

## Toward Incarceration Zero

Corresponding Author: Marcia R Pinheiro\*

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**ABSTRACT:** Incarceration is a hurdle for The State, the perpetrator's family, society in general, the victim, and the perpetrator themselves. Laws, regulations, and rules are as relative, and fragile as their associated human group intended them to be, and it is frequently the case that they change so completely from one location to another that one can be regarded as a hero in one place, and most unacceptable perpetrator in another for practising the same acts. It is time for a change: community justice centres are a good start - especially if one considers their court intervention programs –because they align with the concept of restorative justice, and form a natural step toward incarceration zero, which has to be human kind's goal.

**KEYWORDS:** Incarceration, justice, punishment, crime, police, compliance

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### I. INTRODUCTION

Private prisons are always full because their populations serve the capitalist purposes of the big companies, and those are unscrupulous, and cold [(Dumas 2018, para. 1-15), (WaronWant.com 2018, para. 1-5), (Dosomething.com 2018, para. 1-13)]. Agents tend to arrest people when they do not necessarily have to be arrested in order to keep production levels in their prisons around the same mark [(Lotke 2016), (Aman & Greenhouse 2014)]. Sometimes the pressure comes from the own government, and one of the causes for that is lobbying [(Guardian News and Media Limited 2018, para. 1-35), (Mathews 2017, para. 1-15), (Hightower 2007, para. 5)]. Lobbying is a persistent request put in by a group of people or their representatives (The State of Queensland (Integrity Commissioner) 2018, para. 1-8).

“China has about four times America's population, but American jails, and prisons hold half a million more people.”

(The Atlantic writers 2015)

“Recent years have seen a rise in both private prisons, and the use of prison labor by private, for-profit corporations. This has created perverse incentives to imprison people, and exploit them for cheap labor — often at 50 cents an hour or less.

Corporations such as Microsoft, Target, Revlon, and Boeing have all made products with prison labor. With over a third of home appliances, and 30 percent of speakers, and headphones made using prison labor, it's likely most American households own inmate-made products.”

(Karaffa 2016, para. 1-15)

A company called GEO Group, in the period that goes from January, the 1<sup>st</sup>, to September, the 30<sup>th</sup>, invested about 1.3 million on trying to convince the American government, through Enforcement from Immigration, and Customs, as well as Marshal's Services, to allow it to keep more undocumented immigrants inside of their private prison system (DeChiaro 2017, para. 3).

There is usually something wrong with the proposal when so much is spent on lobbying. More than two billion were spent by lobby groups in the last two decades in America to try to change climate legislation in the way they wanted (Gabbatiss 2018, para. 3), and the result is that the poles are actually melting badly (Guardian News and Media Limited 2018, para. 1-3). As a consequence, temperatures are rising, and we may soon end up fried alive (New Scientist Ltd. 2011, para. 3). Sea levels are also rising, and it is then possible that we drown instead (National Geographic Society 2013, para. 1-11). Such is already happening: there was a large amount of tsunamis in the last 16 years (FOX News Network, LLC 2018, para. 1-15).

Also our laws, rules, and regulations at least sometimes do not make much sense, for humans seem to believe that there is always a single best human approximation to 'perfect reasoning' or to the 'reasoning of God' (Cartesian thinking – (Anderson 1936, pp. 48-68). In this case, putting an official paradigm down equates having one human group disagreeing with another group of similar value: it makes no sense to sustain that whoever begs should pay a fine. Some places of Australia, such as Victoria, and South Australia, punish the act with penalties that go from \$50 to 2 years' imprisonment (Walsh 2004, p.58), but, in Brazil, begging is culturally regarded as a matter of maximum pity, and empathy (Barros 2012, para. 30), what frontally opposes

punishment, and fines (Pinheiro 2018, p. 30). Some portray beggars as national heroes [(Castro 2014, para. 1-2), (Capitão Vazio 2015)]. A person who kills those who enter their house against their will, in the vast majority of the time, be practising self-defence in Brazil (Zapotoczny 2017, para. 6-8), and therefore will face no punishment, but will, most of the time, be arrested, sometimes for disproportionate use of violence, in Australia [(Wagner 2016, para. 1-12), (Guardian News and Media Limited 2018, para. 1-16)].

Besides, minorities are over-incarcerated [youth - (Rolnick 2016), blacks – (Fine 2018, para. 1-15)], so that the inequalities appear on both the macro (society), and micro (jail) levels of human life (Pinheiro 2017, para. 1). It should be impossible for a system that mirrors society with so much perfection to fix what is wrong with it: white collars (Investopedia 2018, para. 1-6) are those responsible for crimes that steal the enjoyment of life of large groups of people (Investopedia 2018, para. 3,4,6), but, whilst they will never be touched by the ‘hands of justice’ for a string of years [(Crowley 2008, para. 1-22), (Berghoff & Spiekermann 2018), (Castro & Venturini 2017, para. 1)], or perhaps for eternity, the person who thought of practical justice (steal from those who steal from me), and stole the money the ‘white collar’ would not return to their father, mother, or husband will be arrested on the spot (Carvalho 2004, para. 1), on the first act, and may remain confined, and therefore out of their normal social role, which is perhaps quite important, for a really long time.

By the end of their incarceration time, those ‘light criminals’, whose reason to practice crime connects somehow to morality, may be forever immoral, and therefore socially harmful (Newitz 2015, para. 1-6). In fact, “each year in prison increases the odds that the prisoner would reoffend by 5.6% a quarter” (Newitz 2015, para. 3).

When the world was thinking about ending slavery of the black peoples, suggestions would have appeared in the direction of changing the slavery system in a way that it ‘would work’, so perhaps half a day as a slave, half a day as a free person; the family is enslaved, but those who are above a certain age will not be (Andrade 2018a, para. 1-9); the mother is a slave, but the baby she carries in her belly is not (Andrade 2018, para. 1-13), and so on. One can even say that the modern system is a refined alternative to slavery; something that ‘follows its models’ (Hamilton 2017, para. 1-10). Notwithstanding, as for what our common thinking leads to, and that is our reference, the decision was dropping slavery in full, and dropping it to the point of having freedom as one of the most advertised, and supported legal right of citizens in societies that are democratic, and capitalist [(Georgemichael 2009), (Ebert Digital LLC 2018, para. 1-7), (OIF 2018, para. 1-13)].

This paper exposes arguments in favour of the elimination of incarceration (incarceration zero): if breaches occur, all is verified, and validated by some meaningful group of experts. Community justice then applies, preferably administered through Court Intervention Programs, which originate in the Neighbourhood Justice Centres (NJs). Those could include home detention, and therefore possibly a formal commitment to doing certain things for The State, so perhaps producing a number of goods per day during a period of time. In very special cases, implants of the type CIA-bug, or Electronic Monitoring Systems can be used to maximise levels of control, and rehabilitation.

## II. DEVELOPMENT

“Restorative Justice is a theory of justice that emphasizes repairing the harm caused by criminal behavior.”

(Centre for Justice & Reconciliation 2018, para. 3)

“The foundational principles of restorative justice have been summarized as follows:

1. Crime causes harm and justice should focus on repairing that harm.
2. The people most affected by the crime should be able to participate in its resolution.
3. The responsibility of the government is to maintain order and of the community to build peace.

If restorative justice were a building, it would have four cornerposts:

1. Inclusion of all parties
2. Encountering the other side
3. Making amends for the harm
4. Reintegration of the parties into their communities”

(Centre for Justice & Reconciliation 2018, para. 4-5)

Restorative Justice is regarded as innovation because, before it appears, courts worried only about defendants, and accusers. They also frequently did not care about the consequences of the procedures for the defendants (Yicheng 2015, p. 16).

This type of justice acknowledges the harm that comes from the practice of crime to victims, communities, and even the own perpetrator (Armour 2017, para. 7).

“Current policies (BusinessDictionary 2018) rely on restorative justice (Victorian Auditor-General 2011). NJs are part of that, and normally consist of a magistrate, two lawyers (accusation, and defence), security, and the community (Center for Court Innovation 2008). Their goal is eliminating light local criminal

problems (Victorian Auditor-General 2011), such as property theft, [(Center for Court Innovation 2008), (CAJ Paralegal Service 2018, para. 2)], through prevention, and reparation strategies that cater for all stakeholders (Indigenous Justice Clearing House 2009).”

(Pinheiro 2018, p. 1)

In Victoria, restorative, or community, justice has been the chosen policy, and this sort of justice brings best results:

“Some NJCs have court intervention programs [CISP – (Law Reform Commission of Western Australia 2009)], those combine preventive with remedial actions (Victorian Auditor-General 2011), and mean 80% decrease in offending (South Australia, Drug Court Program, (Government of Western Australia 2009).“

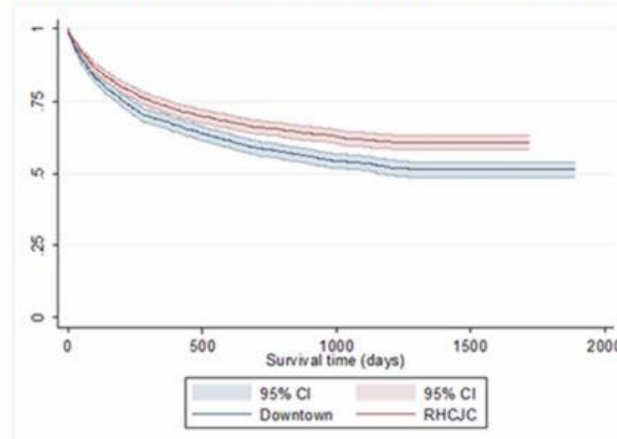
(Pinheiro 2018, pp. 2-3)

NJCs are part of the restorative justice systems, and 80% of decrease in reoffending is a really good result when normal results, of the usual courts, and prisons, are considered.

In the United States, home of a few other NJCs - and they are more than fifty in the world in the year of 2007 (Wolf 2008, p. 309) - the Red Hook Community Justice Center took 9 years to reduce reoffending by 10 percent (Icarus Films 2018, para. 1):

“Case processing at the Justice Center reduced the probability of rearrest within a two-year period by 10 percent, or 4 percentage points (36% v. 40%). The 10 percent reduction in reoffending is comparable to other proven criminal justice interventions, many of which are of longer duration. Survival analysis confirms that case processing at the Justice Center is associated with a robust and sustained decrease in the probability of recidivism in comparison to traditional misdemeanor case processing (See Figure A below). The Red Hook Community Justice Center is the second community court to report clear success in reducing recidivism rates, replicating similar impacts by a multijurisdictional community court in Melbourne, Australia (whose project design was modeled after Red Hook).

**Figure A. Cumulative Probability of Survival Without Rearrest by Court for Defendants Arrested in the RHCJC Catchment Area, 2008 Dispositions**



Note: Survivor functions estimated using Kaplan-Meier procedure; n = 3,127; 1,331 failures; CI = confidence interval.

(Lee et al. 2013, p. 7)

The pink line represents those subjected to the NJCs, and the blue line represents those whose case was dealt with by the city/usual courts. The pink line would be above the blue line because those whose case went through an NJC would spend longer without reoffending.

“Victoria wastes about 500 million [2010 - (Victorian Auditor-General 2011)], or one sixth of its surplus [2010 - (Victorian Auditor-General’s Office 2018, para. 2)], or the nation’s investment in The Reef [2018 - (Rebgetz & Gartry 2018, para. 1-45)]: more than half of the prisoners return to Corrections [2015 - (State of Victoria 2015), (State of Victoria 2018)].”

(Pinheiro 2018, p. 1)

What is implied by the last paragraph is that Victoria spends about 1,000,000,000 or 1 billion in incarceration of prisoners. In fact, taking into account that half would come back for another term, assuming it is a term of equal nature, and weight leads us to 1.5 billion in expenditure instead. Each prisoner costs 304.12 per day in 2017 (State Government of Victoria 2018, para. 17).

If a prisoner is inside of the Community Corrections System, the costs lower down: 28.98 (State Government of Victoria 2018, para. 17).

That represents elimination of about 90% of the costs with incarceration.

In the American system, the costs of incarceration are around 80 billion or 80,000,000,000 instead (Ferner 2016, para. 2): 247 per prisoner each day of 2016.

Other costs, which are not immediately connected to incarceration, but are still associated with it, make the total rise to about 1 trillion (Ferner 2016, para. 5).

One of those costs is death:

“The formerly incarcerated also have a mortality rate 3.5 times higher than that of people who have never been incarcerated. Their shortened life spans collectively add a cost of almost \$63 billion.”

(Ferner 2016, para. 8)

28,284 is the average annual cost (about 77.50 per day) per inmate per year in federal prisons in 2010 (Hirby 2018, para. 1), and 172,020 people were in those back then (R & Census 2018, para. 2). The Federal Community Corrections Centers, in 2010, brought a cost of 25,838 (Hirby 2018, para. 2) instead, so a bit less (about 71 per day).

In both cases, so in the Australian/Victorian, and the United States case, community correction centres did better than the usual prison.

Home detention is not as good in terms of results, since the consulted literature points at similar results to those originating in normal detention (George 2006, p. 88), but the savings are impressive: Electronic Monitoring (EM) programs have a maximum cost of 10 per day in the United States whilst the costs of the detention centers cost at least 100, so that The State needs 90% less money than what is currently employed in normal detention to run a home detention program (Office of Juvenile Justice and Delinquency Prevention 2014, p. 3).

If recovery of serial killers, and other types of psychopaths is ever possible (Norton 2014, para. 16), then it should be by means of heavy brainwashing, conditioning, and/or brain editing for the purposes of fixing their ‘wrong logical systems’ (Bonn 2014, para. 8-10). In this case, implants with heavy, and daily monitoring (Pinheiro 2015, p. 251) could be used together with home detention, and EMs.

It should always be possible to envisage alternatives that make the surrounding environment safe whilst allowing for full recovery of the individual, and therefore for their safe return to society.

### **III. CONCLUSION**

Private prisons are not a solution because The State starts over incarcerating to guarantee best outcome to the companies involved, and minorities are the most harmed.

Microsoft, Target, Revlon, and Boeing are just four of the ‘big names’ that benefited from arrangements of this type in recent times. Over a third of the home appliances, and about one third of the speakers, and headphones were made in this way in America.

Even though that is a good social result, the production style ‘sweatshop’ gives us the certainty that people who have been rehabilitated inside of the incarceration system will not be released if they are good producers.

There are lots of complaints about a business practice called ‘lobbying’, and that sort of pressure could easily be applied to get The State to arrest even more subjects or keep them incarcerated for best results of the companies that benefit from prison labour. Strong evidence in that direction exists: even though America had about three times less people than China, that is, China’s number of inhabitants divided by four gives us the approximate size of the American population back then, America incarcerated half a million more people. When lobby groups invested a large amount of money into influencing the government in order to have the legislation for climate change tailored to their wishes, major catastrophes happened on earth, and groups that run private prisons for The State in America have already been seen investing large sums into lobbying to get more detainees in their properties.

When slavery of blacks was bringing more loss than gain, alternative forms of slavery became a possibility, so things such as half a day as a slave, half a day as a free person; the mother is a slave, but what she carries in her belly is not; the family is all enslaved, but the member who is above a certain age is not, and so on.

Both Brazil, and the United States decided to abolish the system ‘slavery’ in full in the end instead.

Incarceration goes in the same way: people think of privatising prisons, communities decide to allow for less incarceration, and so on.

In this case, the best solution must be the same: finishing with incarceration for good.

NJCs are a way to make community decisions a possibility, and they have already proven that local crime can be stopped in a reasonable number of years after their establishment (at least 10% of reduction in reoffending in nine years).

If CIPs are in place (80% of decrease), offences approach zero much quicker.

Costs to keep the incarceration system are 1 billion or 304.12 per prisoner, and day in Victoria in 2017.

In the community justice system, they lower down to 28.98.

That is about 10% of the original costs...

In the American system, the cost is about 247 per prisoner, and day in 2016. Indirect costs with incarceration added, the actual expense amounts to about 1 trillion.

77.50 is about the mark for prisoner, and day in the federal prisons of the United States in 2010.

Federal Community Corrections Centres have a cost of about 71 per day, and prisoner instead.

Home detention seems to give the same result as the usual detention in terms of number of prisoners, and reoffending, but it reduces costs of incarceration by even 90%.

Psychopaths, serial killers, and other types of criminals that represent minorities in the offenders' share of human race, could need, on top of home detention, community justice administered through Court Intervention Programs, a determined level of daily production of goods, EMs, and an implant that follows the CIA-bug model in order to be rehabilitated, and therefore in order for their return to society be as safe as expected.

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\*mrpprofessional@yahoo.com

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