

# Betraying the Model City: How Gang Injunctions Fail Oakland



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## About Critical Resistance

Critical Resistance seeks to build an international movement to end the Prison Industrial Complex (PIC) by challenging the belief that caging and controlling people makes us safe. We believe that basic necessities such as food, shelter, and freedom are what really make our communities secure. As such, our work is part of global struggles against inequality and powerlessness. The success of the movement requires that it reflect communities most affected by the PIC. Because we seek to abolish the PIC, we cannot support any work that extends its life or scope. Contact us:

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# INTRODUCTION

In February 2009, Oakland City Attorney John Russo went public with plans to file gang injunctions throughout the city. More than a year later, with one injunction temporarily in place, another proposed, and the threat of up to 11 more to follow, there is widespread and rapidly mounting opposition to the injunctions citywide.

*“The need to bring more funding into the community is long overdue, and desperately needed. Our children are failing at life, because we as a society and government are failing them . . . Money spent to file and enforce this injunction could be spent much more effectively on prevention and other community interventions . . . we need to address the disparities in our social, economic and educational arenas.”*

Margaret White, Longtime North Oakland Community Member

We oppose gang injunctions because they are ineffective, costly, and harmful to our communities.

Our findings conclude that civil gang injunctions are an inappropriate method for addressing violence in our communities. Injunctions lead to increased police harassment and brutality, decreased community unity, increased alienation and racial profiling, and gentrification. They also divert a tremendous amount of resources from vital programs that could build strong, stable and healthy communities.

There are many viable alternatives to gang injunctions that will reduce violence and help build up, rather than tear apart our communities. They include after-school programs and youth centers, alternative ways of dealing with harm, job training and placement programs, drug and alcohol treatment, counseling services, affordable housing, and re-entry support and services for people coming home from prison.

## What are Gang Injunctions?

Gang injunctions are a rapidly proliferating police tool even though they have not been proven effective. The first gang injunction was filed in Los Angeles in 1987<sup>i</sup>, and since there have been over 60 gang injunctions filed in CA<sup>ii</sup>. The constitutionality of gang injunctions is still being contested.<sup>iii</sup>

A gang injunction is a civil suit filed against a group of people considered a “public nuisance,” prohibiting them from participating in certain activities, usually including:

- Appearing in public with anyone police have labelled a “gang member” (including those not named in injunction). Exceptions are supposed to be made for church, school and work.
- Being outside between 10pm – 5am curfew, exceptions same as above.
- Loitering
- Possessing graffiti paraphernalia including felt tip markers.
- Possessing or being in the presence of anyone possessing firearms, drugs, or drug paraphernalia including rolling papers.
- Wearing colors that police associate with the street organization in question.

Because an injunction is a civil suit, defendants are not entitled to a free attorney, and standards of evidence are lower than in criminal court.

# GANG INJUNCTIONS IN OAKLAND

The North Oakland gang injunction was put into place temporarily on June 2, 2010. The injunction named 15 African American young men and created a 100-block “safety zone” where they could not conduct the activities named above.<sup>iv</sup>

The second proposed injunction would create a “safety zone” of roughly two square miles in East Oakland, and names 40 alleged Norteños.<sup>v</sup> At the time of the release of this report, the injunction has not yet been put in place, mainly due to opposition from community members and organizations. Each defendant is required to pay close to \$1,000 to appear in court.<sup>vi</sup> The City Attorney has also tried to disqualify lawyers who are representing defendants.<sup>vii</sup>

## Gang Injunctions DO NOT Reduce Violence

Police and media reports of injunctions improving safety are seldom backed by significant evidence. Maxson and Allen found, for instance, “little support for a positive effect” with regards to an injunction in Inglewood, CA that has been held up as a success.<sup>viii</sup> The ACLU similarly found that an injunction in San Fernando Valley that had been celebrated for making communities safer actually had the opposite effect.<sup>ix</sup>

**Oakland City Attorney Russo and Police Chief Batts have repeatedly stated that injunctions are historically effective and that the injunction in North Oakland has been effective in reducing violence. However, in North Oakland, shootings and killings doubled compared to the previous year in the first 6 months of the injunction.<sup>x</sup>**

Named individuals experience alienation, and often, their efforts to gain/maintain employment and support family become impossible, especially since injunctions show up on background checks. This type of social and economic isolation is more likely to cause, rather than reduce violence. Some defendants in East Oakland have even reported becoming the targets of violence after being publicly named on the injunction list.<sup>xi</sup>

## Gang Injunctions Drain Community Resources

Accurate information on the total costs of gang injunctions in Oakland and elsewhere is nearly impossible to find. Original estimates for legal fees for the North Oakland injunction were \$430,000. Gang injunction costs include, but are not limited to:

- *Legal fees for staff time, printing, filing, court dates, and countersuits that are inevitably filed because injunctions always infringe on defendants’ civil rights.*
  - As of 12/10/2010, the Oakland City Attorney’s office had spent at least 1,930 staff hours on the two injunctions.
  - City Attorney John Russo makes \$207,000 per year
  - The city has spent at least \$70,240 on outside legal fees<sup>xii</sup>
  - In West Sacramento, lawyers estimated the legal expenses for fighting an injunction over two years at over \$1 million.<sup>xiii</sup> If the East Oakland injunction is passed, it will likely be contested in court.

# GANG INJUNCTIONS IN OAKLAND

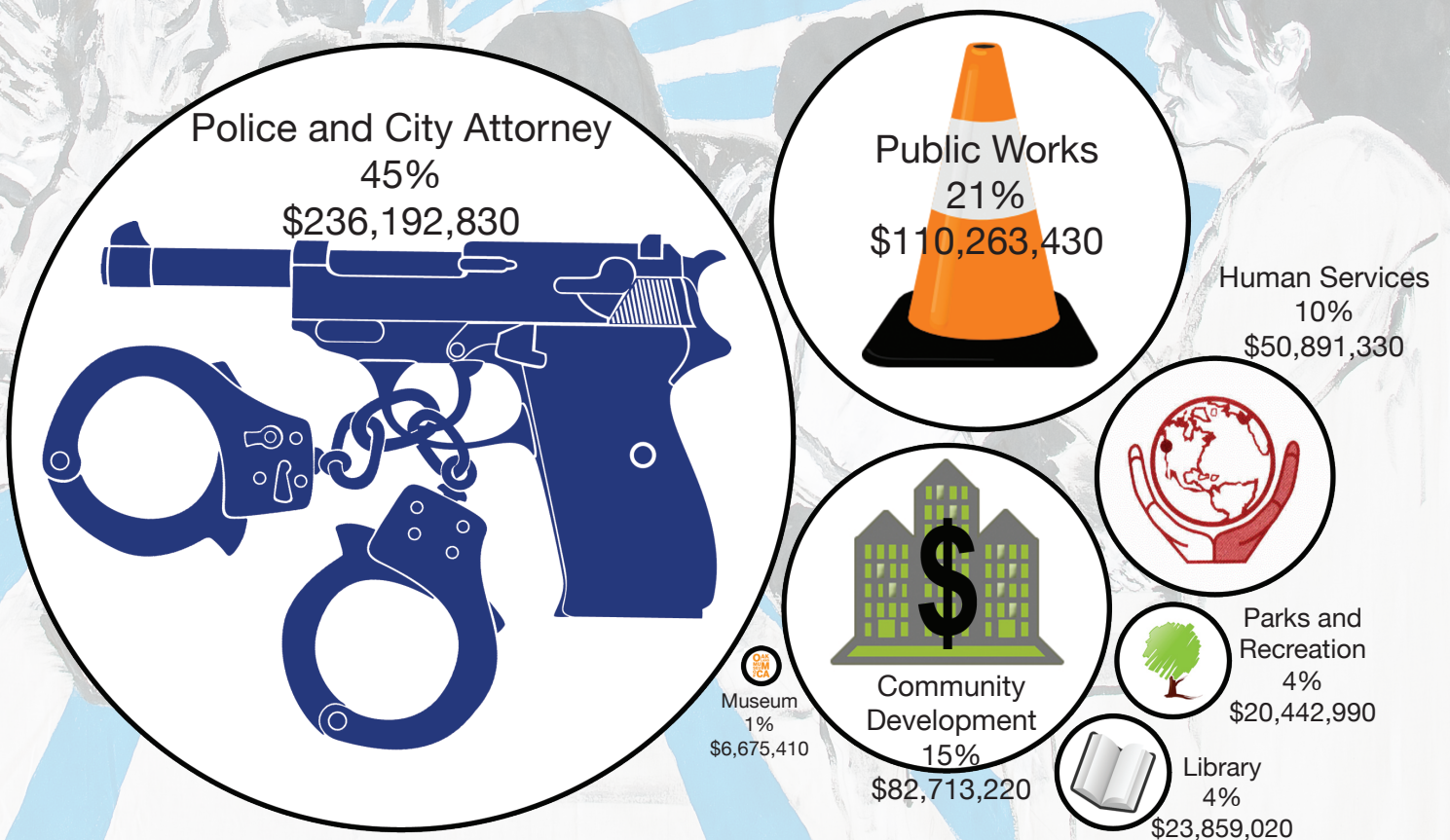
- *Police Department staff time spent writing declarations, appearing in court, training, and enforcing injunctions.*
  - There are no publicly available numbers on how much police labor has gone into gang injunctions in Oakland
  - The current entry level salary for an Oakland Police Officer is \$71,841 to \$90,549<sup>xiv</sup>
  - Once injunctions are made permanent, they are enforced indefinitely
- *Staff time and resources spent on propaganda and media promoting injunctions.*

Russo has stated that he will seek to file **5 to 11 more injunctions in Oakland.**<sup>xv</sup> If defendants in each injunction miraculously find counsel in time to try their case, this could mean another **\$11 million in legal expenses.**

## Where is the Money Coming From?

The City Attorney's office has stated that the use of injunctions in Oakland is not motivated by the receipt of federal or state funding. However, OPD has received funds for its gang suppression tactics in the past. Many municipalities pushing gang injunctions have received federal and state funding for their efforts. More importantly, it is clear that despite Oakland's serious financial crisis, Russo and the OPD are spending taxpayer's money on ineffective and damaging solutions to violence that have not been approved by the City Council let alone the people of Oakland.

## Where the Money is Going - Oakland's 2011 Budget



# GANG INJUNCTIONS IN OAKLAND

## Gang Injunctions Increase Police Harassment and Maintain White Supremacy

Gang injunction enforcement depends on visual identification of alleged gang members performing activities that are otherwise legal. This gives the Oakland police—who produced the Riders and are under ongoing federal supervision for serious misconduct allegations—an incredible amount of discretion. Gang injunctions lead to increased harassment of people who “fit the description” of anyone on the list, namely Black and Latino youth who already have strained relations with police.

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Lawyers, scholars, researchers, community members and organizations have all attested that the process by which people are named in injunctions and how they are enforced is based on and promotes racial profiling, namely of African American and Latino young men.<sup>xx</sup> As the ACLU points out, cops label people “gang members” based on things like how they dress and who they know.<sup>xxi</sup> Many people on both of Oakland’s injunction lists have never associated themselves with any gang.<sup>xxii</sup>

Increased police presence enforcing injunctions has led communities to feel uncomfortable in their neighborhoods, and to notice increased police harassment and racial profiling.<sup>xxv</sup>

Although Oakland’s injunctions only legally target named defendants, police officers have stopped youth not named in the injunction in North Oakland, asking them if they are on the list.<sup>xxvi</sup> Residents of Summit Ave. in LA similarly reported police stopping and searching almost everyone when an injunction was issued there.<sup>xxvii</sup>

*In LA County, one officer described injunctions as a measure that “severely restricts [the] movement of citizens – like martial law”<sup>xxiii</sup>*

In East Oakland, numerous defendants reported that police violently searched their homes when they were served with the injunction, despite this being a civil case.<sup>xxviii</sup>

Gang injunctions sustain white supremacy by not only criminalizing youth of color, but also stigmatizing entire communities.<sup>xxix</sup> When young men of color are disproportionately identified as gang members, the consequences are felt by family, friends, and community members. Interestingly, whites make up a significant share of actual gang membership, but are rarely

identified as gang members by police.<sup>xxx</sup> The LA district attorney’s office found that close to half of black males between the ages of 21 and 24 had been entered in the county’s gang database even though no one could credibly argue that all of these young men were current gang members.<sup>xxxi</sup>

*A police officer in Oxnard likened his department enforcing an injunction to an “invading army.”<sup>xxiv</sup>*

# GANG INJUNCTIONS IN OAKLAND

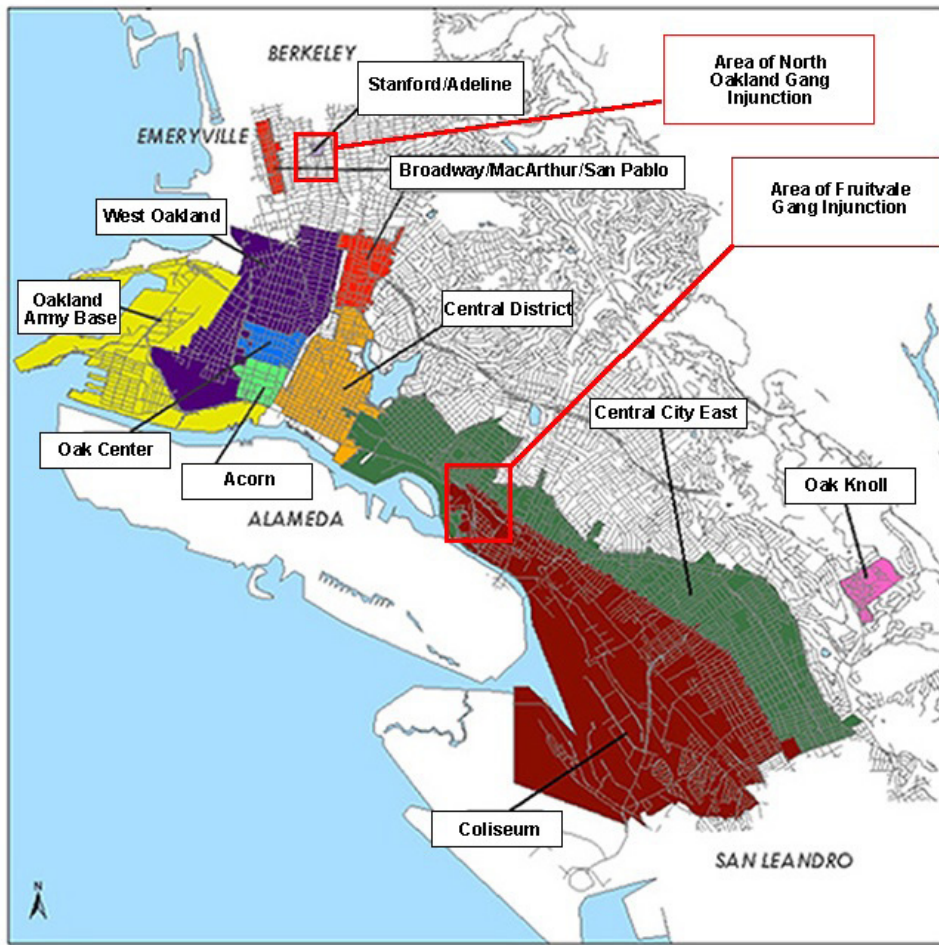
## Gang Injunctions are Tools of Gentrification<sup>xxxii</sup>

In the long-term, gang injunctions often usher in a wave of gentrification. Mesha Monge-Irizarry, director of the Idriss Stelley Foundation, points out: “It’s important to look at the socio-economic profile of gang injunctions nationwide. They are only applied in poor neighborhoods of color in metropolitan areas that are targeted for gentrification.” ACLU attorney Juniper Lesnik further states, “Injunctions do not exist in the most violent neighborhoods, which is where you would expect them, but they exist in neighborhoods that border white or gentrifying neighborhoods . . .

It makes it look as if the government is taking action to make those neighborhoods safer, which gives people more confidence about living nearby.”<sup>xxxiii</sup>

Redevelopment, also sometimes called “urban revitalization,” forcibly displaces poor and working class populations and turns over their land to wealthy redevelopers for free or for a below-market-value price. Redevelopment is a tool used by cities as part of the process of gentrification.

This map shows the location of Oakland’s redevelopment project areas in relationship to the general location of the temporary North Oakland gang injunction and the proposed Fruitvale gang injunction. Oakland’s redevelopment zones are located solely in areas of the city that are either populated largely by working class people of color or former industrial sites. (Taken from <http://www2.oaklandnet.com/Government/o/CEDA/o/Redevelopment/index.htm>)



## Gang Injunctions Divide Communities

Gang injunctions reduce community cohesion and stability, often resulting in increased violence. In LA County, one community experienced increased violence and felt that they could not solve their problems as a community.<sup>xxxiv</sup>

Residents in North Oakland felt that the injunction would negatively impact community relationships, when they need to be strengthened. Margaret White, longtime community member in North Oakland, states: “This gang injunction will only serve to further polarize the community and exacerbate existing racial conflicts between community members, neighbors, and the Oakland Police.”<sup>xxxv</sup>

# ALTERNATIVES TO GANG INJUNCTIONS

In 2010, the Justice Policy Institute published a study on the relationship between poverty & incarceration, which had the following findings:

- State spending patterns indicate a priority of law enforcement and incarceration over vital public programs and support services.
- Youth of color are disproportionately impacted by the justice system.
- Stable housing is one of the most significant factors affecting the risk of involvement in the justice system.
- Investing in appropriate mental health and substance abuse treatment can improve public safety and reduce justice involvement.
- Investments in education can reduce incarceration rates, improve public safety and promote community well-being.
- Providing job training and opportunities for both youth and adults is an effective strategy both for increasing public safety and strengthening communities.
- Youth who participate in after-school activities are less likely to engage in certain risky behaviors and are more likely to have higher levels of academic achievement and self-esteem than youth who do not.<sup>xxxvii</sup>

*“The biggest thing participants in all phases of the research have agreed on is that, in neighborhoods and schools where gang involvement is a real issue, it can generally be linked to a lack of engaging alternatives and meaningful opportunities for success in pro-social settings. Recreational, sports, and cultural programming, academics-related programs, and employment opportunities are insufficiently supported or lacking altogether.”*

Latino Men and Boys  
Oakland Project Final  
Report<sup>xxxvi</sup>

We conclude that there are many viable alternatives to gang injunctions that will reduce violence and help build stronger, more stable, and healthier communities in Oakland. Any real solutions will come from inclusive, representative community feedback and decision-making processes.





# ALTERNATIVES TO GANG INJUNCTIONS

## Gang injunctions are too costly for Oakland. This is what WE recommend investing in:

### Safe, relevant and accessible after-school programs and youth centers

Young people in Oakland have few spaces to congregate with their peers or receive mentorship from their elders. We need more community-run spaces where youth can come together on neutral ground and feel supported to learn, create, play and develop as community leaders. Local examples include Homies Empowerment Program, a project of the Eastlake YMCA, and SMAAC Youth Center.

### Job training and placement programs

Many people participate in criminalized street economies to contribute income to their families and meet their basic needs. We need training programs that prepare people for job applications and meaningful work; help them find stable, well-paying employment; and build community. One example of a community organization that provides training and builds community is Homeboy Industries in Los Angeles.

### Affordable mental and medical healthcare and substance treatment programs

“Over half of people in prisons and jails report mental illness of some kind, compared to 25 percent of the general population. And people who cannot access drug treatment in the community are more likely to be arrested on a drug-related offense. People entering prison have higher rates of chronic health, substance abuse, and mental health problems than the general population.”<sup>xxxviii</sup>

We need to support people’s physical well-being

as well as their ability to deal with trauma and other mental health issues through affordable, accessible healthcare and counseling. We need drug and alcohol treatment programs that work with people to help them reduce the negative impacts of their use and/or stop using substances. One local example is the Harm Reduction Therapy Center.

### Alternative ways of dealing with harm, conflict, trauma

Policing and imprisonment are violent practices that break up families and destabilize communities. We need to use and continue to develop responses to harm that help people flourish and learn without punishment and separation from their families and communities. Local examples include Creative Interventions and Generation Five.

### Affordable housing

Gentrification destabilizes communities, neighborhoods, and families by pushing poor and working class people out of their homes. We need more well-maintained affordable housing with community programming, open space and significant tenant input in decision-making. One local example is the Alameda Point Collaborative.

### Re-entry support and services for people coming home from prison

People with conviction records face tremendous barriers to successful reintegration. Aside from making sure all of the above are accessible to people coming home, we must also provide education opportunities and end discrimination against formerly imprisoned people in jobs, housing, and welfare. One example of a local organization that works extensively on this issue is All of Us or None.



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v [Proposed] Order Granting Preliminary Injunction Against Nortenos Gang, John Russo et. al Case No. RG 10541141 (Superior Court of CA, filed on Dec 17, 2010). <http://www.oaklandcityattorney.org/PDFS/People%20v.%20Nortenos%20%20Proposed%20Order%20Granting%20PI%2012%2001%2010.PDF> (accessed Jan 26, 2010).

vi Public testimony at Oakland City Council Public Safety Committee Meeting (Jan 11, 2009).

vii Erik K. Arnold, "Oakland Gang Injunction Hearing Fails to Disqualify Defense Attorneys, Judge to Rule Feb 3," *Oaklandlocal.com* (Jan 7, 2010). <http://oaklandlocal.com/article/oakland-gang-injunction-hearing-fails-to-disqualify-defense-attorneys-judge-rule-feb-3> (accessed Jan 26, 2010).

viii Judith Greene and Kevin Pranis, *Gang Wars: The Failure of Enforcement Tactics and the Need for Effective Public Safety Strategies*, Justice Policy Institute (July 2007), 77. Maxson, Hennigan, Sloane, and Kolnick.

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x Shoshana Walter, "Shootings Double in Gang 'Safety Zone,'" *The Bay Citizen* (Nov 13, 2010), <http://www.baycitizen.org/gang-injunction/story/shootings-double-gang-safety-zone/> (accessed Jan 23, 2011).

xi Public testimony at Oakland City Council Public Safety Committee Meeting (Jan 11, 2009).

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xiv <http://www.opdjobs.com/salaries-and-benefits.asp> (accessed Feb 2, 2010).

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xxi ACLU of Northern CA, "Gang Injunctions Fact Sheet," [http://www.aclunc.org/issues/criminal\\_justice/gang\\_injunctions\\_fact\\_sheet.shtml](http://www.aclunc.org/issues/criminal_justice/gang_injunctions_fact_sheet.shtml) (accessed Jan 23, 2010).

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xxiii Greene and Pranis, 77.

xxiv Frank P Barajas, "An Invading Army: A Civil Gang Injunction in A Southern California Chicana/O Community," *Latino Studies* (2007) 5, 393-417, <http://www.palgrave-journals.com/lst/journal/v5/n4/full/8600280a.html> (accessed Jan 23, 2011).

xxv Daniel J. Sharfstein, "Gangbusters – Enjoining the boys in the 'hood,'" *The American Prospect* no. 32 (May-June 1997); ACLU of Northern CA.

xxvi Reports of this come from conversations with youth in North Oakland, who choose to remain anonymous due to fear of police retaliation.

xxvii Sharfstein.

xxviii Public testimony at Oakland City Council Public Safety Committee Meeting (Jan 11, 2009).

xxix Gary Stewart, "Black Codes and Broken Windows: The Legacy of Racial Hegemony in Anti-Gang Civil Injunctions," *The Yale Law Journal Company, Inc.*, (107, 7), 2249-2279.

xxx ACLU of Northern CA.

xxxi Greene and Pranis, 6.

xxxii Gentrification denotes the socio-economic and cultural changes in an area resulting from wealthier people buying housing property in a less prosperous community, resulting in the eviction of the lower-income residents because of increased rents, house prices, property taxes and reduced access to affordable goods and services as businesses catering to more affluent residents move in to that area. Gentrification is usually facilitated by city planning for "redevelopment" and is accompanied by increased policing.

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xxxvii Sarah Lyons and Nastassia Walsh, *Money Well Spent: How positive social investments will reduce incarceration rates, improve public safety, and promote the well-being of communities*, Justice Policy Institute (Sept, 2010).

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