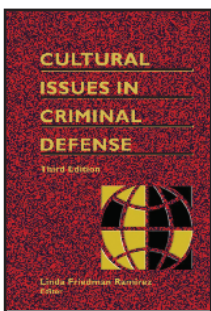


# BOOK REVIEWS

## Cultural Issues in Criminal Defense (3rd Edition)

Linda Friedman Ramirez, Editor  
Juris Publishing (2010)  
Reviewed by Mark P. Rankin



In recent years, many more of our clients are citizens of other countries or, although American citizens, part of a foreign culture within our borders. Illegal immigration has been at the forefront of political and legal movements, resulting in more prosecutions of Mexicans and others for illegal entry offenses. And in the past decade the government has expanded its “War on Drugs” to include the frequent arrest of Central and South Americans who are captured in the Eastern Pacific Ocean. As a result, it is more important than ever for defense counsel to have the expertise and tools necessary to represent clients who speak another language, are citizens of another nation, or otherwise present cultural issues within the framework of their criminal cases.

In *Cultural Issues in Criminal Defense*, editor Linda Friedman Ramirez has assembled a uniquely helpful collection of articles to assist defense counsel in navigating these waters. The chapters, each written by a different author (a who’s who of criminal lawyers), cover a wide variety of issues, some practical and others strategic. For example, chapters on consular resources, interpreters, and interviewing immigrant clients provide counsel with great insight into the nuts and bolts of handling such matters. The chapters covering legal challenges in extradition cases, racial profiling, and selective prosecution set forth in great detail the law and arguments a defense

attorney needs in order to handle those issues. Particularly helpful is the way the book breaks down the cultural matters at issue according to each stage of trial and according to the substantive crimes commonly charged against immigrants. Separate chapters on jury selection, voir dire, sentencing, and appeal make for easy reference. And chapters covering illegal entry and international drug interdiction cases are key resources for defense counsel who regularly handle these matters. Perhaps most important in light of the Supreme Court’s recent *Padilla v. Kentucky* decision is the book’s extensive coverage of immigration consequences of criminal convictions. Although defense counsel should always have been cognizant of the collateral immigration consequences of clients’ criminal cases, *Padilla* makes clear that we are constitutionally ineffective if we fail to do so going forward. *Cultural Issues in Criminal Defense* provides counsel with an invaluable resource for properly advising clients on such matters. Upon reviewing *Cultural Issues in Criminal Defense*, my initial reaction was, “Why didn’t I have this book when I was an Assistant Federal Public Defender?!” I highly recommend this book, particularly for those who practice in federal court or frequently represent immigrants in state criminal proceedings. It will be an incredibly useful tool for effectively representing your clients. ■

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### About the Reviewer

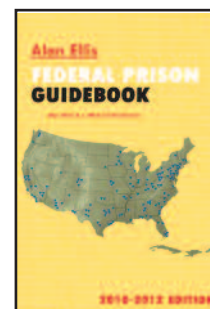
Mark P. Rankin, a partner at Shutts & Bowen LLP, is a co-chair of the NACDL Sentencing Committee.

*The opinions expressed in reviews are those of the reviewers and do not necessarily reflect the opinion of NACDL.*



## Federal Prison Guidebook (2010-2012 Edition)

Alan Ellis and J. Michael Henderson, Editors  
James Publishing (2010)  
Reviewed by Mark H. Allenbaugh



In a country that incarcerates more citizens both per capita and in total number than any other country on earth, and in a system that has the dubious distinction of having the largest and one of

the fastest growing inmate populations in the United States, the federal prison system ironically remains an enigma for many defense counsel and the general public. The *Federal Prison Guidebook* lifts the veil on the mystery of post-conviction law, policy and practice in a concise, comprehensive, and well-organized fashion with up-to-date information.

The *Guidebook* primarily provides detailed information on each of the 114 federal prisons including those that are privately operated, from commissary privileges and recreational activities to religious and educational services. Authors Alan Ellis and J. Michael Henderson include interesting tidbits, such as information about the availability of traditional sweatshops offered to Native American defendants and a training and certification program in an all female federal fire brigade. The *Guidebook* also provides information about the type of prisoners housed at each facility, the security level of the facility, inmate population, and local lodging accommodations for friends and family visiting the inmates.

However, the title of the *Guidebook* does not fully capture the wealth of information provided.

For example, there are chapters on federal sentencing practice tips for defense counsel, a comprehensive introduction to the advisory Federal Sentencing Guidelines and how they are applied, detailed case law analyses, information concerning habeas corpus practice, and tips on navigating the complex Bureau of Prisons' administrative process especially with regard to how defendants are classified for BOP placement purposes. It therefore is not just a *Guidebook* on prisons, but on the law, practice and policies that encompass the entire federal post-conviction world.

Among the highlights of the *Guidebook* is information about the UNICOR or "prison industry" programs available to inmates at virtually all BOP facilities. These programs essentially are factories within the prisons that provide occupational training and employment to inmates as well as a modest income.

There also is a comprehensive review of the TRULINCS (now known more popularly as CORRLINKS) program that allows inmates in some institutions to correspond by email with family and friends. This also can be quite useful for defense counsel, although one must be wary not to waive any attorney-client privileges or breach confidentiality when using this monitored system. I have found that TRULINCS/CORRLINKS provides an excellent alternative to frustrating phone tag between counsel and client, or having to rely on family members as informational intermediaries.

Importantly, the *Guidebook* also offers tips on getting your client into the best prison for her needs, as well as information on early-release programs

such as RDAP (Residential Drug Abuse Program). In this regard, among the more important tips in the *Guidebook* is how to work with the sentencing judge to draft effective language in the Statement of Reasons to increase the likelihood that your client will be placed in the prison of her choice and be made eligible for early-release programs (or at least not be made ineligible).

A common misperception among clients is that the sentencing judge can order where a defendant spends his time; sentencing judges only can recommend where the sentence is to be served; the Bureau of Prisons has the ultimate say, but a well-drafted and factually supported Statement of Reasons by the court can and often does influence where the BOP decides to place an inmate.

Perhaps the most important chapter for defendants who are about to self-surrender to the BOP is "How to Do Time." This very detailed chapter covers everything from what to bring when reporting (not much, and no more than \$300) and what to expect, to solving problems with prison staff, to furlough eligibility. The chapter on medical care also is extremely important for those clients that require prescription medication or otherwise require medical treatment. There is even information about advanced health care directives that may incorporate "do not resuscitate" instructions. Having your client review this chapter can ease some of the anxiety that necessarily accompanies imminent incarceration.

The *Guidebook* simply is a must-have for any practitioner, academic and court official, as well as — and perhaps most importantly — defendants facing a federal sentence and their family members. In short, anyone involved or interested in the byzantine world of federal criminal law will find the *Guidebook* a robust and, in fact, fascinating introduction into that world, especially the post-conviction and post-sentencing world — an often neglected area of law in which exceedingly few defense attorneys specialize. Where and how a client serves his time, after all, can be just as important as the sentence he receives. ■

### About the Reviewer

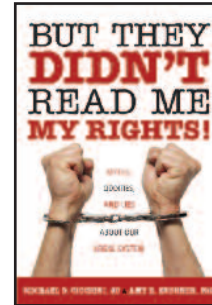
Mark H. Allenbaugh, a managing partner at Allenbaugh Samini Ghosheh LLP, is a co-chair of the NACDL Sentencing Committee.

## But They Didn't Read Me My Rights: Myths, Oddities, and Lies About Our Legal System

By Michael D. Cicchini and Amy B. Kushner

Prometheus Books (2010)

Reviewed by Matthew G. Kaiser



One of the guilty pleasures of criminal defense is hearing the deeply held false beliefs people have about our legal system. They can be familiar or exotic: the client who explains that the federal court

does not have jurisdiction over his case because of the details of the Uniform Commercial Code; the client's mom who thinks her son cannot be convicted because he dropped the drugs while the police were chasing him so the cops did not pull them off of his person; or the woman who believes she does not have to pay income taxes because of a book she ordered from the Internet.

I do not know if these beliefs persist because of a failure of our public schools, because people cling to desperately false beliefs in difficult situations, or because our ideals of fairness and justice do not match up with the policies of our ever more statist criminal justice system. In any event, they are fodder in the recent *But They Didn't Read Me My Rights!: Myths, Oddities, and Lies About Our Legal System*.

This book does what it does well — the prose is light and the explanations are clear. Many of the discussions do a great job of showing the absurd state of our criminal laws. One delightful discussion lists the varied facts that police have used to obtain probable cause to search a car — from the driver being nervous or easygoing, to possessing a cell phone, to the presence of fast food wrappers. These are familiar notes, but it is still nice to hear them played again, and the authors play them well.

The book has a clear pro-defense slant to which I suspect most readers of *The Champion* will not object. In a chapter on the prosecutions of children, the authors observe, "But that's the way it goes in today's hypervigilant, anticrime climate. We love our punishment, and we love it harsh." In a passage noting the difficulties of modifying an overbroad

disorderly conduct statute through the legislative process, the book concludes, “With the incomprehensible volumes of laws on the books today, most citizens simply do not even know or care about the disorderly conduct statute, and many other statutes, until they are personally steamrolled by it. Only then will many of us realize the tremendously long and invasive reach of the government into our private lives.”

Some of these sections are excellent, and should be distributed by NACDL at bus stops to make the life of every practicing criminal defense lawyer easier — particularly the section explaining why a complaining witness cannot “drop the charges” and make a criminal case go away.

As a whole, however, the myths and oddities it collects are so disparate — from “Is oral sex illegal?” to “Do all lawyers go to trial?” — that it is not clear that this book has any meaningful audience. Are there people out there with a wide variety of odd and unrelated legal questions that are going unanswered?

Worse, in many ways the book’s explanations are so general as to be useless. The authors try to answer the questions behind these myths without respect to the law of any particular jurisdiction. One can understand why; they want the book to sell in Wisconsin and Washington. But the topics they address do not lend themselves to such a project. For example, their discussion about the law of making a citizen’s arrest simply says, in many more words, it is complicated and varies a lot by state law. That’s true, but useless.

More troubling are the sections where the authors retreat to a level of generality that renders their answers inaccurate. For example, their description of pretrial release simply does not apply to federal law. This is a quibble, perhaps, but it may not be unreasonable to expect a book that explicitly seeks to rebut false beliefs about the legal system would avoid creating new ones.

Like an engaging young criminal defense lawyer with a hopeless case, it is hard not to like these authors for how earnestly they are working on their task and for the flourishes they use in furtherance of their cause. But it is a little hard to keep from wondering why they are doing it in the first place. ■

### About the Reviewer

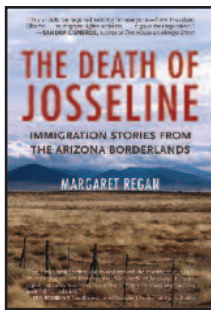
Matthew G. Kaiser is an attorney in Washington, D.C.

## The Death of Josseline: Immigration Stories From the Arizona — Mexico Borderlands

By Margaret Regan

Beacon Press (2010)

Reviewed by Angela J. Moore



*La Niña Perdida* (the little lost girl) was named Josseline. She was 14 years old at the time she and her 10-year-old brother left Arivaca, an old ranching town in Northern Mexico to travel to Los

Angeles to meet her mother. After several days travel, Josseline, five feet tall and 100 pounds, took ill. The coyotes (smugglers) left her behind in the scorching heat, assuring her that the border patrol would be along soon. She sent her little brother ahead with the smugglers; he made it, but Josseline went missing. The coyotes actually called her mother, claiming that Josseline was with them and telling her mother to pay the rest of her fee to get her back. A “no more deaths” volunteer — looking for stranded or ill migrants — went out into the heart of the desert with jugs of water and food. He found pink sweatpants with “Hollywood” written across the backside and bright green athletic shoes. The body was unrecognizable. Josseline, a little girl, died alone, afraid, and severely ill in the desert. Her mother, in this country illegally, could not even attend the child’s funeral.

The medical examiner in Yuma County, Ariz., had to acquire new personnel to perform autopsies on the ever-increasing body count brought to the morgue. The numbers have grown from nine bodies in 1998 to 146 in 2002. Josseline’s clothing assisted in identifying her remains. For the bodies that are unidentifiable, the doctors use x-rays and perform an anthropological evaluation. The detective work is costly and time-consuming, but Dr. Parks, the medical examiner in Yuma, believes identifying the remains has a deeply moral dimension. He explains, however, that “it’s not popular with the public.” He believes it is a moral responsibility to find a name for the deceased, find their families, and allow them to be laid to rest at their home.

Margaret Regan sets a stage that is impossible to forget. Politicians argue

and blame every economic problem on “illegal aliens,” that is “undocumented persons.” The severe hardships, loneliness, and death are rarely discussed at political rallies. The author also addresses the effect of the wall built between the two countries. Mexican nationals are not the only migrants. Many come from deep Central America where their indigenous language is their first language. The effects of the crack-down at the border have resulted in migrants taking more dangerous routes and risking their lives. Regan does not leave the reader with a clear answer, yet she raises many questions when discussing how to solve the immigration problems at the Mexican border. Clearly, there must be a better way to resolve *la tristeza de la muerte*. ■

### About the Reviewer

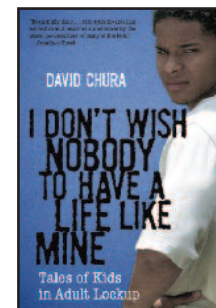
Angela J. Moore serves as Chief Appellate Public Defender in Bexar County, Texas.

## I Don't Wish Nobody to Have a Life Like Mine: Tales Of Kids in Adult Lockup

By David Chura

Beacon Press (2010)

Reviewed by Michelle Inderbitzin



For anyone who has spent time in jails or juvenile correctional facilities, David Chura’s *I Don't Wish Nobody to Have a Life Like Mine* will seem familiar; the settings and the stories ring true. Chura

has captured a snapshot of young people in an adult jail in a way that brings poignancy and a gentle urgency to the topic. For those who have not been inside such institutions, Chura’s detailed descriptions offer a glimpse behind the walls, showing the vivid personalities of young people growing up behind bars and spotlighting a few of the people who work with them on a daily basis.

In this vivid memoir, Chura offers the perspective and stories of a jailhouse teacher as he reflects on a decade of working in New York at the Westchester County Correctional Facility. Throughout the book, Chura introduces readers to the “children of disappointment” he taught

and came to know, offering brief but compelling details about their lives and circumstances.

Chura went from working at an alternative school teaching kids who were “at risk” to working in a jailhouse school with kids who now *were* the risk to themselves and those around them (p. 1). By focusing each chapter on a different individual, Chura paints a picture of the unique challenges facing this population and the corrections workers watching over them; the young men in custody were “raised on disappointment” (p. 97) and Chura describes some as addicted to the streets and “addicted to jail” (p. 73).

While most of the book focuses on the young men, there is also a chapter on Chura’s experiences with incarcerated young women. In “Mothers of Invention,” he discusses the emotional turmoil of the women’s unit, where relationships, jealousy, and gossip are a central part of daily life. At the same time, Chura offers the reader a glimpse of hope, showing the optimism and excitement of young women making improvised cakes and puddings for each other to celebrate birthdays and other special occasions spent in jail. The resilience of the youth in the jail is admirable; some maintain a “bedrock

belief” that life is good: “no matter how bad it gets, no matter how much pain there is, life is all good, *all* lives are good” (p. 28).

Chura also shows the different sides of correctional officers, medical staff, and administrators in the jail, documenting varied attitudes and behaviors. The first two chapters present a particularly negative view of jaded corrections workers, unsympathetic to the “human garbage” they are charged to watch over or the women and children that come to visit them. Later in the book, Chura relates a touching story of a tough, no-nonsense officer caring tenderly for a suffering, mentally impaired boy, even as a jailhouse nurse stands in the doorway simply waiting for the doctor to arrive.

The small scenes of life in a total institution make an impression. In a setting where most markers of inmates’ outside identities are stripped away, Chura notes the importance of tattoos, explaining they are one thing that the Department of Corrections cannot take away from young men in custody. Birthdays, too, hold particular significance for those who do not expect to have long lives (p. 19).

Chura combines jailhouse argot and young people’s slang with a literature

teacher’s love of words and well-turned phrases. While some passages in the book are beautifully written, at times Chura’s choice of words is jarring, perhaps too crude for the message he is trying to relay. In addition, the implicit judgment present in his words and tone may be off-putting to some readers. But the vivid language and background do make the book and the stories memorable.

Overall, *I Don’t Wish Nobody to Have a Life Like Mine* provides an inside view on a difficult topic. To really understand the experience of incarceration takes time and effort, and Chura has clearly put in both. After spending the majority of his career working with at-risk and incarcerated young people, this book is Chura’s attempt to share the lessons he has learned with a larger audience. Some of the stories are painful to read, but paying heed to the voices of incarcerated youth offers a gritty view into the American justice system, and it is a journey well worth taking. ■

### About the Reviewer

Michelle Inderbitzin is a professor at Oregon State University.

## THE NACDL INDIGENT DEFENSE COMMITTEE INVITES NOMINATIONS FOR THE 2011 Champion of Indigent Defense Award

The NACDL Champion of Indigent Defense Award recognizes an individual for exceptional efforts in making positive changes to a local, county, state, or national indigent defense system. Although the outstanding representation of every indigent defendant is one of NACDL’s foremost goals, this award is intended to highlight efforts toward positive systemic changes through legislation, litigation or other methods and not the outstanding representation of individual clients.

### The Champion of Indigent Defense Award is awarded annually at an NACDL quarterly meeting.

#### Nomination Guidelines

Nominations may be made by any individual or group and must include:

- the name, title, address and phone number of the nominated person/group
- the name, title, address and phone number of the nominating person/group
- a summary, not to exceed two (2) single-spaced pages, of:
  - the problems that exist(ed) in the relevant indigent defense system
  - the efforts made by the nominee to improve the system (e.g.,

coalitions formed, legislation proposed, task forces created, litigation initiated)

- the number of years the nominee has been involved in efforts to improve indigent defense and a brief history of the nominee’s career
- any changes that have been made in the system as a result of the nominee’s efforts.

Any supplementary materials — such as brochures, reports, or news articles — also may be included. Unlimited letters of support may be submitted. Nominations must be postmarked or emailed by **March 1, 2011**, and sent to: NACDL Champion of Indigent Defense Award, Attn: Patrick Veasy, 1660 L Street, N.W., 12th Floor, Washington, D.C. 20036 or [patrick@nacdl.org](mailto:patrick@nacdl.org) (subject line: Champion of Indigent Defense Award).

#### Eligibility and Selection:

The recipient shall be selected by the Co-chairs of the NACDL Indigent Defense Committee upon the recommendation of the Indigent Defense Award Subcommittee. It is not necessary that the nominee be a lawyer; non-lawyer advocates and reformers will be considered. The Co-chairs of the Indigent Defense Committee and the members of the Indigent Defense Award Subcommittee are not eligible to receive this award but may submit nominations.