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[Dan Froomkin](#)

Senior Washington Correspondent, Huffington Post

If Prison Is the Disease, Not the Cure, How Do You Treat It?

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The breathtaking premise of Ernest Drucker's new book is that mass incarceration is an epidemic ravaging the country -- not a solution to a problem, but a problem in itself.

A longtime practitioner and scholar of public health, Drucker observed the explosive growth and unprecedented number of Americans being sent to prison beginning in the late 1970s and recognized the familiar characteristics of the spread of an epidemic disease: outbreaks and contagion, patterns of transmission, and human impact – tens of millions of years of life lost to incarceration.

"The paradigm shift here is really from looking at mass incarceration as a solution to social problems like crime and drugs to saying that that level of incarceration is itself a public health problem," Drucker says.

Once that happens, "then the objective shifts from 'how do you decrease crime and drugs?' to 'what can we do to have fewer people in prison?'" he says. "That's a totally different goal."

Drucker's view could have a dramatic impact on the way journalists and policy makers look at a criminal justice system whose default response for three decades has been to lock people up. This is especially critical for reporters inclined to see imprisonment as the end of a story, rather than the beginning.

And consider the scope of the problem: As of the end of 2010, 1.6 million adults were in prison in the U.S., and another 4.9 million were on probation or parole. That makes [7.1 million people, or 1 in 33 adults](#), under the supervision of correctional authorities. If this population had a city of its own, it would be the second largest in America

Drucker's book, [A Plague of Prisons: The Epidemiology of Mass Incarceration in America](#), looks at some of the key characteristics of the epidemic of imprisonment.

It exhibited a rapid onset, brought about by the War on Drugs that started in the late 1960s. Its prevalence varies, with young minority men being particularly affected. It is concentrated in certain places, mostly the poorest neighborhoods of American cities. It can incapacitate people for life. It affects families. It can be passed down from generation to generation.

But unlike a disease, it's no accident. It was the direct result of a series of policy decisions costing more than one trillion dollars over three decades. And it can be undone by different policies.

"The primary way to prevent mass incarceration is to change the laws so you put fewer people in prison," Drucker says. "And the most obvious thing to do is to stop putting people in prison who don't really need to be there."

That doesn't mean prisons should be empty, he says. "There's never going to be a world where you don't have to lock some people away."

But policymakers -- and reporters -- should be asking: "Which people don't need to be in prison?"

To Drucker and many others, the answer is obvious: "Stop imprisoning people who represent the least possible danger to public safety when they're out."

Long mandatory sentences for drug offenses started the epidemic -- they are the reason so many people entered prison in the first place. Laws that increase sentences for people with previous offenses -- as drug users often have -- make their stays even longer.

To address that, Drucker wants to see those drug laws rolled back, restoring judicial discretion in sentencing.

Then there's the recidivism problem. About half of ex-prisoners wind up back in prison within three years because a prison record -- with all its restrictions on employment, education, housing and other social supports -- makes them almost incapable of competing in the outside world. "Denying ex-cons access to the jobs, school or housing they need, is a recipe for driving them back to prison," Drucker says.

So how do you address that? After prevention of incarceration in the first place, Drucker's preferred approach "would be to reduce the damages that occur in prison -- use that time to give prison populations the help with drug treatment, education -- and access to work and housing they need to keep them from coming back in."

Drucker also calls for a massive reform of the parole system. "The most common reason prisoners go back is for administrative violations of parole," he says.

Too often, prisoners are kept on a short leash, with parole officer just waiting for them to fail, he says. "They see it as their job to get these people back in prison as soon as possible."

"We could instead make parole more about keeping people out of prison than finding a reason to send them back, it seems to me," he says. In Canada, where parole officers are trained to see recidivism as their own failure (and are held accountable for it) return rates to prison are less than half those in the U.S., Drucker points out.

When you combine strict drug laws, particularly for repeat offenders, and all the barriers to reentry after leaving prison, plus a skeptical parole officer, then "for chronic recurrent conditions like dependent drug use, you guarantee that people will come back," Drucker says.

"Once they're tagged by the system -- infected, if you will -- they stay infected."

Drucker also thinks it's crucial to treat the areas where the problem is concentrated, focusing new social welfare efforts on places like the so-called "million-dollar blocks" ([see these maps](#)) showing how much money is spent annually on incarcerating people from a single city block.)

Finally, he supports replacing punishment with a process of community restitution in some cases -- especially for first offenses by youths. "I'm interested in restorative justice," he says, "where the goal is to prevent future crimes by strengthening offenders' positive bonds to communities."

Petty criminals or vandals, for instance, could come before community councils and be sentenced to seeing the price that was paid by their victims, and trying to make restitution to them or to the community through service -- rather than joining the incarcerated.

"You use restitution of some sort to clear the books, judicially and morally," he says.

New York State, once one of the most enthusiastic participants in the War on Drugs, now provides an example of what can be done right, Drucker says.

Its harsh mandatory minimums for drug offenses, pushed through by Gov. Nelson Rockefeller in 1973, spurred a nationwide trend.

But as the state began to realize the resultant economic and social costs of mass incarceration. New York started downsizing its prison system -- by 30 percent in the last 10 years . And, in 2009, the state adopted a [series of drug law reforms](#) that included reducing the scope of mandatory sentences for many non-violent drug offenders, restoring judicial discretion, allowing for people convicted of drug offenses to be put into treatment rather than in prison, and letting judges give offenders second chances when appropriate.

Prison admissions for thousands of drug felonies immediately declined by about half – 4,000 fewer in just two years – saving the state over \$200 million.

While some other states are following suit, Drucker suggests that reporters raise the New York experience with other federal and state officials and demand to know: "Why aren't *you* doing it?"

Part of the answer will inevitably be about politics, Drucker says. "The reason they don't do that is because they don't yet see any political gain in it."

Indeed, many politicians, still sensitive to how the [Willie Horton](#) case was used so effectively against Democratic presidential candidate Michael Dukakis in 1988, have concluded that anything short of militancy on sentencing is "nothing but trouble," Drucker says.

But as the economic and social costs of mass incarceration mount, many criminal justice professionals and officials are now calling on the U.S. to abandon these policies and replace them with more constructive approaches.

Dan Froomkin is the deputy editor of the Nieman Watchdog Project. He is also Senior Washington Correspondent for the Huffington Post.