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## Exploring Alternatives to the Incarceration Crisis

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## KEYNOTE ADDRESS

# EXPLORING ALTERNATIVES TO THE INCARCERATION CRISIS

HON. PAUL H. ANDERSON\*

Thank you, Andrea,<sup>1</sup> for that very nice introduction. As many of you know, Andrea will be my law clerk next year. When the symposium's organizers were desperately searching for a last-minute replacement for a luncheon speaker, she said, "I think I know someone who will do it." It would appear that Andrea is a quick study. Obviously she already understands me because I did say yes, and I am here today. Indeed, it is a pleasure to be here with you, even though I am a last-minute replacement.

Today's seminar addresses the incarceration crisis. There is a certain bias in this phrase because it indicates how you view the state of our criminal justice system—you see a crisis. What if I did not share this view? Then you might have gotten the wrong speaker. But Andrea did her homework and went back to an article I wrote over ten years ago when I talked about this same issue.<sup>2</sup> As I heard my words read back to me, they sounded prescient somehow—I think I saw this crisis coming.

There is a crisis in our country, and it centers on how we impose punishment and/or sanctions. There are many identifiable reasons for this crisis, such as lack of proper mental health care, racial and cultural disparities in our society, poor education, and absence of hope. But, before I start to explore some of the reasons for this crisis, I need to make sure that when we talk about appropriate punishments, everybody knows we are not talking about whether persons who violate the law should be punished. That is not the issue. Punishment often is appropriate. Punishment is part of the human retribution system. In a just society, wrongdoers must be subject to punishment. And why is that? Because we are governed by the rule of law and it is

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\* Associate Justice, Minnesota Supreme Court. This is a transcript of the keynote address he gave at the *University of St. Thomas Law Journal's* symposium, "Exploring Alternatives to the Incarceration Crisis." Minneapolis, Minn., Mar. 31, 2006.

1. Andrea Specht is a 2006 graduate of the University of St. Thomas School of Law and is Justice Paul H. Anderson's law clerk for 2006–07.

2. Paul H. Anderson, *Reflections on the Future of the Minnesota Court of Appeals*, 19 Wm. Mitchell L. Rev. 569 (1993).

the rule of law that permits us to function as a civil society. When we live by the rules, we are able to ascertain or at least anticipate how others will behave, and we have a reasonable assurance of like treatment. In return for these benefits, we come to accept the responsibility and burden of exercising certain restraints on our individual behavior—we obey the rules. In other words, one of our incentives to obey is the assurance that others will do likewise.

When our fellow citizens break society's rules, punishment is necessary to ensure that incentives for law-abiding behavior continue to exist. Without punishment, the wrongdoer essentially receives an unjust double benefit. He benefits from the ordered behavior of others around him who obey the law, but he also enjoys any personal gain, either financial or physical, that may result from violating the rules. So punishment as a consequence of misconduct is necessary in a civil society for us to maintain equilibrium.

Yet, punishment is not only necessary for the well-being of society as a whole; it is also critical to the reformation of the wrongdoer. Through punishment, the wrongdoer pays his or her debt to society. After paying that debt, he or she rejoins society—hopefully on a restored and equal footing with those who obey the law. This is why some type of punishment for a wrongdoer is not only necessary, but just. In fact, imposing no punishment may even be a sign of disrespect for the wrongdoer. When there is a serious transgression against society, too little punishment can result in injustice. By imposing the appropriate punishment, society shows respect for the wrongdoer's interest as a member of society and demonstrates a belief that the wrongdoer has the capacity of an autonomous person who has been bad—not sick<sup>3</sup>—and is a person who is capable of being restored to a proper role in society. So, as we go forward with this symposium today, we need to make the distinction between the need for punishment and what is a just punishment. We need to appreciate that there exists a sound and rational basis for appropriately punishing the wrongdoer.

That said, we now get to the question directly before us today: what is the appropriate punishment for a wrongdoer? I believe our society has problems sorting out the right answer to this question, and that is what has led us to the discussion of today's topic—"Exploring Alternatives to the Incarceration Crisis." Are there too many people incarcerated in our society? I think the answer to that question is yes. Is it an issue in Minnesota? Absolutely. We do incarcerate too many people for too long a time—a policy that has turned into a very expensive proposition. I can cite to you the statistics to prove this point, but you have other speakers and panel members who will do this better than I can.

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3. See *infra* pp. 4–7 for discussion of mental health issues of persons in the criminal justice system.

The meeting I had scheduled for this noon, which was moved up to eleven o'clock so I could be here, was with members of the Minnesota Department of Corrections and people from a group called AMICUS.<sup>4</sup> At that meeting, Corrections Department staff members indicated that Minnesota has the thirteenth highest rate of incarceration of African American males (relative to population) in the country. We are number one with respect to increasing that incarceration rate. If you need more proof that we have a problem, talk to the folks at the Council on Crime and Justice<sup>5</sup> and they will show you some very disturbing statistics. There is something wrong at the end of our criminal justice system pipeline. Not only is the number of incarcerated persons too high, but the ethnic and racial backgrounds of these persons are out of proportion to the population as a whole. So, we do have an incarceration problem, and today we must seek to understand why.

I will focus on what I think are some of the reasons for the problem, starting with the unavailability of mental health treatment. At my meeting earlier today, Minnesota Corrections Department staff told me that about sixteen percent of the persons who are in the Minnesota corrections system have been identified as having a severe mental disorder. Does this figure include those who have a diagnosis of personality disorder? No. I just learned at this meeting that a person with a serious personality disorder frequently is not counted in the sixteen percent. If you include personality disorders and other types of mental illness, I believe most experts would agree that about twenty-five to twenty-seven percent of the persons in our correctional institutions have significant mental health problems.

What is happening here? I am old enough to remember the well-intentioned reforms enacted during the late 1950s, the '60s, and the early '70s. There was a progressive social policy centered on a concern about the treatment of mental illness. The objective underlying these reforms was to move away from institutionalizing both the mentally ill and the physically disabled. As a result of this policy shift, we have had some spectacular results. I have a nephew who was born with Down's Syndrome. When he was born, it was still typical for someone like him to go into an institution. But things had already started to change, and, as a result, my nephew is a very loved and functioning member of our family. Presently, he is living in a group home and works full time. This is one example of the success we have had because we have changed how we treat certain members of our society.

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4. See AMICUS, *Partners Building New Lives*, <http://www.amicususa.org> (accessed Oct. 12, 2006) ("AMICUS is a Minnesota not-for-profit organization with over thirty-nine years of experience in improving public safety by helping inmates and ex-offenders through positive relationship-building, restorative justice practices and individualized transition services.").

5. See Council on Crime and Justice, <http://www.crimeandjustice.org> (accessed Oct. 12, 2006) ("The Council on Crime and Justice is an independent, non-profit organization integrating research, demonstration projects and advocacy. . . to bring just solutions to the causes and consequences of crime.").

But along with some successes, society has experienced some serious failures during the past thirty years. One of those failures is a breach of faith with respect to mental health care. There was a tacit agreement that as we moved away from institutionalization, we would fund mental health treatment in the local community. But I believe that we have either forgotten or abandoned this commitment. At the present time, we are not committing adequate resources to treating the mentally ill.

Among other challenges, we have too few qualified professionals to provide quality mental health treatment. Just think about what happens to the sixteen plus percent in our prison system who are mentally ill: once released, they discover it is very hard to find a psychiatrist who is willing or even available to treat them. Drug therapy often provides a good regimen of treatment, but, to a large degree, we have bought into the idea that drugs are the panacea—they are not. I can tell you from first-hand experience with a close family member who suffered from mental illness that drugs are not a panacea.

What has happened as the result of this breach of faith regarding the treatment of mental illness? What happens to those who are mentally ill when there are no places for them to receive the care they need? All too often, they wind up in—or back in—the corrections system. Society's breach of faith regarding mental health treatment is one reason why nearly one-quarter of the persons in our corrections system suffer from mental health problems. Prison is not where these people need to be for proper treatment. Granted, it takes them off the streets, but incarceration is not an appropriate solution to mental health problems in a caring society. Because we have not made the necessary commitment to identify and treat those among us who are mentally ill, they fall by the wayside; they get swept up into the criminal justice system and are incarcerated. This is wrong, and this is something we need to change.

How can we change? We need to change the public's attitude. As it now stands, this change in attitude will not be an easy task. I recently spoke to the board of directors of a not-for-profit organization about some of these issues. Some of the board members asked me what can be done to change things. I told them we need to energize all the civic sites of society so that mental health, especially for the poor, is not a major issue for the criminal justice system. And by civic sites, I mean family, home, community, church, school, government, and civic organizations such as Rotary, Lions, etc. We need to—if I may borrow a phrase from the women's movement—"heighten everyone's consciousness" about the need for good mental health care. We need to change people's minds and attitudes.

I was bothered recently to see a prominent individual in our community being honored for his benevolent acts while at the same time this person was actively taking steps to diminish mental health coverage in the health organization with which he works. This is hypocrisy—and it should

not be tolerated. We need to change the minds of such people or, at a minimum, not honor them. I am also bothered when I see how government is diminishing its mental health services. If you do not think this makes a difference for someone who struggles with mental health issues, let me tell you a personal story. A family member of mine died in November after a long and courageous struggle with mental illness. Through her illness, I became very aware of other people with mental health problems and how their suffering often spun out of control because of a lack of availability of good mental health care or insurance coverage. These folks are the victims when government breaches its promise to provide help.

When you talk about addressing the incarceration crisis, I urge you to take a long, hard look at mental illness and how we deal with it as a society. We cannot ignore those in our society who are so disadvantaged. Remember, history will judge us by how we treat those among us who are most disadvantaged.<sup>6</sup>

Another major element of the incarceration crisis is the ever-widening disparity among members of different cultures and races in our society in terms of incarceration rates. For example, a person does not have to look too far to find studies highlighting the disturbing trends with respect to incarceration of African American men. As recently as March 20 of this year, Eric Eckholm wrote in *The New York Times* that “[b]lack men in the United States face a far more dire situation than is portrayed by common employment and education statistics.”<sup>7</sup> A flurry of new scholarly studies warn that the situation has worsened in recent years, even as the economic boom and welfare overhaul have brought gains to black women and other groups. We have a very discernible group—black males—which is suffering disproportionately in our society. For the most part, we treat this disparity with “benign neglect”—to borrow a term from the late U.S. Senator Daniel Patrick Moynihan.<sup>8</sup> We can no longer afford to ignore it. Benign neglect is not a solution—it is part of the problem.

In his article, Mr. Eckholm told us to take a look at the numbers.<sup>9</sup> The 1990s was a very bad decade for young black men, even though our nation’s economy was the best it had been in thirty years.<sup>10</sup> The number of unemployed black males went up during this time of economic growth.<sup>11</sup>

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6. A paraphrase of Ralph Waldo Emerson’s statement: “Shall we judge a country by the majority, or by the minority? By the minority, surely.” Ralph Waldo Emerson, “Considerations by the Way,” *The Conduct of Life*, in *American Quotations* 178, 178 (Gorton Carruth & Eugene Ehrlich eds., Random House Publ. 1992).

7. Erik Eckholm, *Plight Deepens for Black Men*, *Studies Warn*, N.Y. Times A1, ¶ 1 (March 20, 2006).

8. Senator Daniel Patrick Moynihan served as U.S. Senator from New York from January 3, 1977, to January 3, 2001.

9. Eckholm, *supra* n. 7, at ¶ 8.

10. *Id.*

11. *Id.* at ¶ 11.

The number of black males dropping out of high school also went up.<sup>12</sup> Simultaneously, the number of arrests of black men climbed steeply.<sup>13</sup> By their mid-30's, sixty percent of black male high school dropouts have served time in prison.<sup>14</sup> Something is wrong here, and we need to fix it. Much of the problem is related to education. "Among black [male high school] dropouts in their late 20's, more are in prison on a given day—34 percent—than are working—30 percent—according to an analysis of 2000 census data by Steven Raphael of the University of California, Berkeley."<sup>15</sup> If those of us gathered here today are truly looking for the causes of an incarceration crisis, we need look no further than how we, as a society, treat people of color.

There is another disconcerting observation in Eckholm's article. He notes that the high school dropout rates for young Hispanic males are as bad or worse.<sup>16</sup> While the figures for Hispanic men do not match the figures for black men, they do indicate a future problem looming before us. If we do not do something now, we are going to face more criminal justice challenges with young Hispanics in the future.

As noted earlier, I work with an organization called AMICUS, whose "Men of Rifiki" program helps African American men who are about to make the transition from prison life to life in the community. I was talking to some of the staff at the Minnesota Department of Corrections and they indicated that if things do not change, AMICUS probably is going to have to establish a similar group for Hispanic men in the next couple years. But there is time—there is time if we act now.

As some of you know, I spend a lot of time in schools talking to students. Last week, I was in Red Wing at the state juvenile correctional facility. I talked to a number of students whose ages ranged from fourteen to seventeen. Yesterday, I received a wonderful card thanking me for taking the time to visit with them. One of the students wrote that he had a nice time, but he still does not trust the judicial system. Then he wrote something that he partially whited out. I think he wanted to say something about the "hood"—how he relies on the streets and does better in the hood. He said, "I was born in the hood. Hispanic is in my blood." I also received a thank you note from his teacher, along with a brief explanation. She said,

Thank you for spending an early morning with our students. They were thrilled. You made a huge impact on them. One note about their cards. One boy [name is omitted] wrote about his distrust of the courts. You spoke with him about racial discrimination: reality and perception. He is new to the program. Believing you will

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12. *Id.*

13. *Id.* at ¶ 12.

14. *Id.*

15. *Id.* at ¶ 40.

16. *Id.* at ¶ 34.

understand where he is coming from, he wanted to leave his remarks unedited except for what he'd already whited out before handing it on. Some of his classmates wanted to get a new card, entirely, because they thought what he wrote was inappropriate. But I hope you know that, to a one, each was positively affected by your visit, and, [name omitted] included, talked about your visit all day. So again thank you very much.

This young man's comment illustrates part of the problem we are facing: an absence of hope. He is telling us that he does not find a comfortable place in our society other than in the hood, and that this feeling has been "batted" into his blood. He is telling us that he has already given up on society as a whole—he has given up hope for the future. We need to do something to change this young man's feeling of estrangement from society, to break that cycle; we need to give him some hope for the future. Otherwise, I fear I am going to see this young man in court sometime during the next few years, facing very serious criminal charges, and he will become another statistic in the incarceration crisis.

In his 1963 song, "Walls of Red Wing," Bob Dylan chronicles what it is like to be confined at the Minnesota Correctional Facility in Red Wing.<sup>17</sup> The last stanza of the song is as follows:

Oh, some of us'll end up  
 In St. Cloud prison,  
 And some of us'll wind up  
 To be lawyers and things,  
 And some of us'll stand up  
 To meet you on your crossroads,  
 From inside the walls,  
 The walls of Red Wing.

Importantly, Dylan's song does contain a glimmer of hope for the future. Let us hope that society treats the students I met at Red Wing such that when we meet them on the "crossroads," they "wind up [t]o be lawyers and things" rather than "end up [i]n St. Cloud [P]rison."

A friend of our family, an African American woman, works very hard, struggling to meet the challenges that life presents. She has a sixteen-year-old son and talks about the peer pressure that urges him to drop out of school and to hang out with his friends on the street. This friend is a model citizen. She works hard; in fact, she works two jobs. She does everything she can for her children, but she's facing overwhelming pressures with respect to her son. Folks, we need to help her out—we really do. As a society, we cannot tell her she is not a good parent. She is a good parent. She is

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17. Bob Dylan, *Walls of Red Wing*, in *The Bootleg Series Volumes 1–3* (CBS Studios 1963) (CD) (The reference to the Bob Dylan song, "Walls of Red Wing," was originally a part of my speech, but was omitted because of concerns about time limits. I have added this reference to the written text of the speech.).



working very hard at being a good parent. She is struggling, trying to do everything right for her children, but the societal forces working against her are almost insurmountable with respect to her son. As a society, we need to help address the negative societal influences that surround her family so her son does not get caught up in the incarceration crisis.

Another thing we need to do is change society's appetite for broad criminalization of certain activities. I see Bill Cameron here.<sup>18</sup> Bill was a classmate of mine; we graduated in the class of 1968, from the University of Minnesota Law School. I sometimes think about how society has changed since Bill and I graduated. One change is in our criminal code. I recently looked at Chapter 609, which is the main chapter of Minnesota's Criminal Code—then and now. I want to show you the difference thirty-five years makes. The very small paper clip that you see is Chapter 609 as it was in 1971—thirty-five pages.<sup>19</sup> Now you may be surprised that I, as a lawyer, would criticize too many laws, but here is Chapter 609 in 2006—over 220 pages.<sup>20</sup> As a society, we need to take a long, hard look at which behavior we treat as being criminal. If you do the math, you will figure out that we have increased the size of our criminal code six times in thirty-five years. Not only have we criminalized more behavior, but we are also imposing harsher penalties. We have instituted most of these “enhancements” since 1989. Now you can see what I was concerned about when I wrote that article back in '93. I could see the incarceration crisis coming.

Another thing that I want to talk to you about today is my perception that we have become a less forgiving society. Major components of the Judeo-Christian tradition are forgiveness and redemption. I talked earlier about why we punish the wrongdoer. We punish the wrongdoer so he can pay his debt to society and rejoin it on an equal footing with the rest of us. But if we do not forgive, we make it much more likely that the wrongdoer will re-offend. We need to let people back into society and, to do so properly, we need to exhibit a bit more of the spirit of forgiveness. As a society, we must be careful not to set our standard for forgiveness so high that once a person is a wrongdoer, he can never escape that status.

Reflecting on the concepts of justice, mercy, compassion, and forgiveness as I prepared for this speech, I remembered a concurrence I wrote two or three years ago.<sup>21</sup> In that concurrence, I focused on the role that mercy and compassion play in relation to justice and punishment. I noted that, too often, society focuses almost exclusively on punishment and argues that justice leaves no room for the sentimentality that is often associated with

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18. Bill Cameron is an attorney who is a 1968 University of Minnesota Law School classmate of mine. Mr. Cameron was an attendee at the symposium and is a long-time advocate for both civil and human rights.

19. Minn. Stat. § 609 (1971).

20. Minn. Stat. § 609 (2004).

21. *State v. Streiff*, 673 N.W.2d 831, 839 (Minn. 2004) (Paul H. Anderson, J., concurring).

mercy or compassion. Many view mercy as a moral virtue, but worry that it will overcome and overburden the justice system. They maintain that anger and retribution toward a wrongdoer are natural and mercy is unnatural, if not improper, in this context. Such an approach sometimes manifests itself when certain prosecutors will, without exception, follow a policy of charging and pursuing the most serious, readily-provable offense or offenses that the facts will support. I have spoken to many prosecutors, and normally we have some good discussions about such a policy. As judges, we frequently see this policy expressed in court, especially when the time comes to exercise some leniency. On a daily basis, judges face the question of whether it is inappropriate or even presumptuous for them to ignore or condemn attitudes focused exclusively on anger and retribution. And as judges, they are properly concerned about what the public thinks.

Should the attitudes of anger and retribution trump any thought of mercy or compassion? Should judges be permitted to develop a heightened awareness that such attitudes can blind the court to circumstances that make the wrongdoer's actions more stupid and pathetic than evil? As judges, we see our share of stupid and pathetic actions—and these actions should result in punishment when they violate the law. Believe me, there is much that is stupid and pathetic about the facts bringing many people into the criminal justice system. But, if the contention advanced in my concurrence in *Streiff* is correct, the legal system must allow some room for the qualities of mercy and compassion if we truly seek justice as an end result for such people.<sup>22</sup> Moreover, these qualities should exist at all stages of the system—with law enforcement, prosecution, and adjudication.

I grew up in an age when, if a young person violated the law, the police officer often took that young person by the scruff of the neck and told him that his parents or Uncle John were not going to like what the young person did. Then the officer would take the young offender to his parents' home or Uncle John's and there would be a very serious talk about what happened. As a general rule, the result of this meeting was that the child was very reluctant to violate the law again. Nowadays, most of the time that same child is taken to the police station where he or she becomes caught up in the criminal justice system. I am not overly nostalgic about the good old days, but we do need to provide more room for some old-fashioned common sense and mercy and maybe a bit more compassion.

Over eighty years ago, Justice Benjamin Cardozo said, "Perhaps we shall find at times when we have been talking about justice, the quality that we have in mind is really charity."<sup>23</sup> To help you understand more easily the nature of the qualities of which I speak, I will resort to Shakespeare's *The Merchant of Venice*, where the Bard talks about mercy. He wrote:

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22. *Id.* at 841–42.

23. Fred R. Shapiro, *The Oxford Dictionary of Quotations* 231 (Oxford U. Press 1993).

The quality of mercy is not strained,  
It droppeth as the gentle rain from heaven  
Upon the place beneath; it is twice blessed;  
It blesseth him that gives and him that takes;  
'Tis mightiest in the mightiest; it becomes  
The throned monarch better than his crown.<sup>24</sup>

Mercy and compassion are not strained; they droppeth like the gentle rain from heaven. They bless twice; they bless him that gives and him that takes; they are mightiest in the mighty; they become the throned monarch better than his crown. I hope as a society we can provide more room for such “gentle” concepts.

Now I come back to a concept I mentioned earlier—forgiveness. You may have noticed that up until now I have been talking about the criminal justice system—the police, the prosecutors, and the judges. In this context, I have talked about justice; I have talked about compassion. And, I have talked about mercy. I believe those qualities have their place within the criminal justice system. Forgiveness is not a concept I have talked about in our criminal justice system. That is because forgiveness is not normally our job as judges; it is your job. It is your job as a member of our civil society. And as you work on the issues before you today, remember that you do your work as a member of our civil society, and understand it is society as a whole that has to be willing to forgive. Society needs to establish a reasonable standard of forgiveness for those who have violated the law, but have also paid their debt to society.

In a few minutes, I have to leave your symposium in a bit of a rush so I can fulfill my duties as chair of a Minnesota Supreme Court committee dealing with public access to court information.<sup>25</sup> I can tell you today that our information system keeps records on almost every type of offense you may commit. And there are data harvesters who collect and sell, or otherwise disseminate, this information. You can find it on Google and many other places. Easy access to information on past offenses makes it all the more difficult for our society to forgive because we know so much about each other. During this information age, we need to think about ways we can use this information properly so it does not improperly interfere with our ability to forgive.

So what are the solutions? I have some thoughts on that, but, as your last-minute, pinch-hitting luncheon speaker, I was told that my job was to help you focus on some of the reasons for the incarceration crisis. As noted earlier, chief among these reasons are lack of proper mental health care, racial and cultural disparities, poor education, an absence of hope, changing

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24. *The Oxford Dictionary of Quotations*, 688 (Elizabeth M. Knowles ed., 5th ed., Oxford U. Press 1999).

25. Minnesota Supreme Court Advisory Committee on the Rules of Public Access to Records of the Judicial Branch.

societal attitudes about the criminality of certain behaviors, and the place of mercy, compassion, and forgiveness in our system. But before I end, there is one other observation I want to share with you.

We in the judicial branch see many people who offend—who violate the law. Many have mental illness or severe emotional problems, and many are before us because they did something stupid or succumbed to the improper influence of others. But some of these people are truly evil. The justice system needs to do a better job of assessing risk when we determine what punishment society should impose on those who come before us. Those who are truly evil and dangerous—and there are some people who are completely incapable of living peacefully in a civil society—need to be segregated. We need to identify who these people are and we need to incarcerate them. There is no question about it—they need to be segregated from society. But we do not do as well as we should in determining who these people are. For the others who offend, we need to do a better job of exploring reasonable alternatives to lengthy incarceration. This need for proper risk assessment is particularly critical when we sentence the drug offenders who are presently swelling our prison population beyond capacity. We need to do a better job of separating the evil wrongdoer from the sick and addicted drug abuser.

Most studies I have read show that incarceration alone does not prevent recidivism. Yes, I know that incarceration prevents someone from re-offending if only because, for a set period of time, that person is in prison, which prevents him or her from committing other crimes. Granted, this works for a while. But it is a very expensive, temporary solution. Moreover, about ninety percent of the persons who go to prison will re-enter society.<sup>26</sup> We need to understand that if we incarcerate without some type of treatment, without providing some hope for a future, we may actually increase the possibility of recidivism. Maybe we need to begin thinking of alternatives to lengthy incarceration.

For reasonable alternatives to emerge, all the providers in the criminal justice system, all the way from law enforcement through probation officers, need to come together to focus on risk assessment, needs evaluation, and the fact that most offenders will re-enter society at some point in the future. We need to figure out what works so that when an offender's punishment ends, the offender is restored to society with some hope for success. To succeed, we need a commitment from society. So, let us all work at changing attitudes. Let us approach this problem with the idea that we do not want to leave our children with a continuing crisis.

Mentioning future generations leads me to the final thought I want to leave with you—I call it my grandchild-on- or-at-your-knee test. I do not

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26. Based on comments made to the author by Minnesota Department of Corrections staff and information from other sources.

believe that the decades of the 1990s or the early 2000s will be remembered very well for how we treated racial minorities or the least advantaged in our society. This time period might well be remembered as the “what’s in it for me” decades. If we do not do something soon, our grandchildren will, without a doubt, hold us accountable for our failures. Now I want you to think about this. Imagine your grandchild sitting at your knee or by your side twenty to thirty years from now and asking, “Grandpa/grandma, what did you do back then to make things better?” Prepare yourself now for this question. Live your life now so that you are in a position to tell your grandchild that you did something to make society better and then be able to tell your grandchild how you helped to build a more just society. Having done something to resolve today’s incarceration crisis might well be part of your answer to this question.

Thank you very much. It has been a pleasure to visit with you today.