Bozelko column: American newspapers deserve a fighting chance

By Chandra Bozelko More Content Now

As we were distracted by COVID-19 and growing unrest, the federal government has started subsidizing news media, something experts have warned against for years. According to the NewsGuild, a union for journalists and media professionals, hundreds of newspapers received Paycheck Protection Program (PPP) loans.

And it seems like more money may be on the way. The HEROES Act passed by the House of Representatives in May expanded the PPP to make smaller newspapers and broadcasters owned by larger corporations eligible for the forgivable loans; that these companies have more than 500 employees aggregate made them ineligible.

Just because no such provision appears in the HEALS Act, introduced on July 27, doesn’t mean the Senate isn’t considering this. After sending a "Dear Colleague" letter asking other senators for support in May, Sen. Maria Cantwell (D-WA) introduced the Local News and Emergency Information Act which would also expand eligibility for larger newspaper chains. There’s no
reason to assume that the Senate won’t support this; in April, almost two thirds of senators wrote to the Office of Management and Budget asking them to spend federal money on advertising in local news outlets.

Congress would be wise to stop more newspapers from receiving stimulus monies if the news media is to regain the public trust it’s lost.

Not only do I have a civic interest in a robust local press - accountability journalism increases voter participation and sniffs out corruption that often costs taxpayers so much that losing a local newspaper increases municipal borrowing costs by 5 to 11 basis points - I have a personal interest in local newspapers’ survival. This column appears in them.

From postal subsidies to purchasing space for legal notices, the press has often been blessed by government largesse. In this country, subsidizing blatantly partisan newspapers - rewards for political support - was common until about 1860.

It stopped only when a competitive newspaper market emerged, a competition we don’t have now, not because newspapers aren’t battling each other for eyes and buys, but because Facebook and Google control about 70% of digital ad revenue, siphoning it away from newspapers. In 2018 alone, Google alone made $4.7 billion off news content it paid nothing to create. Because approximately 80% of news revenue comes from ads, newspapers as a whole can’t compete with the tech giants.

Fifty newsrooms have closed as a result of advertising downturns brought on by the pandemic but it’s not clear that PPP funds would have saved them. The purpose of PPP was to get any businesses through the pandemic and so they would arrive at their formerly profitable status.

But there’s no such status for many newspapers to return to. When PPP money is gone, they’ll still be in trouble; 300 of them went under in the last two years. Another 1,800 went well before, causing 1,400 towns and cities in the U.S. have lost a newspaper. The government hasn’t offered sustained fiscal support to address this, so the PPP loans to the hundreds that remain may have temporarily staunched the bleeding but they’re far from the transfusion that local news needs.
There is a way the government can help without expending any cash. Last year Rep. David Cicilline (D-RI) proposed the **Journalism Competition and Preservation Act** to provide a four year safe harbor from anti-trust statutes so newspapers can band together to negotiate with Facebook and Google over ad rates. Right now, none of the news outlets are big enough by themselves to have any leverage and working together with other outlets violates the law.

Cicilline proposed an identical **bill in the last Congress** that went largely ignored but the current iteration of the bill has been pending since last May and generated a Senate version that Majority Leader Mitch McConnell (R-KY) **co-sponsored earlier this year**. There’s no reason why the Journalism Competition and Preservation Act can’t be amended to any stimulus bill that gets a vote. It should have both House and Senate support.

Media critics have pointed out that news is actually only **4%** of the content in the Facebook News feed, and therefore not enough to give the news outlets leverage in negotiating with them even if they join forces.

But those **considerations are different now**. It may be the time when this collective power against tech giants will be most effective because Facebook has already lost **$60 billion market share** since advertisers started boycotting over the platform’s policies on managing misinformation. Besides, just last month Facebook **started offering local news to all users nationwide** so the risk of local newspapers losing even more ad revenue grows.

Even if there weren’t an alternate way to assist newspapers, PPP loans to them are still ill-advised because of the impact they’ll have on readers. American trust in the news is at a **new low**. It was at its highest in the **1970s**, incidentally when government subsidies **finally started to lose their grip** on news.

When governments subsidize news, as they do in Europe, there’s little evidence that editors **tailor their coverage to appease funders**.

But that doesn’t need to happen for taxpayer dollars to spoil the news; readers’ perceptions often differ from the reality of newsgathering. For instance, in a survey conducted by Columbia Journalism School last year, **60% of respondents (54% of Democrats, 70% of Republicans)** said they believed that reporters were paid by their sources, an impression not based in fact.
Trust will be undermined further when audiences see stories as motivated by participation in the Paycheck Protection Program. Some news organizations that received PPP funds have already been noted for their closeness to the Trump administration. It won’t be long before other news outlets have their editorial decisions questioned because they received PPP loans, even if the money had no effect on content.

Proponents of PPP loans to news outlets argue that they’re just like any other business affected by the pandemic. I disagree. I doubt anyone thinks the Baltimore Sun - which is considering a conversion to a non profit model to survive and won the 2020 Pulitzer Prize for local reporting for exposing the Baltimore mayor’s scheme to sell children’s books to corporations dependent on city contracts - is equally as important as the Ruth’s Chris Steakhouse in the city’s Inner Harbor, part of a chain that received a ballyhooed bailout from the PPP. The Baltimore Sun is far more important to democracy than any ribeye.

And that’s exactly my point. The American newspaper actually deserves more than a government handout. It deserves a fighting chance. That’s what needs to appear in the next stimulus bill.

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Bozelko column: Blame for unemployment boondoggle belongs to wardens

By Chandra Bozelko

Last week several newspapers reported that California’s administration of the Pandemic Unemployment Assistance program paid, ostensibly, about $400 million in benefits to California inmates who weren’t eligible for unemployment payments. Much of it won’t be recouped.

Inmates collecting government benefits is hardly a new story. In California alone, they collected $3.5 million in Social Security payments in 2016, according to the Social Security Administration’s Office of the Inspector General - money they didn’t qualify for. Before the news of the California problems, investigators had uncovered similar misuse of the PUA in Pennsylvania and Maine, and more will undoubtedly be uncovered in other states.

This was a chronic problem when I was incarcerated. Women who collected Social Security disability benefits and Supplemental Security Income would continue to receive checks until a record of their status as an inmate reached the Social Security Administration. Then they would lose them but face an overpayment assessment, which is basically a debt a beneficiary owes the government for getting checks they weren’t eligible for.
This isn’t all the inmates’ fault. An extensive data-sharing infrastructure designed to stop such a multi-perp heist exists. Jail and prison administrators simply aren’t using it properly.

It’s the Social Security Administration’s Prisoner Update Processing System, established by the 1996 Personal Responsibility and Work Requirement Act (better known as President Bill Clinton’s welfare reform bill). It updates an inmate’s Social Security profile with their incarcerated status.

It’s not isolated from other systems. President Barack Obama’s 2017 budget required states’ Unemployment Insurance systems - offices like California’s Employment Development Department, the office responsible for administering unemployment benefits in the state.

Connecting unemployment administration to PUPS should have sufficed to stop the most recent unemployment payments from going to inmates but, as several investigations have revealed, the entry of information by corrections officials is inadequate.

For instance, in New York, an Inspector General’s investigation found that, for about half of inmates who received Social Security payments while incarcerated, the New York Department of Corrections and Community Supervision never updated their status as being in custody. In California, information on over a third of the inmates who collected that $3.5 million in 2016 was never entered into PUPS. Countless more weren’t updated - we just don’t know how many because the audit examined only those who actually received the benefits.

At first glance, these omissions appear like good faith errors by overworked public employees. But the Social Security Administration financially incentivizes reporting by prison administrators. If they update an inmate’s status within 30 days of admission, the facility receives $400. It shrinks to $200 after 30 days and down to nothing after 90 days. It doesn’t seem like a lot, but the year that $3.5 million in Social Security payments went to inmates, the California Department of Corrections and Rehabilitation received $258,000 from the Social Security Administration for 698 prisoners whose benefits they froze.
That seems low. Those 698 inmates constitute one-tenth of 1% of the 368,000 people who enter custody in California every year. About 32% of prisoners are considered disabled prior to entering, although there’s no firm data on whether they collected Social Security disability benefits or not.

While we can’t assume that around a third of new admissions are Social Security beneficiaries, even if just half of that third are, that would lead to approximately $2.4 million incentive payments from the Social Security Administration if all new admissions to custody were all reported on time, making the $258,000 look like what it probably is: a reflection of underperformance when it comes to updating inmates’ profiles.

It’s not limited to California. Many facilities don’t share this information with the Social Security Administration at all. Early on, only about 60% of correctional facilities entered into contracts with the SSA to share this data.

Beefing up reporting requirements for PUPS might seem like the solution here, but this type of waste and abuse won’t stop until lawmakers acknowledge that there’s a bigger incentive for prisons to assure that inmates have expendable resources.

For one, commissaries rake in about $1.6 billion every year from a population whose pre-incarceration income is, on average, 41% less than people in society. The state and various employees receive kickbacks - both legal and illegal - from these companies.

Secondly, the drugs and contraband in prisons aren’t always generated inside. They enter the compounds and buildings when guards smuggle it in - for a price. The average inmate pay of $0.63 per hour won’t entice many of them to engage in illegal acts.

Once we understand that it behooves the system and the bad actors within it to keep its wards flush with cash, a chronic failure to inform the Social Security Administration of new admissions to confinement takes on a different context.

Every economic downturn in this country also included extra efforts to make sure inmates didn’t thrive while society flailed.
During the Great Depression, the Hawes-Cooper Act and the Ashurst-Sumners Act basically stopped prison labor so as to assure inmates had no more employment opportunities than the people staring down a 25% unemployment rate. To stop stimulus payments from going to inmates, President Obama signed the No Social Security for Prisoners Act of 2009. The IRS fought dissemination of stimulus checks to inmates.

Yet still these benefits get paid. The common denominator in all the money that slips past is whether the processing system knows if a recipient is incarcerated or not. The problem here is PUPS and its missing data, which means the problem here is correctional staff.

Of course, sometimes PUPS is up to date and benefits still go out. And prisoners who capitalize on this weakness for fraud - as opposed to those who are victims of identity theft - should have known better.

But certain practices in prisons and jails enable this theft, and they have for a while. It isn’t entirely the prisoners’ fault.

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The beds were so close together that the two girls could reach out and hold hands.

Diane Mattingly remembers the night on her bed, the one near the window, when a man who had spent time with her stepmother came in and raped her. Diane was 8 years old and her 4-year-old stepsister Lisa laid in the other bed.

Between herself and Lisa, Diane considers herself the lucky one, even though her mother threw her out in the cold with no clothes, and forced her to eat raw onions, just because she didn’t like them. She thought local child protection services were going to save her and Lisa.

“When they came, my thing was, ‘Oh my God. We’re gonna be saved.’”

But it wasn’t “we.” It was just Diane. Lisa would stay behind.

“Once I got out of all the situations that I was in, it stopped for me, and I was able to heal, but it never stopped (for Lisa). And she never had anybody there that had her back.” Mattingly said.
But Diane's life didn't get easier. She cycled through three foster care scenarios and was eventually adopted - by a family that continued to abuse her. Diane was removed from their home.

When she was 14, Diane found the family that she would spend the rest of her childhood with. They moved to the Netherlands, where her adoptive father molested her for a year. When she came home after disclosing his abuse, her adoptive mother had already sent her husband packing for the United States. Six months later, her mother “decided she didn't want to be a mother anymore” and sent Diane back to America - to live with the adoptive father who had molested her. Because she was a minor, she had to stay with him for another four years.

All the while, she wondered what she could do to protect Lisa; the thought of what was happening to her little sister nagged at her every day. But Diane had been 8 years old - there was nothing that she could do as her younger sibling was sexually tortured, gang raped and essentially trafficked by her mother. Her mother even beat the dog to death with a shovel in front of Lisa for good measure.

Diane knows that was her fate if no one had removed her from that home.

“Before I left, I protected her. I took everything. I took the beatings. I took the cruelty that (my stepmother) flung at us. I took the rape that it happened when I was 8 years old. I took it all ... But when I left it shifted from me to her.”

Trauma revisits Diane every day now, since Oct. 16, 2020 - incidentally, the same day President Donald Trump told NBC News' Savannah Guthrie in an interview that replaced the second presidential debate that he agrees with being “very strong against” childhood sexual abuse - when the Department of Justice announced it was going to kill Lisa Montgomery, Diane’s younger half sister, in fulfillment of capital sentence that was imposed in 2007 after Lisa was found guilty of killing a pregnant woman, Bobbie Jo Stinnett.

The case for clemency and reprieve for Lisa is strong - she has a brain injury, sustained at birth, because of her mother’s alcoholism, she’s indisputably mentally ill and her lawyer pushed away assistance from a champion lawyer so he
could screw up her defense all by himself (he’s had more clients sentenced to death than any other lawyer in the country, The Guardian reported in 2016) - but I recognize that some people can’t get past her crime.

The same people, though, must approve of raping children. After all, the man who violated Diane was never prosecuted, nor were any of the men who raped Lisa and chided her for “doing it wrong” when they had sex with her. No one knows how many other children suffered at their sick sexual whims.

It’s not like adults didn’t know. Lisa testified at her mother’s divorce trial that her stepfather had raped her and she still wasn’t removed from her mother’s home.

“There was a police officer that did nothing. There were school teachers that saw it and did nothing. There were family members that saw it and did nothing. She was failed over and over,” Mattingly says.

Diane’s ability to see that someone has it worse than she does is remarkable. “I’m bruised, but not broken,” she said, as if the bruised among us don’t deserve empathy. They do. We do.

Let’s help Diane. Empathy for her means mercy for Lisa. After all, Diane will be wracked with thoughts about what she could have done to help her sister if the Department of Justice follows through on their plans to execute Lisa.

If the abuse that Diane could have blocked - and that drove Montgomery to commit the unthinkable act that she takes full responsibility for - ends up eventually causing Lisa’s death, peace won’t find Diane for a while, if ever again. “I have extreme guilt over that. That moment right there that I did not say anything,” Mattingly says of the day she was taken out of the home and Lisa was left behind, even though there was nothing an 8-year-old could do.

To give Diane some relief, call the White House at 202-456-1111 and ask President Trump to grant Lisa Montgomery clemency (converting her execution into a life without parole sentence) or at least reprieve (a pause on the plan). Or jump on social media and join the #SaveLisa movement to amplify the supporters who are working to stop the pain.
“I just want somebody to finally stand up and say 'I’m there for you. I am going to save you this time.' I’m just praying that we touch (the) heart that Trump has that he sees that she is broken,” Mattingly says.

Do it for Diane, so she can hold Lisa’s hand in a prison visiting room, for Diane who’s thankful she never had to endure what her sister did.

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Henry “Tommy” Green thought it was a joke, that his client was pulling his leg. Green is the co-founder and owner of Success While in Transition LLC, a Durham, North Carolina, company that provides staff and programs for transitional housing and teaches a unique workshop that includes motivational speaking, mentoring and other skills. He’s also a community health worker with the Formerly Incarcerated Transition Program of Orange County, North Carolina, where he connects people who have chronic health conditions with primary health care services.

Green said he was simply discussing the challenges of reintegration with the client when he revealed what was happening inside the facility he just left.

“And then when he reverted back to telling, talking about being inside, he made the joke that he had got in trouble. He said he got in trouble for tearing up his shirt or something to make a mask because he lost the mask he was given or something like that. And when he said it, I honestly just was having a casual conversation. So I really didn’t take it seriously.”
Green is formerly incarcerated himself, so he knows how silly prison rules can be, but even he didn’t realize that prisons would go so far as to punish inmates who protect themselves with DIY PPE during the pandemic. But they do.

Of all the corrective practices, prison discipline is the most screwball. It bans actions that free citizens wouldn’t see as problematic — like wearing a hood — but it often has good reason — the prison staff might not be able to identify someone who’s wearing a hood.

Other rules don’t always have good reason, like the ones about contraband. Mention of the word conjures visions of guns and glassine baggies of powder and pills. That’s contraband for sure, but contraband can be an expired nebulizer, a maxi pad stuck to the wall to prevent the bed from striking its painted concrete during the night and waking someone up or a book that props open a window in a building without air conditioning.

Each jurisdiction has its own rules about prohibited items. In federal prisons, it’s actually a crime to create contraband as an inmate, and contraband is defined as all the things one might expect but also “any other object that threatens the order, discipline or security of a prison, or the life, health or safety of an individual,” which means anything thatannoys a guard is fair game for an accusation of possessing contraband.

The states are more philosophical about contraband. Many of them, like California, Connecticut, Colorado, Florida, Idaho, Oregon, Pennsylvania and Rhode Island, enacted rules that dictate that anything used for a purpose other than what was intended is contraband. The Department of Corrections of Kansas is a tad softer in defining contraband; the item has to be “misused” to be off-limits.

An entire branch of philosophy dedicates itself to this inquiry — deciding what something’s or someone’s purpose is. It’s called teleology and it’s the study of ends, destinies and purposes. Everything and every person has a purpose.

I hardly imagine that the drafters of the various codes of penal discipline relied on Aristotle when they wrote the rules. I expect that philosophers would have marveled at how sugar in a bottle was contraband (sugar’s purpose is not to exist
in a bottle), that a picture drawn on a handkerchief is verboten because the purpose of the cloth square is personal hygiene.

I’m especially skeptical that these thinkers of the ancient world would theorize that shirts, socks, sheets and sleeves covering one’s face during a deadly global pandemic violates their existential purpose and should be, therefore, against the rules.

Green’s client in North Carolina isn’t the only one who experienced this. I’ve received letters from inmates in Delaware who report the same thing. One wrote to me: “Inmates try to make and wear their own masks but are forced to take them off by staff.”

To rehash the effectiveness of masks seems silly at this point. In October, the New York Times published an interactive article titled “Masks work. Really. We’ll Show You How.” It showed how masks help stop the spread and the contraction of the coronavirus. They also prevent facial touches and lastly — perhaps most importantly — they signal that small efforts that protect everyone are the right thing to do. Masks’ purpose, then, isn’t just to rest on a face. They’re functional and symbolic.

I don’t agree with it, but intellectually I understand why people fend off face coverings. People resist direction of their behavior. If they didn’t, I might have been sitting in prison alone.

But allowing other people to wear them respects that same liberty, especially if it’s in a location where someone is five times more likely to be infected with the virus and three times more likely to die from COVID-19.

If anything, getting — or letting — inmates wear masks is another layer of control and coercion to coat them with. Requiring inmates to don them would provide grounds for more discipline when they didn’t comply. Especially since the virus is doing acrobatics through these facilities, that an inmate would cover his nose and mouth should be the least threatening move he can make.

But to punish them for manufacturing what they need during this pandemic, thus arresting any type of ingenuity and enterprise in protecting one's community, is one of the most morbid moral failings these monsters can muster.
I'm like Tommy Green. Even I didn't think they'd go that low.

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Finally Fire Drill Fridays are over. In the 14 Fridays since Oct. 11, activist Jane Fonda led hundreds of people to be arrested as they protested what they deem the federal government's insufficient response to climate change.

None of these collars seemed to have made a difference, most likely because bail reform has drained civil disobedience of its power.

In the United States, the tradition of civil disobedience is best exemplified and explained by transcendentalist writer Henry David Thoreau and civil rights leader Martin Luther King Jr. In separate centuries, local governments jailed them for acts of protest, experiences that led each to author a treatise on civil disobedience - “On the Duty of Civil Disobedience” for Thoreau and “Letter from Birmingham Jail” for King - that instruct rallies and sit-ins to this day.

When Thoreau was taken in for his protest of slavery and the Mexican-American War - failing to fork over any tax payments - someone satisfied his bill to release him, infuriating him at his shortened stint; he wanted to stay longer than one night.

King’s experience was similar. When convicted of disobeying a police order and fined $14 in 1958, King wanted to spend 14 days in jail rather than capitulate to what he saw as an unjust order. King wasn't even allowed inside the jail after
Montgomery, Alabama, Police Commissioner Clyde Sellers undercut him and paid his tab, much to King’s dismay.

When King was jailed in Birmingham in 1963, the place where he penned the defense of righteous rule breaking, he didn’t want to leave, even after eight days in solitary confinement. A wealthy businessman bonded him out, against King’s wishes. Luckily King finished the famous missive before that, because “Letter from a Birmingham Motel” loses its cachet.

Both Thoreau and King knew that their “no” to the condition they protested through criminal offense was only as good as their “yes” to the consequence for it. The bigger the penalty, the more profound the protest. That is, going to jail makes a bigger point. That’s why King once said he was proud of his crime of civil disobedience.

With the exception of Fonda, who spent one night in a Washington D.C. jail after her fourth arrest in as many weeks, the Fire Drillers were processed and released, courtesy of bail reform that was enacted in 1992, decades before the elimination of cash bail entered popular public discourse.

Like the new laws in New York and New Jersey, no money is required for a majority of charges in D.C.; the presumption of release applies to everyone, even protesters who need at least a pinch of punishment to maintain credibility as real rabble rousers. That it’s almost impossible to be held in custody after intentionally defying the law in protest probably would have flummoxed both Thoreau and King.

Proper civil disobedience is usually non-violent. It doesn’t normally subject disobedients to long sentences or high bonds. Even under oppressive bail schemes, no one - especially celebs - was likely to serve much time at all.

But to make their points, and to honor the tradition of civil disobedience, they should have served a little. True sacrifice stings.

Make no mistake; I support bail reform. I think it’s especially wasteful to lock up people who act out of an excess of conscience rather than a lack of one. And I don’t think that the fact an unyielding pretrial detention system might be
necessary to meaningful civil disobedience provides sufficient reason to keep it. I bet Thoreau and King would have approved of these legislative changes to pretrial release if they had lived to witness them.

But they wouldn’t deny, now that bail reform is in place in several jurisdictions, that civil disobedience loses its bravery and its impact in those places. When the Roman poet Juvenal advised people to “Dare to do things worthy of imprisonment if you mean to be of consequence,” incarceration was a likely result of crime, as principled as it may have been. When even short jail terms aren’t on the table, civil disobedience is destined to be inconsequential.

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