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Version: Published Version

Online resource:

Barker, Chris (2020) Lockdown is nothing like being in jail. But it should change the way we think about imprisonment. USApp - American Politics and Policy Blog (23 May 2020). Blog Entry.

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Lockdown is nothing like being in jail. But it should change the way we think about imprisonment.



For many, COVID-19 related lockdowns have evoked – largely inaccurate – comparisons with incarceration in prison. [Chris Barker](#) writes that while the analogy is limited, such thinking should encourage us to examine our own attitudes to punishment in America and what custodial sentences seek to achieve.

This story has two parts. The first part is about the effects of social isolation on the American public during the COVID-19 lockdown. Loneliness, we are told, may be as bad for our health as smoking [15 cigarettes a day](#). Social isolation is associated with feelings such as [guilt](#), [grief](#), [boredom](#), [fatigue](#), [stress](#), [distress](#), and [dread](#). The data appears to back the qualitative terms media outlets use to define the stresses of the lockdown period: [social isolation](#) is harmful [across age groups](#).

The second part of the story is where politics enters: What does isolation resemble? For many, COVID-19 related uncertainty, isolation, lack of access to traditional employment, and suppressed rights of mobility and association all bear a passing resemblance to house arrest, or even a prison or jail sentence.

As one [incarcerated person argues](#), the analogy is limited. People on the outside still have it much better. Inside, you can expect confined spaces, limited access to employment, lack of access to family—all the socializing things that keep us balanced in tough times. And that should encourage us to ask: if these are features of balanced lives, why do prisons and jails segregate offenders?

Imagine social distancing's limits on mobility and association. Now [take away your kids](#). (Video visitation-only is on the rise in county jails and contact visits in prisons are often difficult and inconvenient for families.) Add a stranger to your lockdown, if you're lucky, or no one at all, if you're not. Then, confine yourself to your closet. (The standard cell size in the US is 6' by 8'. [These photos](#) may help you imagine the varieties of prison cells in the US, and across the world.)

Substitute furniture assembly or cleaning-up duties for your normal job. Take away bills, mortgages, checks—all your financial planning. Reimagine [your pay](#) somewhere between 14 cents and \$1.41 per hour. Does this situation track the set of skills we want for those returning to society?

The failure and damage of incarceration

On the surface, no. For centuries, since the birth of the American penitentiary system under Quaker influence in the late 18th century, the system has been a highly artificial world where isolated offenders could commune with their god free of “social contamination.” That system, if well-intentioned, was flawed from the get-go, and the statistics on recidivism today, where two-thirds of state prisoners [reoffend](#) within three years, tell the same story of institutional failure.

The economic impact of incarceration is telling. Like our lives during the COVID-19 lockdown, “[purposelessness and excruciating boredom](#), not overwork, are the dominant features of most prison yards.” Pay is low, as noted, and the [varieties of work](#) are limited. Young men lose prime earning years of their lives, and have a hard time catching up, especially if they must admit on job applications that they have a prior felony conviction. And what useful social purpose does this serve beyond enforced social distancing, which increases the gap between the haves and have nots?

Moreover, there is a racialized component to lockdown. Michelle Alexander, author of *The New Jim Crow*, persuasively argues that the over-representation of black males in US jails and prisons ([by 300 percent](#)) is analogous to the Jim Crow politics of racial exclusion.

Finally, for those locked down in isolation, the situation may be considerably worse. Consider [Craig Haney's study](#) of the psychopathological effects of long-term incarceration in the Secure Housing Unit at Pelican Bay and in Supermax prisons. [Writing in the Cornell Law Review](#) on the constitutionality of solitary confinement, Kenneth M. Cole III captures judicial concerns about its Orwellian inhumanity. Or we can go back to the seminal the 19th century penitentiary analyses of Alexis de Tocqueville, who thinks that solitary “does not reform; [it kills.](#)” Or try solitary out [yourself](#) for a few virtual minutes.



[“Hundreds Join Philly Car Caravan to Demand Decarceration”](#) by [Joe Piette](#) is licensed under [CC BY NC SA 2.0](#)

How we can change American punishment

What can be done? As Vanessa Barker (no relation) [argues](#), punishment is not merely repressive; it represents public will. James Whitman’s *Harsh Justice* [agrees](#). The ultimate source of punitiveness is the American people, who have chosen to manage punishment through the “democratic politics” of elected officeholders who impose the community’s image of justice. If American punishment is to change, our attitude needs to change.

Right now, federal prisons and some state prisons are [on lockdown](#). Early or temporary [release](#) is an answer in some jurisdictions. These experiments should encourage us to [rethink](#) the utility of pre-trial incarceration, which accounts for 60 percent of the persons being held in US jails. The [Vera Institute](#) and [Pretrial Justice Institute](#) have been working on quantitative risk assessment tools that would help to ensure that only those who should be behind bars while awaiting trial are behind bars.

The larger “ask” is not for a deeply divisive change in *why* we punish, but for a more skeptical attitude about how we punish. There are four points.

First, monitor the [discretionary power](#) of prosecutors. As Angela Davis [argues](#) in *Arbitrary Justice*, prosecutors are “the most powerful officials in the criminal justice system.” John Pfaff also [argues](#) in *Locked In* that their changes in charging decisions are “the engines driving mass incarceration.” Both authors suggest reforms including applying ABA standards to prosecutors, and random reviews of prosecutors’ closed cases.

Second, reform jails and permit access to families and work. Jails are in some sense the [location of mass incarceration](#). Jail admittances are too disruptive for jobs and families to be as high as they are (about 11 million per year). We should move away from what Alexandra Natapoff calls the “[massive misdemeanor system.](#)” Bail reform can be a hard sell if crime rates appear to rise after reforms, as New Yorkers [recently discovered](#), but the time to rethink bail is now.

Thirdly, change the spaces. An improved architecture of imprisonment is needed: less isolation (e.g., for [gang-validated](#) persons), more interaction in a flexible environment rather than the older [inflexible cell-based](#) model. Those older environments are [hard on guards](#), too.

Four, end solitary. Everyone should have the option to have a cellmate.

In the age of COVID-19 we have partly undone the knowledge gap identified by James Whitman. We know the harshness of the punishment we are inflicting, and we should now be more capable “of the kind of routinized, sober and merciful approach to punishment that is the stuff of the daily work of punishment professionals.”

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Note: This article gives the views of the authors, and not the position of USAPP – American Politics and Policy, nor the London School of Economics.

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