

## Nancy Hengeveld: The contrasting results between restorative and punitive justice

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A recent article about Red Wing's juvenile correctional facility caught my attention. Their services include mental health, substance abuse and sex offender treatment, with a focus on "life after lockup" by giving residents educational, employment and transitional opportunities, along with an emphasis on compassion for the individual. It was good to read it is a model for other states, especially since some states don't bother separating adults from juvenile offenders.

Too bad it isn't a model for adult prisons. Instead, we are reaping the results of nearly 40 years of what is called the war on crime and drugs, resulting in mass incarceration and intergenerational imprisonment, especially among African American men. It has been a national disaster.

Ernest Drucker, an epidemiologist who helped track the beginnings of the AIDS epidemic, has traced the incarceration epidemic to the Rockefeller drug laws of 1973, when sentences of 15 years to life were mandated for anyone selling two ounces or possessing four ounces of any illegal drug. Other states soon followed, along with national policy. Prison rates soared to five times the previous rate, with non-violent drug crimes accounting for nearly half those imprisoned.

In his book "A Plague of Prisons," Drucker notes that mass incarceration occurred under Hitler, Stalin, and Pol Pot, but this is the first time in history it has occurred in a democracy. The very definition of mass incarceration is sobering. Methods include "expansion of the list of criminal offenses, punishable by prison terms, as well as harsher sentencing practices that impose long prison terms for crimes not previously prosecuted at all." We now have the highest prison rate per capita in the world — seven times that of Europe.

Most people believe that our crime rate has gone down because of mass incarceration, but according to the methods of epidemiology, this is not true. Mass incarceration began and continues to grow in the poorest, mostly African American communities—what Drucker calls "feeder communities" — where the crime rate has soared, while the crime rate has dropped elsewhere. The children in these urban communities have seen multiple family members, neighbors, and friends arrested, often in their own homes, increasing the likelihood of their own arrest, destabilizing their families and communities and destroying the very social structures that prevent crime in the first place.

Routine rape and violence, demoralization, untreated mental illness, addiction, and HIV, gang affiliation for protection, overcrowding, severe discipline methods such as isolation and solitary confinement, and idleness while behind bars leave prisoners with post-traumatic stress upon release. Post-traumatic stress symptoms, along with lack of education, training, housing, and employment ensure that half of those released to their destabilized neighborhoods will return to prison for use or sale of drugs. There is an extremely high rate of death by overdose shortly after release, and a majority of those returning to these communities are chronically disabled, incapable of functioning in the everyday world of home, family, community, work or school, which further destabilizes neighborhoods. Drucker calls this a self-perpetuating epidemic.

To end an epidemic, the agent, the host, and the environment need to be identified. Comparing the mass incarceration epidemic to AIDS, the agent (HIV for AIDS) is the large-scale arrest for low-level drug offenses in poor neighborhoods. These offenses, Drucker says, that "could be the occasion for positive early therapeutic or social intervention (as they are in many other countries), end up laying the foundation for future incarceration, in city jails and then in state prisons." He calls this the point of infection, often resulting in job and housing loss, interruption of health care, education and, for women, loss of child custody.

The host (humans for AIDS), or those most at risk, are minority drug users. Risk increases for children of incarcerated parents living in neighborhoods which have been altered by perpetual drug markets (feeder communities).

The environment (blood for AIDS), which carries and transmits the infection, is the political climate and the powerful policy regimes that prevent reform. In this political climate, with people afraid of crime and the criminal justice system providing millions of union jobs, it is unlikely that reforms in sentencing or within the prisons themselves will take place. In fact, increasingly, schools and chemical dependency treatment programs are using police models and taking the punitive approach of expulsion rather than providing the kind of counseling, mental health services and support that the warden of the Red Wing juvenile detention center found so successful.

Meanwhile, due to overcrowding and budgets, California prisons are giving early release to low-level offenders. Will the

**restorative justice programs be in place to help these folks transition and succeed in civilian life, after they've been branded as felons for the rest of their lives? Or will we have to build more homeless shelters? Time will tell.**  
**Nancy Hengeveld is a licensed psychologist with a practice in Rochester. Her column appears monthly.**

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