

Khaleel Grant, Elsa Hardy, Max Mishler, and Elizabeth Ross //

Starting in December of 2020, a series of rebellions rocked the St. Louis City Justice Center (CJC) and the St. Louis City Minimum Security Institution (MSI), frequently referred to as “the Workhouse.” People incarcerated at both institutions broke out of their cells, detained correctional officers, smashed windows, and set fires to draw attention to their demands for basic protections and human rights. In addition to proper personal protective equipment (PPE) and access to regular testing, these activists demanded adequate clothing, a functioning heating system, family visits, and actual court dates. A majority of those confined to these municipal cages are pre-trial detainees awaiting trial; many participants in these disturbances had spent nearly a year in jail without being given a court date. While city officials characterized the protesters as “aggressive, very violent” people who simply “decided they were going to engage in criminal mayhem,” community activists on the outside took a different view: “This was an act of courage,” they argued, from desperate people whose “needs are still not being met.”<sup>[1]</sup>

The coronavirus pandemic will leave in its wake millions of deaths and tens of millions of lives irrevocably altered by both the disease and the socio-economic fallout it has caused. However, these rebellions in St. Louis illustrate a fundamental point worth emphasizing: COVID-19 compounded pre-existing structures of inequality and unfreedom.<sup>[2]</sup> We have all struggled to reimagine work, politics, and social life in an age of “social distancing,” but human beings who were previously rendered insecure by racial capitalism became especially vulnerable to mortality, illness, and the collateral consequences of public health during the pandemic. The same communities targeted by police and Immigration and Customs Enforcement (ICE) officers, for example, found themselves disproportionately exposed to disease. In the United States, home to the world’s largest prison population and one of the epicenters of a global outbreak for much of 2020, the story of COVID-19 is inseparable from histories of mass incarceration and police violence.

At the same time, the political disturbances that rocked St. Louis’ municipal jails capped off nearly a year of national protests—associated with the Black Lives Matter movement (BLM)—precipitated by the murder of George Floyd at the hands of Minneapolis police officers. Despite calls from public officials to shelter in place during the summer of 2020, thousands of people took part in the largest wave of urban protests in American history.<sup>[3]</sup> This special issue of *Synopsis* brings together scholars, activists, journalists, physicians, and artists to reflect on the multiple entanglements of police, prison, and plagues that link the BLM protests, the jail rebellions in St. Louis, and COVID-19.

The COVID-19 pandemic, like Hurricane Katrina, has revealed that there is no such thing as “natural disasters.”<sup>[4]</sup> Rather, marginalized communities (i.e. people denied equal citizenship because of racism, sexism, homophobia and xenophobia; people impoverished by labor exploitation or exclusion from the labor market; and indigenous peoples subject to predatory inclusion) are easy prey—structurally speaking—for deadly pathogens.<sup>[5]</sup> They also suffer disproportionately from the collateral consequences of public-health security regimes.<sup>[6]</sup> The COVID-19 pandemic has produced an uneven spatial distribution of suffering along the lines of race, gender, and class. This is especially true for people who are incarcerated or who otherwise live under carceral control (parole, probation, and police occupation).

Indeed, COVID-19 necessarily poses a unique risk to incarcerated people who are confined within over-crowded institutions home to paltry medical care and insufficient nutrition. According to a report in the *Journal of the American Medical Association*, “Novel coronavirus disease 2019 (COVID-19) represents a challenge to prisons because of close confinement, limited access to personal protective equipment, and elevated burden of cardiac and respiratory conditions that exacerbate COVID-19 risk among prisoners.”<sup>[7]</sup> In addition to these obstacles, prison staff serve as vectors, bringing the pathogen from surrounding communities and exposing people inside. While it is difficult to find exact data, thanks, in part, to the efforts of prison administrators to downplay the pandemic’s effects within their institutions, researchers at UCLA’s COVID-19 Behind Bars Data Project have been tracking the disease in state and federal prisons. As early as May 6, 2020, they documented 21,007 infections and 295 deaths among incarcerated people, as well as 8,754 infections and 34 deaths among correctional employees. Case and death rates continued to soar in federal, state, and municipal facilities, as well as in ICE detention centers throughout 2020 and 2021.<sup>[8]</sup> Life expectancy in Florida’s state prisons, for example, fell precipitously by four years, from 77.9 to 73.8, during the pandemic. This data, though horrifying, is incomplete due to administrative barriers that preclude data collection that would allow for accurate assessments of the rate of infection and total casualties. It is imperative that we demand a full accounting of COVID-19’s impact on incarcerated human beings and of the various ways in which America’s carceral landscape exacerbated the pandemic.

At the same time, despite (or, perhaps, because of) the COVID-19 pandemic, the United States (as well as Canada and the United Kingdom) are witnessing a historic reckoning with racist police violence and broader structures of anti-Black racism. On May 25, 2020, Minneapolis police officer Derek Chauvin murdered George Floyd. Cell phone footage of this public lynching sparked protests in Minneapolis that quickly spread to hundreds of cities and towns across the nation and beyond its borders. Protesters displayed righteous anger that was met with tear-gas, batons, rubber bullets, and, in some cases, live ammunition. State violence spared neither peaceful demonstrators nor journalists.

This political crisis revealed the stark failures of liberal “police reform” and emboldened those activists calling for the abolition of prisons and police.<sup>[9]</sup> Legislators began to take seriously

demands that once seemed utopian. On June 12, 2020, for example, the Minneapolis City Council voted unanimously to disband the city's police department and replace it with a community-led safety model. In San Francisco and Los Angeles, municipal leaders proposed slashing police budgets and substituting social workers for police officers as first responders in cases involving mental health issues and potentially deviant but non-criminal behavior. Scholars are rethinking their engagements with law enforcement, and doctors are publicly calling for the defunding of police departments as a public health cause.<sup>[10]</sup> These efforts reflect growing awareness that we will never solve the problem of racial inequality if we continue to fund militarized police departments and prisons at the expense of much-needed social services. Indeed, overt acts of state violence, such as the murders of George Floyd or Ma'Khia Bryant, are intimately tied to the slow death of neoliberal "social abandonment" and evolving regimes of racial capitalism.<sup>[11]</sup>

The present conjuncture also evokes a longer genealogy of police, one in which disease and social stigma were always intertwined with surveillance and punishment. Michel Foucault, for example, located the origins of the modern penitentiary in European responses to the medieval plague and leprosy, diseases that engendered divergent police tactics comprising what we would now call public health.<sup>[12]</sup> The appearance of plague, Foucault argued, provoked panic among government officials who used their expanding set of powers to confine individuals to "enclosed, segmented space...in which the slightest movements [were] supervised...in which power [was] exercised without division." This exercise in disciplinary power served to prevent the communication of disease and to forestall the political or social disorders that frequently accompanied pandemics. For Foucault, the "plague as a form, at once real and imaginary, of disorder had as its medical and political correlative discipline."<sup>[13]</sup> Incapacitation and surveillance, key elements of modern disciplinary institutions designed to eradicate or (at least) mitigate "criminality," thus emerged out of early modern quarantine polices that prioritized social control as much as community health.

In the same chapter of *Discipline and Punish*, Foucault distinguished European responses to leprosy, a less contagious disease that was understood to reside in the individual body rather than the body politic, from the public health protocols mobilized to combat the plague. Human beings suffering from leprosy (or Hansen's Disease) were excised from society through their banishment to leper colonies or hospitals. These were different projects, then, "the leper and his separation; the plague and its segmentation," but Foucault reminds us that they were not incompatible policies.<sup>[14]</sup> The punitive logic suturing the tactics of exclusion and surveillance culminated in fantastical projects such as Jeremy Bentham's Panopticon and the birth of actual penitentiaries in the United States at the turn of the nineteenth century. Panopticism, Foucault argued, indexed a new approach to power that involved treating "lepers" as "plague victims." Penitentiaries were merely the most "austere" institutional expression of a broader security regime in which "on the one hand, the lepers are treated as plague victims; the tactics of individualizing disciplines are imposed on the excluded; and, on the other hand, the universality of disciplinary controls makes it possible to brand the 'leper' and to bring into play against him the dualistic mechanisms of exclusion." Discipline and exclusion reinforced one another behind prison walls, stigmatizing individual prisoners in the process.<sup>[15]</sup>

Ironically, penitentiaries, though conceptualized as clean, humane alternatives to over-crowded jails, proved to be both detrimental to public health and harmful to the individual human beings who were confined inside. In the early nineteenth century, for example, yellow fever epidemics took a deadly toll among those confined to America's first penitentiaries in Philadelphia and New York, leading early critics to denounce these institutions as "dens of disease." While the introduction of new social distancing protocols improved dynamics in some northeastern facilities at the turn of the twentieth century, influenza spread like wildfire in California's San Quentin Prison (1919), where there were three separate outbreaks during the broader global pandemic, and, later, emerged at the Ramsey Unit II prison in East Texas (1972). The birth of America's carceral archipelago during the last quarter of the twentieth century, meanwhile, compounded a devastating HIV-AIDS epidemic that continues to wreak havoc on Black and Latinx communities several decades later. The fact that there has never been a moment when the modern prison was not a conduit for disease reflects both the reality that carceral architecture is conducive to illness and morbidity and the fundamental fact prisoners are slaves—*slaves of the state* to be sure but *slaves* nonetheless—with few civil protections.[16]

Interestingly, Foucault's *Discipline and Punish* was published just as the United States was embarking on an unprecedented expansion of its prison system and the full-scale militarization of its domestic police forces. The rise of mass incarceration during the 1970s, 1980s, and 1990s represented a capacious governmental response to the social dislocations of neoliberal capitalism and Black political insurgency. A bi-partisan "law-and-order" consensus narrowed the possible responses to the wreckage of de-industrialization and financialization; punitive policing and incarceration were framed as the only solutions to the social harms engendered by austerity-driven poverty.[17]

African American and Latinx communities bore the brunt of the punitive turn in American social policy. These "dishonored members of society" whom various, overlapping racial formation projects had already transformed into social "lepers" were disproportionately entrapped by the carceral state and further stigmatized because of their criminal convictions.[18] This regime, in turn, exacerbated poor health outcomes in those communities targeted by police and prosecutors. It turns out that mass incarceration has been the most dangerous "plague" killing poor communities of color.[19] As early as March 2020, the spread of COVID-19 within jails, prisons, and detention centers compounded the "plague of prisons." By April, the chief physician at Rikers Island in New York City was lamenting the "public health disaster unfolding before our eyes" and calling for compassionate release of as many people as possible. The president of the Association of Legal Aid Attorneys, Jared Trujillo, characterized Rikers as the epicenter of the pandemic, and described being incarcerated during an outbreak as a "death sentence." [20] Ultimately, this is precisely what those incarcerated protesters in St. Louis highlighted when they commandeered CJC and MSI to draw attention to both the immediate threat of COVID-19 and the enduring threat of a punitive criminal justice system.

This special issue of *Synopsis* offers one interdisciplinary approach to the entanglements of police, prison, and plagues. We invited scholars, journalists, physicians, advocates, and artists to reflect on

mass incarceration in the time of COVID-19. Their narratives, analysis, and visualizations provide not a comprehensive scholarly account of these phenomena but rather an opening salvo that we hope sparks additional conversations, research, and political activism. These contributions, each in their own way, elucidate the world as it is and illuminate the world as it might be—a world without prisons or police, where Black life is valued and prioritized rather than denigrated and extinguished.

**Guest editors:** This special issue of *Synopsis* was edited by Max Mishler (University of Toronto), Elsa Hardy (Yale Law School and African American Studies, Harvard University), Elizabeth Ross (Harvard Law School and African American Studies, Harvard University), and Khaleel Grant (University of Toronto).

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## Notes

[1] “Activists say uprising at city jail facility was a protest of ‘inhumane’ conditions,” *St. Louis Post-Dispatch*, February 8, 2021.

[2] Keeanga-Yamahtta Taylor, “The Effect of the Coronavirus on America’s Black Communities,” *The New Yorker*, April 16, 2020.

[3] Elizabeth Hinton, *America on Fire: The Untold History of Police Violence and Black Rebellion Since the 1960s* (New York City: Liveright, 2021); Tobi Haslett, “Magic Actions: Looking Back on the George Floyd Rebellion,” *N + 1*, May 7, 2021.

[4] Neil Smith, “There’s No Such Thing as a Natural Disaster,” *Understanding Katrina*, Social Science Research Council (2006).

[5] “The Inequality Virus: Bringing together a world torn apart by coronavirus through a fair, just and sustainable economy,” Oxfam International Briefing Paper (2021).

[6] Steven J Hoffman, “The evolution, etiology and eventualities of the global health security regime,” *Health Policy Plan* 25, no. 6 (November 2010): 510-22; Andrew Lakoff, “Two Regimes of Global Health,” *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* Vol. 1, No. 1 (Fall 2010): 59-79.

[7] “COVID-19 Cases and Deaths in Federal and State Prisons,” Research Letter, *Journal of the American medical Association* Vol. 324, No. 6 (August 2020): 602-03.

[8] As of June 21, 2021, the Covid Prison Project has documented 407,180 COVID-19 cases and 2,527 deaths due to the disease among people incarcerated in prisons. There were also 92,206 cases and 162 deaths among prison staff.

[9] Keeanga-Yamahtta Taylor, “The Emerging Movement for Police and Prison Abolition,” *The New Yorker*, May 7, 2021; and Mariame Kaba, *We Do This ‘Til We Free Us: Abolitionist Organizing and Transforming Justice* (Haymarket Books, 2020).

[10] “Mathematicians Urge Ending work with Police,” *Inside Higher Ed*, June 24, 2020; “Toronto Doctors for Defunding the Police say ‘policing is a public health crisis,’” *Post Millennial*, July 8, 2020.

[11] See, for example, Elizabeth S. McClure, Pavithra Vasudevan, Zinzi Bailey, Snehal Patel, and Whitney R. Robinson, “Racial Capitalism Within Public Health—How Occupational Settings Drive COVID-19 Disparities,” *American Journal of Epidemiology* Vol. 189, No. 11 (July 2020): 1244-1253; Walter Johnson, “Ferguson’s Fortune 500 Company,” *The Atlantic*, April 26, 2015; Donna Murch, “Paying for Punishment: The New Debtor’s Prison,” *Boston Review*, August 1, 2016; Loic Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity* (Durham: Duke University Press, 2009).

[12] Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage, 1995 (1977)).

[13] *Ibid*, 197-198.

[14] *Ibid*, 198.

[15] *Ibid*, 199.

[16] James Hamblin, “Mass Incarceration is Making Infectious Diseases Worse,” *The Atlantic*, July 18, 2016; Robert E. Fullilove, “Mass Incarceration in the United States and HIV/AIDS: Cause and Effect?” *Ohio State Journal of Criminal Law* Vol. 9, No. 1 (2011): 353-63; Thomas James Ronald Finnie, Ian M Hall, and Steve Leach, “Behaviour and control of influenza in institutions and small societies,” *Journal of Royal Society of Medicine* 105. No. 2 (2012 February): 66-73; and L.L. Stanley, “Influenza at San Quentin Prison,” *Public Health Reports* Vol. 34, No. 19 (May 9, 1919): 996-1008.

[17] Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge: Harvard University Press, 2016); Julilly Kohler-Hausman, *Getting Tough: Welfare and Imprisonment in 1970s America* (Princeton: Princeton University Press, 2017); Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley: University of California Press, 2007).

[18] Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2010).

[19] Ernest Drucker, *A Plague of Prisons: The Epidemiology of Mass Incarceration in America* (New York: The New Press, 2011).

[20] “Coronavirus spread at Rikers is a ‘public health disaster’, says jail’s top doctor,” *The Guardian*, April 1, 2020.