

**Statement by
Representative Jerry Madden
Texas House of Representatives**

**Hearing on
H.R. 4080, the "Criminal Justice Reinvestment Act of 2009" and
H.R. 4055, the "Honest Opportunity Probation with Enforcement (HOPE) Initiative
Act of 2009"**

May 11, 2010

**Subcommittee on Crime, Terrorism, and Homeland Security
Judiciary Committee
U.S. House of Representatives**

Chairman Scott, Ranking Member Gohmert, and Members of the Subcommittee, I am pleased to be with you today to discuss the Justice Reinvestment Act.

As states face the grim reality of \$350 billion in budget shortfalls over the next 2.5 years, the challenge of how to manage projected growth in our prison systems intensifies.¹ As of August 2009, 26 states have slashed corrections budgets.² Forced to reduce budgets in all areas, states have struggled with spending less on corrections while maintaining public safety.

The continued and significant growth of state prison populations and local jail populations, at a time of acute budget pressures, is prompting some state and local officials to consider policies that would result in a significant and early release of offenders back to the community, which could have disastrous implications for public safety. Many states have cut services, closed prisons, instituted employee furloughs, released prisoners, or made other sacrifices to account for the shortfalls.³ There is a better way. In the face of ever-increasing correctional costs, with bipartisan leadership, governors and legislative leaders in several states, including Texas, have implored a data-driven process of corrections analysis and policy development known as "justice reinvestment".

The successes in Texas and other states helped guide the development of the Criminal Justice Reinvestment Act of 2010, which will help state, local, territorial, and Tribal governments better control corrections spending and population growth. The legislation would provide resources to help states and

¹ Iris J. Lav and Elizabeth McNichol, "State Budget Troubles Worsen," *Center on Budget and Policy Priorities*. 13 March 2009. 30 March 2009. < <http://www.cbpp.org/cms/index.cfm?fa=view&id=711> >

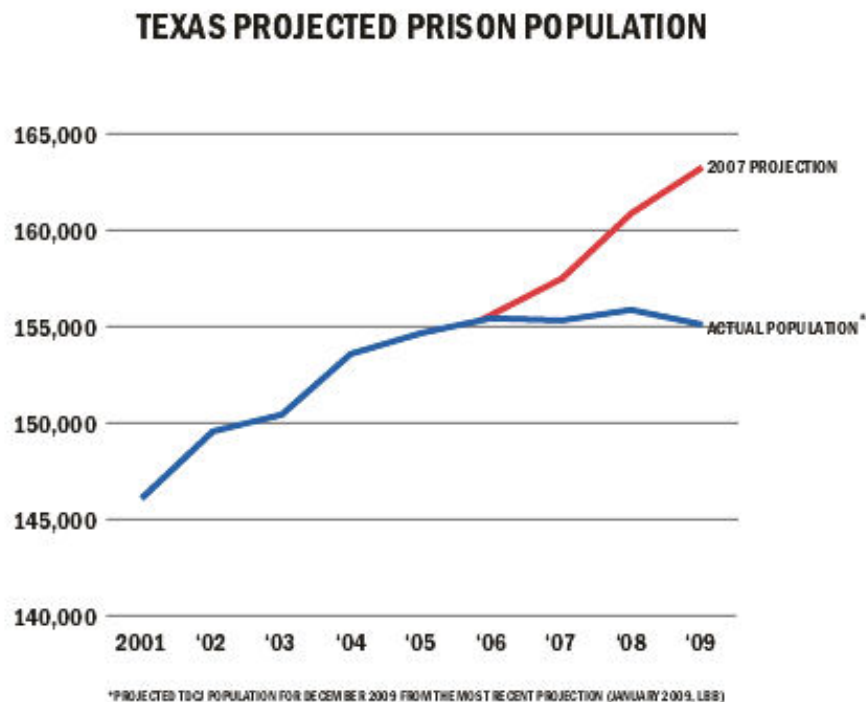
² John Gramlich, "At least 26 states spend less on prisons," *Stateline.org* (Aug. 11, 2009) (available at <http://www.stateline.org/live/details/story?contentId=418338>) (reporting results of Vera Institute survey, commissioned by the Pew Charitable Trusts).

³ National Association of State Budget Officers, *State Expenditure Report 2008* (Fall 2009).

counties identify new, effective corrections approaches; implement the recommended policies, programs, and practices; and reinvest costs saved back into the system to protect public safety.

We are quite proud of our success utilizing the Justice Reinvestment approach in Texas. In 2005, I was chosen Chairman of the Corrections Committee and was immediately given the instruction to examine our prison system and available options because our prison population was projected to grow significantly. The sentiment in the capitol was quite specific – we did not have the funding to continue to expand our prison system. The question was, “what other options are there?” What differences can we make in this whole system?

Texas has one of the largest prison systems in the nation. So big, in fact, that the size of our prison system roughly approximated the size of the *entire* federal prison system. We have 153,950 prisoners in the State of Texas in 112 prisons. Between 1985 and 2005, the state prison population grew 300 percent. Texas spent \$2.3 billion to add 108,000 prison beds. And yet, in spite of these expenditures, Texas prisons were overcrowded again ten years later. The prison population exceeded capacity by 3,000 persons and correctional facilities were critically understaffed -- placing the safety of staff and inmates at risk of serious harm. In 2007, an official state projection estimated that an additional 17,000 prisoners would be added to the system within five years. To accommodate this increase Texas would need to build three new prisons immediately and three or four more over the next four years.



My colleagues and I were faced with this overcrowding crisis and few viable options. At the start of the 2007 legislative session, we were faced with the prospect of spending \$523 million to build and operate additional prisons in the 2008 and 2009 fiscal biennium.

In the face of this crisis, the legislature pulled together and worked across party lines to implement a justice reinvestment strategy. Little did we know at the time that we were at the front of a "Justice

Reinvestment" movement that has now spread from state to state. The strategy is based on a data-driven reexamination of each part of the corrections system, and a careful cost-benefit analysis of corrections expenditures.

At the heart of this new strategy, is a simple but critical question – "what is the most effective way to spend limited resources in order to protect and improve public safety?" We answered that question, made the tough choices, and implemented a new and effective program that protects the public and minimizes expenditures.

Working closely with my Democratic counterpart in the Texas Senate, Senator John Whitmire, Chair of the Senate Criminal Justice Committee, we requested intensive technical assistance from the Council of State Governments Justice Center ("Justice Center"), with support from Pew and the Bureau of Justice Assistance (DOJ). At our request, the Justice Center conducted analyses of the state prison population and identified the key factors driving growth in our prison population:

- **Increased probation revocations.** Between 1997 and 2006, the number of people revoked from probation and sent to prison increased 18 percent, despite a 3 percent decline in the probation population.
- **Reduced capacity of residential treatment programs serving people on probation and parole.** Reductions in funding for community-based substance abuse and mental health services during the 2003 legislative session forced the closure of various treatment programs and facilities. By 2006, more than 2,000 individuals were awaiting placement in such programs and facilities.
- **Fewer approvals for parole.** Parole grant rates were lower than even those suggested by the parole board's own guidelines. For example, had the parole board adhered to its minimum approval rates for low risk individuals, an additional 2,252 releases would have been made from prison to community supervision in 2005.

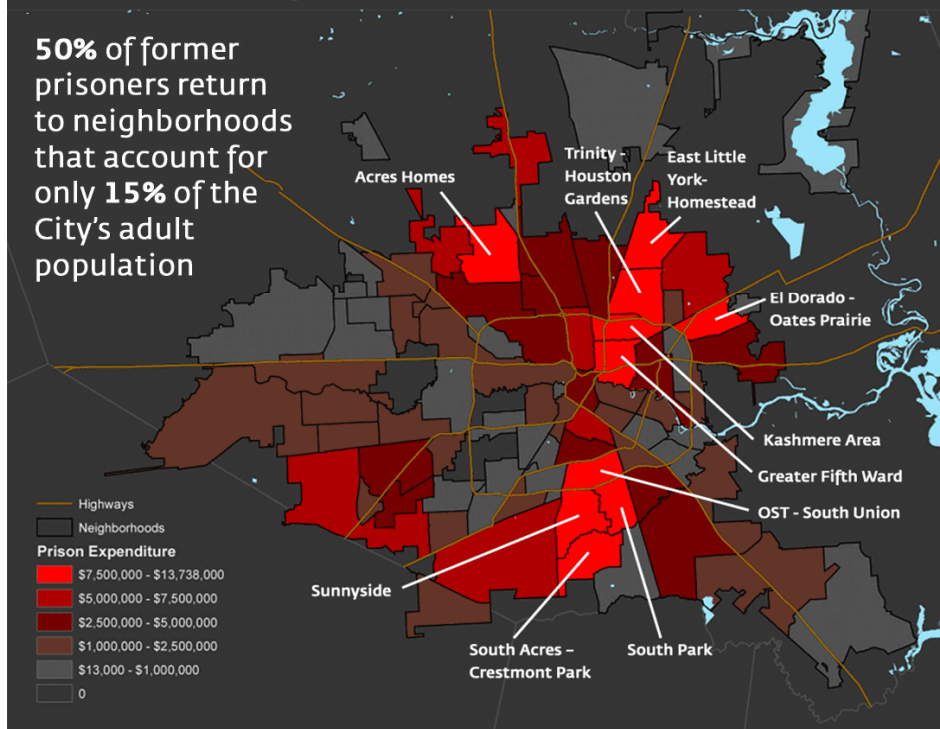
The analysis also showed that our correctional system was overwhelmed by prisoners who could receive alternative treatment to incarceration, which would result in significant cost savings to the public, and preserve precious resources for the incarceration of dangerous, violent offenders. Specifically, we learned that we have approximately 5,500 prisoners in Texas who have been convicted of multiple DWIs; over 50,000 drug offenders, most of whom are non-violent or first-time offenders; and we incarcerate large numbers of mentally ill offenders who would be better served in community mental health facilities.

Texas policymakers were also provided a geographic analyses of the state prison population which revealed that five counties accounted for more than half of the people sentenced to prison at a cost to taxpayers of over a half billion dollars. Of these localities, Harris County (Houston) received and contributed the most prisoners to the state system, with 10 of Houston's 88 neighborhoods accounting for almost \$100 million a year in incarceration costs. Fifty percent of former prisoners in Houston returned to neighborhoods that accounted for only 15 percent of the City's adult population.

This in-depth analysis was critical in providing the information needed to develop smart policies to respond to challenges in the system.

Ten of Houston's 88 Neighborhoods Account for Almost \$100 Million a Year in Prison Expenditures

50% of former prisoners return to neighborhoods that account for only **15%** of the City's adult population



Before the end of the 2007 legislative session the Texas Legislature enacted a package of criminal justice policies designed to prevent the predicted growth in the prison population and save \$443 million. To improve success rates of people under supervision, we reinvested \$241 million to expand the capacity of substance abuse and mental health community-based treatment and diversion programs, and enacted parole reforms to enhance the use of parole for low-risk offenders.

The expansion of treatment and diversion programs included:

- 800 new beds in a residential program for people on probation supervision with substance abuse needs;
- 3,000 slots for outpatient substance abuse treatment for people on probation supervision;
- 1,400 new beds in intermediate sanction facilities to divert probation and parole technical violators from prison;
- 300 new beds in halfway house facilities for people under parole supervision;
- 500 new beds in a new facility for an in-prison treatment unit targeting people with DWI offenses;
- 1,500 new beds for an in-prison intensive substance abuse treatment program; and
- 1,200 slots for intensive substance abuse treatment programs in the state jail system.

The new policies also enhanced parole and probation policies and procedures by:

- establishing a maximum limit for parole caseloads to ensure adequate supervision;

- probation terms for drug and property offenders were reduced from a maximum of 10 years to being reviewed after a maximum of five years to ensure that they receive treatment and supervision during the years when research studies show that they are more likely to re-offend;
- establishing incentives for counties that create progressive sanctioning models for probation officers to respond effectively to violations of supervision; and
- expanding drug courts and other specialty courts to place offenders who committed minor crimes in treatment programs that will reduce their likelihood to re-offend.

The Texas justice reinvestment strategy resulted in an immediate savings of \$210.5 million for fiscal years 2008 and 2009. A portion of those savings were then reinvested in strategies to improve outcomes for low-income children and families in Texas through the Nurse-Family Partnerships (NFP) program, a nationally recognized model that pairs nurses with first-time, low-income mothers during the child's first two years. This program— which will provide services to 2,000 families in high risk communities throughout the state – is designed to increase self-sufficiency, improve the health and well-being of low-income families, and prevent violence. In fiscal year 2009, the legislature will appropriate \$5.8 million to provide continued support to the NFP program.

Since the enactment of these new policies our crime rates are down, revocations are down, and our prison population is stable.

- Between 2006 and 2008, probation revocations to prison declined by 4 percent and parole revocations to prison plummeted 25 percent. During this same period, the parole board's rate of approvals for supervised releases rose from 26 percent to 29 percent. The decrease in revocations is a clear indication that we have made marked improvement in the reentry of people released from prison.
- The prison population has not only held steady, but declined slightly. Despite an official state projection released in 2007 that estimated a total population of 160,126 by September 2008, the actual population for that month was 155,459. At the same time, recidivism and crime rates appear to have fallen.
- Although the state's nonpartisan Legislative Budget Board projected in 2007, before the application of the justice reinvestment strategy, that the prison population would grow by approximately 17,000 people over five years, it now projects relatively minimal growth. No shortfall in capacity is predicted until 2013, when the system may need approximately 1,300 beds.

The Texas "justice reinvestment" policies were a dramatic turn in Texas' criminal justice policies. The state legislature is committed to ensuring accountability and the continued success of these new measures. The legislature has established the Criminal Justice Legislative Oversight Committee to monitor and evaluate the implementation of the new policies and programs and to evaluate their impact on state prison populations.

The need for access to this type of analysis and technical assistance in the states is high and I urge the Committee to quickly take up the Justice Reinvestment Act to assist states to reduce correctional costs and improve public safety. I serve as Chairman of the National Conference of State Legislators (NCSL)

Law and Criminal Justice Committee as well as the Chairman of the American Legislative Exchange Conference (ALEC) Subcommittee on Corrections and Reentry and speak for these two state organizations in delivering the message that these resources are indeed a top priority for state legislators across the country.

It is easy to see that we are at a critical turning point in criminal justice policies – one that will hopefully result in smart and tough policies to protect the public. States need funds to conduct a correctional system review, they need funds to expand on effective resources, and they need funds to make sure that dangerous criminals are incarcerated and nonviolent prisoners are given the opportunity to re-enter society and be productive members of each and every community.

I would like to thank Chairman Scott, Ranking Member Gohmert, and the Members of the Subcommittee for allowing me this opportunity to share what we have done in the Lone Star State.