

# IDEAS

## FOR AN OPEN SOCIETY



### JUSTICE REINVESTMENT:

*to invest  
in public  
safety by  
reallocating  
justice  
dollars to  
refinance  
education,  
housing,  
healthcare,  
and jobs.*

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# Justice *Reinvestment*

**T**here is no logic to spending a million dollars a year to incarcerate people from one block in Brooklyn — over half for non-violent drug offenses — and return them, on average, in less than three years stigmatized, unskilled, and untrained to the same unchanged block. This unquestioned national dependence on mass incarceration reflects a fundamentalist approach to imprisonment that actually sacrifices public safety.

Similar to the Brooklyn neighborhoods where there are million-dollar blocks, The Hill in New Haven, Connecticut is a neighborhood where \$20 million is spent annually to imprison 387 people. The reality is that almost all these people, like others in prison nationwide, will return to The Hill and other high-incarceration communities. When they return — disproportionately to low-income neighborhoods of color — they will find neighborhoods weakened by their absence and burdened by their return.

A simple but radical question that policymakers are now asking is whether the \$20 million spent on prisons make The Hill a safer neighborhood. In a difficult fiscal climate, where city, state, and local officials have an annual \$20 million budget to make communities safe, should they spend it all on prisons? This is the basic

question driving justice reinvestment, a fundamental shift in the way we think about public safety in America.

## **The Failures of Prison Fundamentalism**

The goal of justice reinvestment is to redirect some portion of the \$54 billion America now spends on prisons to rebuilding the human resources and physical infrastructure — the schools, healthcare facilities, parks, and public spaces — of neighborhoods devastated by high levels of incarceration. Justice reinvestment is, however, more than simply rethinking and redirecting public funds. It is also about devolving accountability and responsibility to the local level. Justice reinvestment seeks community level solutions to community level problems.

The principles and particulars of

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justice reinvestment are driven by the realities of crime and punishment in America today. The war on drugs, three-strikes sentencing schemes, elimination of judicial discretion and parole, and the broad abandonment of rehabilitation have led to an unprecedented level of imprisonment in the U.S. — over 2 million today compared to 200,000 in 1972. The massive number of incarcerated people come from a few neighborhoods across the U.S. — the million-dollar blocks of Brooklyn or the 3 percent of Cleveland neighborhoods that are home to 20 percent of all Ohio prisoners. They are often young people of color convicted of non-violent crimes, poor, undereducated, unemployed, 75 percent drug or alcohol dependent, and 16 percent seriously mentally ill.

A critical component of reinvestment thinking is stopping the debilitating pattern of cyclical imprisonment: 98 percent of these persons will return to the community — 630,000 annually — and two-thirds will end up back in prison. One-third of those released return to prison not because of new crimes but because of violations of their parole — missed office appointments, positive drug test results, or breaches of curfew. In California, 65 percent of new admissions are for parole violations, which cost the state \$1 billion annually.

From an investment perspective, both our prison and parole/probation systems are business failures. These policies destabilize communities along with the individuals whom they



fail to train, treat, or rehabilitate (and whose mental health and substance abuse are often exacerbated by the experience of imprisonment.) Recent research by criminologists Todd Clear and Dina Rose indicates that high levels of concentrated incarceration

make a neighborhood less safe not more. The “coercive mobility” of cyclical imprisonment disrupts the fragile economic, social, and political bonds that are the basis for informal social control in a community.

The cumulative failure of three decades of prison fundamentalism stands out in sharp relief against the backdrop of today’s huge deficits in state budgets. This difficult financial climate is forcing state officials to consider alternatives to increased incarceration, including treatment for the chemically dependent and mentally ill and reformed parole revocation guidelines to restrict the return of low-risk parolees to prison.

#### **From Unproductive Spending to Long Term Investment**

Identifying unproductive spending in correction budgets is the first step in the justice reinvestment process; the second step is the segregation and protection of a portion of these funds, and the third step is to reinvest the money into the public safety of high incarceration neighborhoods. The

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## IDEAS for an Open Society

recent passage of legislation in Connecticut earmarking \$7.5 million for justice reinvestment in New Haven is a prime example of how this policy can work.

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A basic principle of justice reinvestment is to redefine the notion of public safety. Research proves that public safety is not assured by imprisonment alone. As the Governor’s Task Force on Sentencing and Corrections in Wisconsin discovered in 1998, a fuller definition was “hidden in plain view” in the mission statement of the Department of Corrections. Like other state correctional agencies, they were given a charge not to warehouse and case-manage individuals sentenced to prison but “to ensure the safety and protection of the public.” The charge was to use its resources to reduce the risk to the public, not just to incarcerate. The question should be “What can be done to strengthen the capacity of high incarceration neighborhoods to keep their residents out of prison?” not “Where should we send this individual?”

We advocate taking a geographic approach to public safety that targets money for programs in education, health, job creation, and job training in low-income communities. This

includes making parole officers responsible for particular neighborhoods rather than dispersing their caseloads across a wide span. It means that reentry from prison becomes a shared responsibility involving the community, government institutions, and the individual and his or her family. Even if the recent federal reentry initiative of \$2 million per state were

enough to prepare people leaving prison for employment, the likelihood of successful reentry—without decent jobs in their communities, counseling to identify opportunities, and childcare—will be minimal. Reentry must be a geographically targeted partnership of public and private interests—penal, social services, health providers, and educational institutions. No size fits all.

The solution to public safety must be locally tailored and locally determined. This means a basic shift in the fiscal relations between the state and localities, and with it the devolution of program responsibility and accountability to local government. Under current practice, the state pays for the imprisonment of persons from the city. Dollars and accountability flow out of the neighborhoods. Justice reinvestment facilitates a variation on what Dennis Maloney and community leaders accomplished for juveniles and adults in Deschutes County, Oregon. But Oregon is not the only example of positive change. Ohio, for example, has had success with its Reclaim Ohio Program, working in all 88 counties of the state.



Under this proposal, local government could reclaim responsibility for dealing with residents who break the law and redeploy the funds that the state would have spent for their incarceration. The localities would have the freedom to spend justice dollars to decrease the risks of crime in the community. They could choose to spend these dollars for job training, drug treatment programs, and preschool programs, as well as incarceration for the dangerous few, in which case the state would levy a charge back for imprisonment costs. The key is making the locality accountable for solving its public safety problems and allowing local governments to reclaim resources. The redirected penal funds could be blended with other government funding streams to focus on local community restoration projects and could be leveraged to attract other public or private investment in housing, employment, or education.

Local government would develop a diversified investment strategy with a portfolio of risk reducing initiatives. The idea of a civic justice corps is to mobilize people returning home from prison as agents of community restoration. They would join with other community residents to rehabilitate housing and schools, redesign and rebuild parks and playgrounds, and redevelop and rebuild the physical infrastructure and social fabric of their own neighborhoods. But the civic justice corps is only one possible investment in a public safety portfolio. Other investments might include a locally run community loan pool to make micro-loans to create

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jobs or family development loans for education, debt consolidation, or home ownership and rehabilitation, transportation micro-enterprises for residents commuting outside the neighborhood, a one-stop shop for job counseling and placement services, or geographically targeted hiring incentives for employers.

#### **Role Reversal and the Promise of Reinvestment**

Justice Reinvestment allocates criminal justice spending to support

schools, healthcare, housing, and jobs within the communities most in need of these resources. By doing this, justice reinvestment also increases public safety. The civic justice corps requires workers with training and skills, and prisons should be preparing them. Penal institutions should become, in Dennis Maloney's words, "service learning experiences." Despite the good intentions of individual parole officers, the system and its conflicting incentives have transformed these parole officers into second-class police officers on the one hand and overburdened, undertrained social workers on the other. But with devolution of parole to the neighborhood and retraining, parole officers could become resources for the restoration of communities and individuals. Instead of harvesting the failures, the incentives could be reversed so that parole officers become partners for public safety.

Finally, with justice reinvestment, the role of the formerly incarcerated will change. As utopian as it may sound, the cycle of incarceration can be broken. Residents of low-income communities of color, now relegated to permanent consumers of correctional services, can—through public reinvestment in individual capacity and community institutions—become builders and restorers of healthy, safe communities.

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# From Prisons to Parks in Oregon



After working in the corrections systems for three decades, Dennis Maloney still has a fresh and thoughtful take on the country's criminal justice system. In Oregon, he piloted a new county initiative where young people in juvenile justice custody actively serve their communities instead of passively serving time.

In the 1990s, the Oregon legislature appointed Maloney to their state's prison forecasting committee, which estimated the number of prison beds the state would need in the future. Maloney, who was also developing youth programs as part of Oregon's Commission on Children and Families, found the experience disheartening. "One day I'd be planning children's services, for which there was a pittance of funding, and the next, I'd be projecting prison spending, with politicians eager to throw money in that direction to appear tough on crime."

Maloney, a father of five girls, was disturbed by this. "I found myself planning future jails for my daughter's kindergarten classmates," he says. As policymakers poured money into pris-

ons, education took the greatest hit; Maloney realized that Oregon would have prison beds, not college classrooms, for too many children.

In interviews with elected officials, Maloney determined that because the state picks up the prison costs for adults and children, local governments had no political or economic incentive to keep them in their communities and out of prison. Though communities were eager to prevent crime, they lacked the funds to invest in primary prevention programs, such as after-school care.

Maloney presented the problem to business leaders who understood that the financial incentives of the system were all wrong. They enthusiastically championed his idea of a community service program that would make crime prevention a local, not state, responsibility. As Maloney suspected, politicians from both sides followed suit.

In 1997, Oregon passed legislation that allowed Deschutes County to supervise juveniles—otherwise destined for state prisons—in community programs. In doing so, the state turned over the cost of locking up youths in state institutions—some \$50,000 per youth per year—to the

county. These funds would allow the county to create neighborhood improvement projects to supervise the juveniles and invest surplus funds in primary prevention programs, with one catch: Deschutes County, not the state, became financially responsible for each kid it put behind state bars.

If the county successfully supervised the youth in local programs, it would have ample resources for preventive care. But if the county sent kids to state institutions, the county would assume the cost of incarceration.

Maloney, it seemed, had reversed the powerful incentive for counties to lock people up in state institutions. Propelled by a financial incentive, Deschutes County couldn't afford to squander its earned dollars on programs with limited results. Recognizing that a majority of Americans prefer that people be held accountable for their actions, Maloney focused on community service as an active alternative to jail time. Deschutes County required juveniles to serve their sentences by landscaping local parks, constructing bunk beds for families in need, or partnering with Habitat for Humanity to build homes. The kids learned valu-

able skills while giving back to the community in a tangible way. “We can point to their work and say, ‘Look at what they can do for the community if given the opportunity,’” says Maloney.

Deschutes County emphasized service and got results. Within one year, the community service program reduced youth incarceration in state facilities by 72 percent, a national high according to the National Center for Juvenile Justice. Maloney knows this was no accident. The youth in the program average 204 hours of community service versus the average 4 for incarcerated youth; and their restitution rate is 4 times higher than that of kids who serve time.

“Service is honorable,” he says.

“The public recognizes the contribution that they make and supports them.”

Though the public traditionally has a higher tolerance for juvenile offenders, the Deschutes County community soon realized that adults also deserve a second chance. And because many adults in the program bring technical skills to the table, the community saw results faster; a child advocacy center and a homeless shelter were built in weeks not months, and parks seemed to grow overnight.

Each year, the United States pumps \$54 billion into a correctional system that provides no tangible benefits to people who have been victimized by crime, those who have committed crimes, or to neighborhoods. In contrast, the community service program in Deschutes County creates public spaces, provides employers with a skilled workforce, and allows people to earn a place for themselves in the community. And these programs save state dollars. Oregon saved \$17,000 per case when they

granted Deschutes County flexible use of state funds, which now support schools, libraries, healthcare, and parks. (State funding ceased in July 2003 but because of the program’s success, the local government provided the funding.)

Maloney is confident that what he has accomplished on a local level will work nationally. His inspiration is the Civilian Conservation Corps (CCC) of the 1940s, which—hailed by experts as one of the most successful government programs ever—contributed billions of dollars to our nation’s infrastructure by building bridges, national parks, hatcheries, and municipal auditoriums.

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If the CCC accomplished this with 900,000 employees, Maloney asks us to imagine what—with 2 million people behind bars and 9 million more on probation or parole—a Civic Justice Corps could accomplish today. “If prison was a service learning experience,” he says, “and parole and probation systems were service action ventures, we could contribute more to contemporary society than the CCC did 60 years ago.”

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## OSI and The After Prison Initiative

**THE AFTER PRISON INITIATIVE** was established to reduce the number and racial disproportionality of people going back to prison. Open societies rely on the effective functioning of civil institutions to guarantee civil and human rights. When they are weakened, the normative foundation for a shared commitment to the rule of law is undermined, threatening the civil peace and the values of an open society. Over the past three decades, the share of federal, state, and local

resources invested in prisons has skyrocketed. Parole policies and revocations sustain the high levels of incarceration. As measured by successful reentry versus recidivism, the return on these investments has been minimal. And the consequent social and economic divestment in the civil institutions of poor minority communities has resulted in their economic and political disenfranchisement.

The After Prison Initiative is committed to linking justice policies and spending to

community outcomes and safety in order to build public safety equity. The program supports advocacy, policy reform, research, and public education that target fundamental systemic change in three areas: an increase in civic engagement and community responsibility for reentry, a reallocation of public and private resources from prisons to civil institutions, and, a shift in the mission of prisons, probation, and parole to community service and successful reentry.

### Mission Statement

**AN OPEN SOCIETY IS ONE THAT** protects fundamental human rights, guarantees impartial justice, provides opportunities for people to make the most of their talents, and makes public decisions through a democratic process that is open to full participation and constant reexamination.

The mission of the Open Society Institute is to promote these values in the United States as well as in emerging democracies around the world. Although the U.S. aspires to the ideal of an open society, in many respects we fall short and in others we are losing ground.

An open society requires a public sphere shielded from the inequalities of the marketplace, but in the U.S., the dominant values have become those of market fundamentalism, which rejects a role for government and poses a threat to political equality, public services, racial justice, and the social safety net.

An open society requires an unbiased system of justice that stands apart from political pressures and social inequality, but in the U.S., the pressures of money, bias, and politics undermine the independence of the courts and the fairness of the criminal justice system. An open society is one in which individuals and communities can make the most of their talents and assets, but in the U.S., too many people face barriers posed by failed schools, a dead end criminal justice system, or the sharp inequalities in our provision of health care and economic security. And too many communities are isolated from full participation in democratic decisionmaking or the mainstream of the economy.

Through our grantmaking and our policy initiatives, the Open Society Institute's U.S. Programs seek to restore the promise of our pluralistic democracy and bring greater fairness to our political, legal, and economic systems. We seek to protect the ability of individuals to make choices about their lives and to participate fully in all the opportunities — political, economic, cultural, and personal — that life has to offer.

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