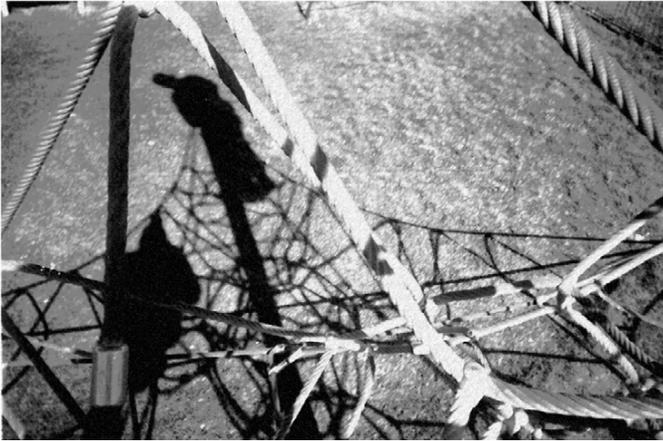
It is, in this sense, an ambulant or mobile punishment (Morgenstern, 2015).

The term 'pervasive' in the book's title also alludes to another sort of penal mobility. It is not just that supervision permeates the lives of individual supervisees; it has also spread through society itself – and even across societies. Indeed, as we will see in Chapter 3, in some places and for some segments of the population, supervision is becoming commonplace, if not quite ubiquitous.

As many readers will immediately recognise, this is far from being a novel observation. Several decades ago, Andrew Scull (1977, 1983), Thomas Mathieson (1983) Stanley Cohen (1983,1985) and others warned of the 'dispersal of discipline' beyond the prison. Cohen's (1985) highly influential book *Visions of Social Control* warned that a policy rhetoric of diversion and decarceration was cloaking the emergence of more expansive and penetrating forms of 'deviance control'. He argued that these new forms were serving to widen the penal net at the same time as thinning its mesh, dredging more people into rather than fishing more people out of the penal system. For both Cohen and Scull, the growth of 'community corrections' (meaning probation and parole systems and other forms of 'intermediate punishments') was an important part of this alarming picture.

Gwen Robinson (2016) has recently reminded us that these sorts of analyses had crystallised by the late 1980s to such an extent that Lowman, Menzies and Palys (1987) produced an edited collection on *Transcarceration*. Rather than accepting the logic of probation, parole and other measures as *alternatives* to imprisonment, the concept of transcarceration stressed the connections and conjunctions between different sorts of penal institutions and measures, suggesting a symbiotic rather than a substitutionary relationship between imprisonment and its supposed community-based 'alternatives'. As Robinson observes, the editors of the collection also stressed that transcarceration involves:

> *the marriage of exclusive and inclusive modes of social control,*
> *as evident in the emergence in some jurisdictions of home*
> *confinement schemes (Blomberg, 1987) and the expansion of*
> *parole and other mandatory forms of post-custodial supervision*
> *(Ratner, 1987). (Robinson, 2016, p. 100)*

However, Robinson (2016) goes on to argue that, during the 1990s and 2000s, rather than continuing to develop, test and refine these sorts of analyses, scholars became preoccupied instead with the advent of mass incarceration (Garland, 2001). In consequence, she suggests that what little sociological interest there has been in supervision has tended to focus on those forms of supervision that are most closely related to imprisonment, that is, parole and electronic monitoring. Other community-based sanctions and measures (like probation or community service) have been even more neglected. This leads Robinson to characterise community sanctions and measures as the 'Cinderella' of 'Punishment and Society' studies, leaving it as:

> *[…] a neglected and under-theorised zone − despite the fact that,*
> *as we have seen, several scholars in the 1980s foresaw the*
> *expansion and diversification of forms of non-carceral control in*
> *many Western jurisdictions, and the empirical reality that*
> *offenders subject to some sort of supervisory sanction in the*
> *community have, in many jurisdictions, come to substantially*
> *outnumber those subject to custodial confinement. (Robinson,*
> *2016, p. 101)*

In writing *Pervasive Punishment*, one of my main hopes is to help Cinderella come to the 'Punishment and Society' Ball.

PERVASIVE *PUNISHMENT*

Robinson (2016) offers three reasons for the neglect of supervision since the 1980s: problems of definition, language and labelling; the relative (in)visibility of the field; and the debatable *penal* character of community sanctions — that is, 'the question of whether such sanctions are in fact instances of punishment at all' (p. 105).

In a formal or legal sense, this is a fair question — and one that, as we will see in Chapter 4, has different answers in different times and places. I have argued before (McNeill, 2013) that probation and parole emerged in many jurisdictions, particularly in Anglophone countries, as something to be done *instead* of punishment or, primarily in countries with Roman law traditions, as a form of *suspended* punishment or as something that follows on *after* punishment to mitigate its adverse consequences by promoting reintegration (Herzog-Evans, 2015; Morgenstern, 2015).

This peculiar status of supervisory sanctions and measures — as something defined by what they are not — may have suited penal reformers trying to divert people from the demoralising dangers of imprisonment and into nascent forms of social welfare (Garland, 1985). However, its current-day legacy is a profound problem of legitimacy for supervision. Rightly or wrongly, supervision has come to be seen, at least in some jurisdictions, as being a service rather than sanction, and one mainly concerned with the interests and needs of 'offenders'. The logic of diverting troubled people from punishment to help may have appealed to the sensibilities of some of our nineteenth- and twentieth-century forebears. However, as many have argued, in the last quarter of the twentieth century, 'welfarism' came to be displaced by 'populist punitiveness' (Bottoms, 1995). This shift in sensibilities conspired to produce a shrinking conceptual space for supervision as an *alternative* to punishment and demand its re-legitimation precisely as a *form of punishment* that also offers protection from certain risks and, crucially, does so at less cost than imprisonment (see Robinson, McNeill, & Maruna, 2013).

I will return to these legitimacy-related late-modern re-framings of supervision (and of punishment more generally) in Chapters 4 and 6. But

there is a second problem posed by the origins of supervision as *diversion from* punishment (see McNeill, 2013; Sparks & McNeill, 2009); a problem that may partly explain the slower progress of human or civil rights discourses in relation to supervision rather than imprisonment. The difficulty rests in the historical roots of community sanctions in many jurisdictions as acts of clemency or mercy. Recipients of clemency or mercy are not diverted from or excused punishment because they *deserve* such treatment; rather, they are diverted because the state elects not to proceed with the measures of punishment to which it *is* nonetheless entitled. As philosophers of punishment have pointed out, part of the point of mercy is that it is undeserved (Murphy 1988; Smart 1969; Walker 1991). For that reason, mercy is not something to which someone can usually extend a rights-based claim.

Even though supervisory sanctions are now often located within a range of penalties with varying degrees of severity, and whether or not this 'tariff' is formalised in law, the public (and sometimes professional) perception remains that the ordering of such a sanction is an act of judicial or executive largesse rather than a determination of justice. When this perception is combined with the public suspicion that such largesse is tied to some aspect of the case that they deem to be of questionable relevance, public cynicism may be the result.

A recent example from England illustrates this point. It concerns the controversy around the sentencing of a 24-year-old woman named Lavinia Woodward, found guilty of 'unlawful wounding'. She had stabbed her then boyfriend in the leg while under the influence of drugs and alcohol. On 26 September 2017, the *Daily Telegraph* (a conservative newspaper, but not a tabloid) reported, on the sentence in the following terms:

> *An Oxford medical student 'too bright' to be given a prison sentence has been allowed to* walk free *from court – despite the judge acknowledging that she broke her bail conditions [...] Lavinia* Woodward *[...] was* spared jail *yesterday as she was commended for her 'strong and unwavering determination' to address her drug addiction [...] It comes four months after Judge Ian Pringle QC described Woodward, an aspiring heart surgeon, as an 'extraordinarily able young lady' whose talents meant that a prison sentence would be 'too severe' (*emphases added*).*

Despite the terms of the report, the Judge had in fact imposed a 10-month jail sentence, suspended for 18 months under a Suspended Sentence Order (SSO). The newspaper fails to report the conditions of the suspension; that is, what Woodward needs to do and not do for the next 18 months to avoid the implementation of a 10-month jail sentence.[3]

Setting aside important and reasonable questions about the fairness and appropriateness of this sentence – and the potential role of privilege in the process – for present purposes, the important point is this: in many of the press reports of this case, the sentence itself is misunderstood and misreported in such a way that its meaning and effects are misrepresented. Woodward was not 'spared jail' and she has certainly not 'walked free' from the court. She *was* spared immediate imprisonment, but for 18 months, a sword of Damocles hung above her head, and she was, at best, semi-free.

A wide range of other conditions can be added to an SSO (though I can find no media or legal reporting of the specific conditions in Woodward's case). Indeed, there are more than a dozen potential conditions in addition to the requirement that she must avoid further offending. Most commonly, a person might be required to submit to regular probation supervision, to undertake unpaid work, to complete an 'offending behaviour programme', or to submit to certain forms of addiction-related, medical or psychiatric treatment. Curfews, exclusion orders and restrictions on travel can also be imposed, with or without electronic monitoring ('tagging'). People subject to SSOs are therefore certainly not spared punishment; the law allows the court to use these conditions (and others, including fines) precisely to satisfy the demands of retribution and punishment. The further punishment of imprisonment continues to be held in reserve.

The misperception that subjects of supervision are recipients of mercy (and have been 'let off') is not a new problem; it has vexed reform-minded policy-makers and practitioners for decades (e.g. Morison Report, 1964; Casey Report, 2008). More broadly, public opinion research tends to show very little public understanding of the nature and requirements of contemporary supervision, although there is evidence of some support for the aims and methods of these forms of sanction when members of the public are given information about them (Allen & Hough, 2007; Maruna & King, 2008). This is an issue to which we will return in Chapter 6.

However, there is perhaps a still deeper problem occasioned by public misunderstanding of supervision and revealed by the Woodward case. Supervisory sanctions have failed to make significant inroads into almost all cultural representations of punishment (e.g. in film, theatre, television and books) and thereby into the public consciousness. Had she gone to prison, we might think we can imagine, whether accurately or not, some of what Woodward would have experienced. People know what prisons look like and, in broad terms, they may think they can imagine what it might be like to spend time inside one. Even if these imaginings are distortions of penal realities, they are at least within our grasp.

But most people would struggle even to begin to imagine what supervision *looks* and *feels* like. It has no obvious architecture and shape. There is no familiar setting and no predictable script to guide our imaginations. As I write, I find it easy to imagine Lavinia Woodward sitting in a prison cell, or working in the prison sheds or laundry, or sitting down to eat a meal in the dining hall, or taking exercise in the yard, or having a visit. It is very much harder to summon any visual imagination of what the SSO means for her and what it is doing to her right now. Is she waiting for an appointment impatiently and, if so, where and in what circumstances? Is she in a drug rehab undergoing some kind of therapy? Is she at home, desperate for a drink or something else to take the edge off the anxiety that the suspended sentence provokes? Or is she completely at ease, relaxed and confident that she can put her life back together, maybe even with the help of a sympathetic probation officer?

Not knowing the answers to these sorts of questions – not being able to visualise and imagine these situations and experiences – leaves us ill-placed even to formulate views about the justice or otherwise of her sentence. Because we cannot imagine what has happened to her, we assume that there is literally nothing to her punishment. That creates a legitimacy deficit. She stabbed a man. He bears a scar. But there is no mark and no measure of her 'punishment' so far as we can see in our imaginations. This is precisely why, in this book, I try to offer multiple forms of representation of supervision – through the creative writing in the short story woven in the text, through the use of photographs and songs (explained and elaborated in Chapter 5 and in the book's postscript) *and* through academic analysis.

MASS SUPERVISION

Our incapacity to engage in informed discussion of supervision matters profoundly, and the problem grows in proportion to the upscaling of supervision in many jurisdictions. The uneven and differently constituted surge in populations subject to some form of penal control in the community will be analysed in Chapter 3. Here, in briefly outlining the shape, structure and argument of this book, I draw out a preliminary map of some of the contours of what scholars have begun to call 'mass supervision' (McNeill, 2013; McNeill & Beyens, 2013; Robinson et al., 2013), 'mass probation' or 'mass penal control' (Phelps, 2013). Figure 3 (below) outlines some of the dimensions of mass supervision that need to be explored and charted.

Figure 3. Dimensions of Mass Supervision.
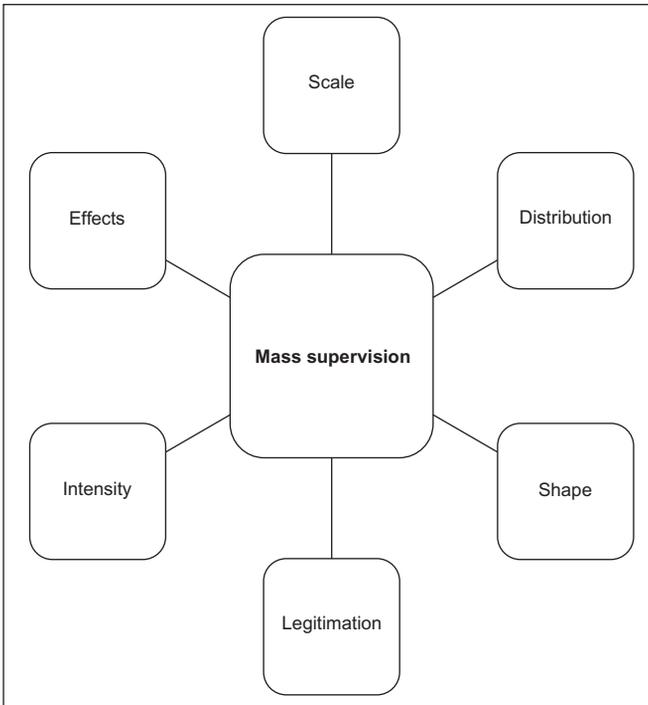
The 'mass' in these phrases is, of course, an allusion to the related and more familiar terms 'mass incarceration' and 'mass imprisonment': a penal phenomenon that, as I have already noted, has preoccupied scholars of punishment since the 1990s. More recently, mass incarceration, in the USA at least, has become a concern not just of a wider range of scholars but also of both social movements (Alexander, 2010) and policy-makers (Travis, Western, & Redburn, 2014).

Nonetheless, the meaning of 'mass' in these phrases has rarely been clearly articulated (though see Garland, 2001; Weisberg & Petersilia, 2010). Often, it is used simply to refer to the increasing number of people incarcerated, but to talk of the volume of supervision (and imprisonment) necessarily begs questions about the scale against which one is measuring and to which one is comparing. Is this a comparison of each jurisdiction's past and present, or a comparison between different places, or does it refer to the volume of supervision relative to the volume of imprisonment or financial penalties? Equally importantly, a more fine-grained analysis of scale requires an analysis of supervision's socio-spatial distribution. Where do we find it most concentrated in time and place and across social strata related, for example, to 'race', class and gender? Which social groups in which locations are most and least subject to supervision? These dynamics of volume, scale and distribution will be the focus of the analysis in Chapter 3.

The 'mass' in mass incarceration also invokes the notion of aggregation and the failure to differentiate, to distinguish, to recognise and to respond to difference. Here, the suggestion is that upscaling requires or is the corollary of a failure to individualise people subject to punishment. When the penal system processes 'masses', it processes them, at best, as 'types' and not as unique human subjects. To borrow Deleuze's (1990) term, the subjects of mass supervision are 'dividuals' rather than individuals, allocated to standardised responses on the basis of some kind of typification or classification, for example, through risk assessment.

In relation to mass incarceration, the most common visual representation of aggregation is the image of the 'warehouse prison', 'packing them in and stacking them high'. Although, as we will see, it does make sense to speak in some contexts of supervision as 'community warehousing' and to speak of 'probation overcrowding' (Solomon & Silverstri, 2008), in another sense, supervision itself is – or at least *can* be – highly variegated.

For example, we noted previously that, even within a single legal instrument like the Suspended Sentence Order in England, supervision can involve a very diverse range of conditions in an even more diverse array of combinations. This complexity will be discussed in Chapter 4, along with the policy discourses and associated organisational arrangements that seek to shape and legitimate supervision in a variety of different ways.

Of course, even if the official legal forms and penal functions of supervision have diversified, whether people *feel* that they are processed as mere dividuals or engaged with as individual human subjects is, of course, a different matter, to which we turn in Chapter 5. In that chapter, we will also explore another potential meaning of 'mass' related to weight. In Ben Crewe's (2009) important work on 'soft power' in an English prison, 'weight' refers to the psychological burdens of imprisonment, to how heavily it bears down upon prisoners. 'Depth' refers to the degree of physical security to which one is subject and to the distance from release and from the outside world that this implies, represents and constitutes. 'Tightness' is the dimension that Crewe adds to refer to the way in which soft power produces a kind of 'invisible harness on the self [which is] all-encompassing and invasive, in that it promotes the self-regulation of all aspects of conduct, addressing both the psyche and the body' (Crewe, 2011, p. 522).

Any analysis of mass supervision will similarly have to explore how, to what extent and with what consequences supervision burdens its subjects, distances them from liberty or autonomy and how it grips them. However, as I will argue in Chapter 5, we also need to explore whether, how and to what extent supervision degrades and misrecognises its subjects.

In the book's last two chapters, I move the discussion into somewhat different territory. Chapter 6 reviews the analysis of the preceding chapters. In sum, I argue that supervision has grown rapidly in scale and that it has spread within and across different societies and penal systems, that it has adapted to its changing environments, taking diverse forms which are differently legitimated and substantiated, but that, crucially, it imposes real suffering on the people who are subject to it, even if it can sometimes also be a helpful and supportive experience. For these reasons, I argue that we need to make supervision 'visible', bringing it out of the shadow of the prison so that we can study and debate it as an important social and penal phenomenon. We cannot develop a critical understanding

of contemporary punishment without understanding 'mass supervision', and we cannot sensibly or wisely pursue penal reform (or abolition) without such an understanding. Chapter 6 then explores the challenges of making supervision more 'visible', exploring whether and how creative forms of 'public' and 'counter-visual' criminology might foster of a different and better political dialogue around crime, punishment and reintegration.

In closing, Chapter 7 offers us two visions of the future. The first, distinctly dystopian, ending imagines an unrestrained expansion of supervision that is more and more reliant on constraining or compelling compliance through technological control. Here, I engage with recent conceptual work exploring the relative penal severity and the 'pains and gains' of both electronic monitoring and 'human supervision'. I end the book by suggesting three principles by which we might avoid this future and restrain mass supervision, urging *parsimony* in its use, *proportionality* in its demands and *productiveness* in its design and delivery. I suggest that it is time to 'rehabilitate' supervision itself, partly through the application of these principles. Both the book and the story end by imagining such a future.

LOCATING THE ANALYSIS

In this short introduction, I have tried to outline the rationale for the book's title and subtitle and, more generally, to explain the scope and structure of the argument. Until now, however, I have avoided the question of where and when this analysis is to be located. The question of timing is easier to resolve than that of place. This is a book about contemporary punishment and about the ways in which, in recent decades, supervision has become more and more pervasive both in the lives of its subjects and in society. That said, understanding this present state of affairs necessarily entails some analysis of supervision's origins and development.

With respect to place, my answer is partly pragmatic. I focus mainly on those places I know best – the neighbouring but sometimes surprisingly different jurisdictions of England and Wales and Scotland. That said, I will also regularly look to the West – in particular to the work of Michelle Phelps and several others on contemporary probation, parole and community corrections in North America. I will also regularly look East, to the work of dozens of colleagues and friends with whom I collaborated in the

recent COST Action (IS1106) on Offender Supervision in Europe. Between 2012 and 2016, that 23-country research network developed new approaches to studying and analysing the development of supervision in 23 European countries.[4] I want here at the outset to acknowledge my indebtedness to the many colleagues and friends who contributed to that network; they have contributed in countless ways to the thinking outlined in the chapters that follow.

This book does not aim to analyse supervision in Africa, Australasia or South America for two obvious reasons. Firstly, I know too little about these jurisdictions to do them any justice. Secondly, I suspect that the imposition upon them of Western, Eurocentric and/or Anglophone frameworks of analysis would be highly problematic and properly contentious.

The next chapter provides some of the resources that we will need to make sense of the emergence of pervasive punishment. To that end, it draws on the sociology of punishment to outline some of the key dimensions of penal change more generally. In my assessment, such an understanding is important not just for making sense of the past and understanding the present, but also for shaping the future.

NOTES

1. For more information on this project see: http://www.offendersupervision.eu/supervisible and http://howardleague.org/research/supervisibleproject/. Accessed on 4 October 2017.

2. The photographs used in this book come from the Supervisible or Picturing Probation projects, or were taken by me. The copyright in these images is held by their authors; their use here has been licensed by the copyright holders. The pictures should not be reproduced without permission.

3. A more thorough and scholarly discussion of this complex case can be found here: https://www.law.ox.ac.uk/centres-institutes/centre-criminology/blog/2017/09/were-discussing-lavinia-woodwards-sentence-wrong. Accessed on 4 October 2017.

4. See www.offendersupervision.eu. Accessed on October 4, 2017.