

**PS 1281: SEMINAR IN AMERICAN POLITICS RACE AND THE CRIMINAL JUSTICE
SYSTEM (INSIDE-OUTSIDE Fall 2017)**

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Essay Question: Reflect on the below quote by John Pfaffe. What tradeoffs would you be willing to make, if any? Think creatively.

“What if a reduction in prison populations would allow 100,000 children with at least one parent in prison to now have both parents at home, but at a cost of 5 percent rise in aggravated assaults [or even some murders] – is this a fair tradeoff, even assuming no other criminal justice benefits [like lower offending rates among these children[?]”

Reflection:

Worst trade deal since NAFTA Maybe.

Pfaff's hypothetical question poses multiple variables: a reduction in the prison populations would provide 100,000 children both parents at home, in doing this aggravated assaults would rise by 5 percent, as well as some additional occurrences of murders: Without considering any other criminal justice benefits, such as lower future offending rates among the 100,000 children, I must determine whether this is a fair trade-off.

The number of prisoners being released through the reduction could be less than or greater than 100,000. Many inmates have children, but some are mothers and fathers of four or five children. So the number of prisoners released in Pfaff's scenario is most likely under 100,000 inmates. In fact, the number of prisoners released could be as low as 50,000 to 25,000. From a mass incarceration standpoint that figure is a drop in the bucket. Statistics on prisoners in state and federal institutions from 2014 show our prison population consisting of over 1.56 million people. Add to that an additional 700,000 prisoners housed in the various county jails and the incarceration population extends to 2.2 million.¹

¹ See John Pfaffe: *Locked In*, p. 2

Now compare the above statistic with the variable that 100,000 children via the prison reduction will now have both parents at home. Let's also be outrageously optimistic and use 100,000 as our variable of prisoners to be released through the prison reduction. That would still leave over 2 million people incarcerated in county, state, and federal institutions.

If we only view our prison population as inmates incarcerated in state and federal facilities (1.56 million), then Pfaff's storyline leaves us with a prison population of 1.4 million still incarcerated after the prison reduction. If our situation was modeled to have occurred in 1972 when the amount of people incarcerated in our state and federal prisons was a mere 200,000, then we would have something to write home about.

The next variable in my reflection is whether this would be a fair tradeoff even at the cost of a 5% growth in aggravated assaults and perhaps some murders. From an analytical standpoint, the tradeoff doesn't appear to be fair.

Good
excellent point } Most certainly the victims of the aggravated assaults and murders would not find it to be fair. Let's look at it this way: Per the scenario, through the proposed prison reduction, there would be a 5% increase in aggravated assaults. Thus, there must be a *correlation* between the prison reduction and 5% rise in violent crime. So at least some of the benefits of the children having both parents at home and the prison population reduction would be, at best, short lived. The very benefit the children would receive through the prison reduction, would be negated by the 5% rise in violent crime, i.e. at least some of the parents would just end up back in prison.

Common sense mandates that a rise in aggravated assaults would lead to more victims of violent crime. The rise in victims of violent crime would lead to public outcry. Public outcry would then lead to "tough on crime" legislation. Tough on crime legislation would lead to more people in prison, with possibly even more severe sentences. More people in prison with longer sentences would lead to more children in single parent households.

Not so fast. The devil is always in the details. Pfaff's proposal pointedly states that the prison reduction would "allow 100,000 children with at least one parent in prison to now have both parents **at home** [.]". The prospect of actually having both parents *at home* is nothing to brush off.

Women account for only 11.4 percent of the United States' prison population.² This means it's reasonable to believe that most of the prisoners released in Pfaff's offering would be male, and thus the children would be receiving their fathers back into the household. There are needs that fathers can meet that a mother can't. Historically, fathers have been viewed as a household's protector, disciplinarian, and breadwinner. Most families with an incarcerated parent are located in urban neighborhoods, putting 100,000 fathers back into 100,000 households in urban sections is potentially a substantial benefit to these families and communities.

Sadly, incarceration, while acting as the apparatus to keep social disorder in check, has become the very mechanism to fray its fabric. The family is the fabric of society. Meda Chesney-Lind in her book, *Invisible Punishment*, said "[w]hen most families in an neighborhood lose fathers to prison, the distortion of family structure affects relationships norms between men and women as well as between parents and children, reshaping family and community across generations." It should come as no surprise that children with an incarcerated parent have it rough. When you add to that the fact that most of these single parent children live in poor, crime ridden areas you have a double disadvantage. Before these children even really start their lives they are faced with incredible odds. So much for equal opportunity.

Across the board, researchers agree "that children with an incarcerated parent are more likely to experience homelessness and foster care."³ Having both parents in a household would undoubtedly reduce the cost and horrors associated with homelessness, foster care, and the welfare system.

At the end of the day, I reluctantly conclude that Pfaff's proposal is not a fair tradeoff.⁴ The 5% crime increase as a consequence of the prison reduction

² See **Meda Chesney-Lind**: *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*

³ See **Peter K Enns**: *Incarceration Nation, How the United States Became the Most Punitive Democracy in the World*, at p. 7; Bernstein 2005; Foster and Hagan 2007.

⁴ It should be noted that I am hamstrung in not considering another criminal justice benefits such as the lower offending rates among the children. Had I been able to consider that detail my conclusion could very be different.

would negate any positive that could come from the initial reduction in the prison population. Any tradeoff that I, or even the public, would be willing to make could not be associated with an unambiguous crime rate.

Part Two: What tradeoffs would I be willing to make, if any? Think creatively.

An absolute variable of an increase in violent crime as a result of decarcerating our prison population is unacceptable. If prison reduction causes a rise in the violent crime rate then it's a self-defeating effort. I am arrogantly optimistic that we can do better.

OK Judge Aldisert, said "[a] drop of ink cannot be removed from a glass of milk."⁵ We must stop attempting to make our system drinkable. We need to start over. We need a radical reconstruction. Laws must be enacted entirely restricting the influence of lobbyists in the criminal justice/correctional system. No organization, corporation, or individual that has a financial interest or motivation should remotely have a say in how our criminal justice and correctional system is run. This includes correctional and law-enforcement unions. We must defang the capitalistic influences on our system.

We need to establish a public outreach campaign. Town hall discussions where the issue of mass incarceration takes center stage need to be arranged. The public needs to be educated on all the costs associated with the correctional system. They need to be informed of what it actually costs them to house one inmate in prison per year. They need to be educated regarding the cost associated with the employing an enormous body of correctional officers. Additionally, we need to push for progressive candidates to run for office on the platform of ending mass incarceration.

Next, from a legislative standpoint, we must enact laws that statutorily mandate that the judiciary sentence offenders in the spirit of rehabilitation. Lengthy prison terms should only be utilized in rare circumstances. This would entail revamping our sentencing guidelines so that sentencing is geared toward rehabilitation as their main objective.

⁵ See *Govt. of the Virgin Islands v. Toto*, 529 F.2d 278, 283 (3d. Cir. 1976)

Lastly, our correctional system is in need of a total overhaul in as far as setting people up for success upon their release. Currently, prisoners leave prison in an uphill battle. This is defeating the purpose. By the very nature of corrections, prisoners should be leaving prison in better shape than when they entered.

good Upon entering the correctional system, the offender must be given a *thorough* assessment as to diagnose the exact reason the person committed the offense. Once that is determined, a correctional team should evaluate what changes need to be made so that the offender doesn't recommit upon release. An *individualized* plan should then be prescribed.

The current treatment programs are, at best, an absolute farce and complete waste of taxpayers' money. There is zero diversity in treatment. They prescribe a one size fits all fix. For example, a person convicted of selling drugs will, as part of their treatment plan, be mandated to participate in a drug treatment program (T.C.). However, the reason the person started selling drugs in the first place had nothing to do with drug addiction, but was entirely economically driven. The public would be better served in having this offender trained to join the work force.

Realistic job training should be at the forefront of rehabilitation. A program should be enacted that would ensure employment for the offender upon release. This initiative would work on multiple fronts. It would eliminate the economic urges for the offender to enter back into the criminal element, and from a commonsense standpoint, if someone is working they will not have time to get into trouble. I believe there is truth to the old axiom that – "idle time is the devil's playground".

A criminal justice and correctional system that is punitive in nature will be its own ruin. Not fixing our system now will come at a devastating cost to society and our wallets.

Optimist Outlook:

If we take the innovative step of actually gearing our correctional system towards *corrections and rehabilitation* then our future is bright. Our offenders will leave prison as leaders. Where they were once a bane to their communities they will now become a boon. Rather than reoffending, they will guide others to veer away from illegal activity. With rehabilitation at the forefront we will see a substantial prison reduction, more dual parent households, and a **dramatic decrease in crime**.

Another excellent essay. You can clearly do college-level work.

(A)