CRIMINAL JUSTICE REINVESTMENT ACT OF 2009, AND THE HONEST OPPORTUNITY PROBATION WITH ENFORCEMENT (HOPE) INITIATIVE ACT OF 2009

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

ON

H.R. 4080 and H.R. 4055

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CRIMINAL JUSTICE REINVESTMENT ACT OF 2009, AND THE HONEST OPPORTUNITY PROBATION WITH ENFORCEMENT (HOPE) INITIATIVE ACT OF 2009

TUESDAY, MAY 11, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 4 p.m., in room 2141, Rayburn House Office Building, the Honorable Robert C. "Bobby" Scott (Chairman of the Subcommittee) presiding.

Present: Representatives Scott, Quigley, and Poe.

Staff Present: (Majority) Bobby Vassar, Subcommittee Chief Counsel; Liliana Coronado, (Fellow) Federal Public Defender Office Detailee; Ron LeGrand, Counsel; Veronica Eligan, Professional Staff Member; (Minority) Caroline Lynch, Counsel; Travis Norton, Counsel; and Kelsey Whitlock, Staff Assistant.

Mr. SCOTT. The Subcommittee will come to order.

And I welcome you to today's Crime subcommittee hearing on H.R. 4080, the "Criminal Justice Reinvestment Act of 2009," and H.R. 4055, the "Honest Opportunity with Probation, or HOPE, Initiative Act of 2009."

Both of these bills have been introduced by the gentleman from California, Mr. Schiff, and represent a bipartisan effort to address the corrections crisis that is plaguing our country.

Over the last 20 years, State spending on corrections has increased exponentially, and the projections are that it will only continue to grow. The same is true with the prison population in this country. While State spending on incarceration rates have dramatically increased over the last two decades, recidivism remains high. Of the approximately 700,000 individuals released from prison in 2008, it is estimated that half will be reincarcerated within 3 years, and even more will be arrested. This is unacceptably high.

And the high recidivism rate among jail populations is also a problem. For example, of the 12 million admissions between July 1, 2004, and June 30, 2005, 71 percent had been incarcerated twice in 12 months. States and localities cannot continue to proceed with business as usual, as business as usual is not working for either budgets or for public safety.

We are going to show one of the charts right now. This is a chart of incarceration rates, just to give people an idea of where we are in incarceration. The incarceration rates are about 50 to 200 per 100,000. This chart, the blue is the United States leading the world, rivaled only by Russia. Russia is about 600-and-some per 100,000; the United States over 700 per 100,000.

The next chart shows the African American incarceration rate at 2,200. The large bar is the top 10 States lock up African Americans at the rate of about 4,000 per 100,000.

The United States rates, and particularly the African American incarceration rates, are particularly egregious when you look at the fact that the Pew Center research has estimated that anything over 500 per 100,000 is actually counterproductive.

Many States have recognized the waste in money. A gentleman from North Carolina, Mel Watt, a Member of this Committee, informed me that North Carolina was looking at ways of reducing the prison population by investing in prevention and early intervention programs. I talked to my secretary of public safety in Virginia today, and they are also making those investments in prevention and early intervention, particularly as it pertains to the Second Chance Act, implementing a very aggressive process.

But States and county policymakers have begun all over the country exploring new strategies for addressing the corrections crisis that is fiscally crippling their budgets. Several States, as I have indicated, have turned to criminal justice reinvestment projects to help them find solutions to incarceration and corrections crisis without compromising public safety.

Criminal justice reinvestment involves redirecting corrections moneys into policies that keep people safer while slowing the growth of prison and jail populations. The idea is to reinvest the resulting savings back into the community in ways that advance the goals of public safety through strategies proven to be effective and efficient in accomplishing that result.

To put it simply, both H.R. 4080 and H.R. 4055 address the country's incarceration crisis by focusing on crime policies that work. In this hearing, we will consider both of these bills that will support criminal justice reinvestment projects across the country.

To inform our consideration of these bills, witnesses will highlight the work of several States and counties that have developed innovative justice reinvestment policies, some of which have already proven very effective at reducing recidivism and helping people overcome their substance abuse problems.

H.R. 4080, the "Criminal Justice Reinvestment Act of 2009," creates a new public safety performance grant program for State and local governments to implement justice reinvestment strategies. It has two phases of funding: Phase one grants are for the analysis of the criminal justice system data, the evaluation of criminal justice policies, and the cost-effectiveness of their current spending on corrections, as well as the development of data-driven policies that can increase public safety and improve accountability of offenders.

The bill mentions data-driven specifically, and you would wonder why you would have to put "data-driven" in a bill; isn't that insulting? Well, if you didn't put it in there, it would not be data-driven,

it would be slogan-driven. So we have to outline, and I thank the gentleman from California for putting that in his bill specifically.

This type of funding is critical because many States lack adequate research capabilities to analyze the causes of the exploding State prison and jail populations and high recidivism rates. States and counties are in the midst of fiscal crises, and they simply do not have the funds to dedicate debt necessary for the research that is needed to develop the policies that directly target the problems that they are having. This grant program will help them do that so the policies that are formulated are based in research and evidence about what works.

Phase two will be implementation, to fund the programs and strengthen the criminal justice system, such as providing training and technical assistance or support the delivery of risk-reduction programs. These grants also support the reinvestment of averted prison or jail costs in the programs that enhance public safety by strengthening the criminal justice system, because criminal justice reinvestment means reinvesting the savings in the much-needed services such as drug treatment or re-entry assistance to the high-risk communities and individuals from which the jail or prison populations are drawn. And, as I indicated, this will be reinvested. As the savings are achieved, the money will be reinvested back into prevention and early intervention programs.

The bill authorizes $35 million for each of the fiscal years 2010 to 2014 and requires the Attorney General to report to Congress yearly on the implementation and performance of the policies, thereby ensuring accountability of the grants.

One example of the criminal justice reinvestment strategy that has had concrete and compelling results is Hawaii's HOPE Probation Project. According to the U.S. Bureau of Justice Statistics, at year end more than 7 million people were under corrections supervision in the United States, including 70 percent who were supervised in the community on probation or parole and 30 percent who are held in custody in jails and prisons. This means that one out of 45 people are on community supervision, with the majority on probation, nearly 4.3 million, an increase of nearly 300 percent since 1980. The 4.3 million probationers represent an increase from 3.8 million in 2000 and accounts for 80 percent of the growth in corrections population between 2000 and 2009.

It is noteworthy to note that the number of probationers who have drug problems is also on the rise. Three in 10 probationers were drug offenders in 2008, up from just a quarter in 2000. What this tells us is that more people are on probation now than ever before and they have significant needs.

Six years ago, Judge Alm from Hawaii's First Circuit Court did something about it. In 2000, he launched a pilot project aimed at reducing probation violations by offenders who posed a high risk of recidivism. The program, called Hawaii's Opportunity Probation with Enforcement, HOPE, consisted of intensified supervision of probationers, including random drug testing, frequent meetings between offender and their probation officer, and substance abuse services as appropriate. The HOPE probation represented a stark change from the way probation violators were typically handled by the probation office.

Inspired by the success of Hawaii's HOPE project, H.R. 4055, the "Honest Opportunity Probation with Enforcement Act of 2009," would create a comprehensive grant demonstration project to award grants to State and local courts to establish probation programs to reduce drug use, crime, and recidivism by requiring swift, predictable, and graduated sanctions for noncompliance with conditions of probation.

Twenty-five million dollars is authorized for up to 20 pilot programs. Stringent grantee requirements will ensure that the pilots are designed and evaluated in an appropriate manner. The key facets of each program will include the use of regular drug testing; responding to violations of probation rules with immediate arrest; and swift and certain modification of conditions of probation, including imposition of short jail stays.

There is also an evaluation component to compare the outcomes between program participants and similarly situated probationers not in the program. It will also include a calculation of the amount of cost savings resulting from the reduced incarceration achieved through the program and a determination of how much can be invested into more policies that work.

The criminal justice reinvestment can take on different forms, and it won't look the same in every city or county or State, because it should be tailored to meet the needs of each. Today we will hear about different justice reinvestment initiatives from several States and counties, each unique and some still in the early stages.

The success that has already been achieved, however, demonstrates that the dual goals of keeping people safe and decreasing corrections spending are not mutually exclusive. It is with hope inspired by the important justice reinvestment work that has already been undertaken that I invite everyone to listen to the diverse witnesses who will testify at today's hearing.

[The bills, H.R. 4080 and H.R. 4055, follow:]

I

111TH CONGRESS
1ST SESSION

H. R. 4080

To establish a criminal justice reinvestment grant program to help States and local jurisdictions reduce spending on corrections, control growth in the prison and jail populations, and increase public safety.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 2009

Mr. SCHIFF (for himself and Mr. DANIEL E. LUNGREN of California) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To establish a criminal justice reinvestment grant program to help States and local jurisdictions reduce spending on corrections, control growth in the prison and jail populations, and increase public safety.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Criminal Justice Reinvestment Act of 2009".

SEC. 2. FINDINGS.

Congress finds the following:

(1) A total of 2,200,000 American adults are incarcerated in State and local prisons and jails, a rate of about 1 out of every 100 adults.

(2) State spending on corrections has increased over the last 20 years from approximately $12,600,000,000 in 1988 to more than $52,000,000,000 in 2008. According to "Public Safety, Public Spending: Forecasting America's Prison Population 2007–2011", State and Federal prison populations are expected to increase by 192,000 over that 5-year period, at an additional cost of $27,500,000,000.

(3) Between 2000 and 2008, jail populations increased from approximately 621,000 to 785,000 inmates. The 3,300 jails nationwide process approximately 13,500,000 inmates each year, 4,000,000 of whom are repeat offenders.

(4) The number of persons on probation and parole in State correctional systems has been increasing. Approximately 5,000,000 Americans, or 1 out of every 45 adults, are on probation or parole, an increase of nearly 300 percent since 1980.

(5) Policymakers have insufficient access to detailed, data-driven explanations about changes in

1 crime, arrest, conviction, and prison and jail popu-
2 lation trends.
3 (6) In the face of ever-increasing correctional
4 costs, with bipartisan leadership, governors and leg-
5 islative leaders in Texas, Kansas, Rhode Island,
6 Vermont, and other States around the country have
7 initiated data-driven criminal justice reinvestment
8 strategies that increase public safety, hold offenders
9 accountable, and control corrections spending.

10 **SEC. 3. PURPOSE AND DEFINITION.**

11 (a) PURPOSE.—The purpose of this Act is to provide
12 grants for criminal justice reinvestment strategies.
13 (b) CRIMINAL JUSTICE REINVESTMENT.—In this
14 Act, the term "criminal justice reinvestment" refers to a
15 data-driven program that—
16 (1) analyzes criminal justice trends to under-
17 stand what factors are driving the growth in prison
18 and jail populations;
19 (2) develops and implements policy options to
20 manage the growth in corrections populations and
21 increase the effectiveness of current spending and
22 investment to increase public safety and improve in-
23 dividual and system accountability; and

(3) measures the impact of the policy changes and reinvestment resources and holds policymakers accountable for projected results.

SEC. 4. PUBLIC SAFETY PERFORMANCE GRANTS TO IMPLEMENT CRIMINAL JUSTICE REINVESTMENT STRATEGIES.

(a) PHASE 1—DATA ANALYSIS AND POLICY DEVELOPMENT GRANTS.—

(1) IN GENERAL.—The Attorney General may make grants to a State, unit of local government, territory, or Indian tribe (referred to in this Act as an "eligible entity") to analyze and improve the cost-effectiveness of State and local spending on prisons, jails, and community corrections (referred to in this Act as "Phase 1 grants").

(2) OBJECTIVES.—The purposes of the Phase 1 grants shall be for an eligible entity—

(A) to conduct a comprehensive analysis of criminal justice data, including crime and arrest rates, conviction rates, pretrial and reentry services, and probation, parole, prison and jail populations;

(B) to evaluate relevant criminal justice policies and the cost-effectiveness of current

spending on corrections and community corrections; and

(C) to develop data-driven policy options that can increase public safety and improve offender accountability.

(3) DETAILS.—The comprehensive analysis, evaluation, and policy development required by paragraph (2) shall include—

(A) an analysis of reported crime and arrest data;

(B) an analysis of felony conviction data to understand the percent of offenders who are sentenced to prison or jail for particular offenses;

(C) an analysis of prison or jail admission and length-of-stay data over a 3- to 5-year time period to determine which cohorts of offenders account for the growth of the population;

(D) an analysis of probation and parole data to determine which offenders are violating the conditions of supervision and being revoked to prison or jail;

(E) an analysis of the current capacity and quality of crime prevention and crime-fighting programs, including institutional and commu-

1 nity-based risk-reduction programs such as
2 drug treatment, mental health, education, job
3 training, housing, and other human services to
4 divert individuals from prisons or jails and to
5 reduce recidivism among offenders on commu-
6 nity supervision;
7 (F) consultation with criminal justice
8 stakeholders, including State corrections de-
9 partments, community corrections agencies,
10 local jail systems, and relevant governmental
11 agencies and nonprofit organizations;
12 (G) an analysis of criminal justice policies
13 and expenditures, including the cost-effective-
14 ness of current spending on corrections and
15 community corrections, to understand how the
16 existing system accounts for criminal justice
17 trends;
18 (H) the development of a prison or jail
19 population projection using a simulation model
20 based on collected data to test the impact of
21 various policy changes; and
22 (I) the development of practical, data-driv-
23 en policy options that can increase public safe-
24 ty, improve offender accountability, reduce re-
25 cidivism, and manage the growth of spending

on corrections in the relevant criminal justice system.

(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Attorney General an application, in such form and manner and at such time as specified by the Attorney General that includes a proposal that describes how the grant will fulfill the objectives required by paragraph (2).

(5) PRIORITY.—The Attorney General, in awarding funds under this subsection, shall give priority to eligible entities that—

(A) demonstrate a commitment from the chief executive officer, legislative body, judiciary, law enforcement officials, correctional agencies and prosecutors of the eligible entity to work together in a collaborative bipartisan approach to analyze the data and develop criminal justice policy options;

(B) establish or designate a multibranch, bipartisan, intergovernmental, interagency task force of elected and appointed officials to address the criminal justice and public safety challenges facing the jurisdiction;

(C) demonstrate access to data from across the criminal justice system, including crime and arrest, court and conviction, jail, prison, community corrections data, and standards for analysis;

(D) identify agency or consultant capacity to objectively analyze data, utilize simulation models for prison or jail population projections, and develop concise written reports and policy options for policymakers to review; or

(E) demonstrate that the projected growth over a 10-year period is expected to exceed current corrections capacity.

(6) COMPLETION OF GRANT.—The analysis, evaluation, and policy development required for a grant under this subsection shall be completed not later than 12 months after the receipt of funding for the grant unless granted an extension of time by the Attorney General.

(b) PHASE 2—IMPLEMENTATION GRANTS.—

(1) IN GENERAL.—The Attorney General may make grants to eligible entities to implement policies and programs designed to help jurisdictions manage the growth in spending on corrections and increase

public safety (referred to in this Act as "Phase 2 grants").

(2) OBJECTIVES.—The purposes of the Phase 2 grants shall be for an eligible entity to—

(A) fund programs identified by prior data analysis and policy development that provide training and technical assistance, support the delivery of risk-reduction programs, or otherwise enhance public safety and improve offender accountability by strengthening the criminal justice system;

(B) reinvest averted prison or jail costs into programs that enhance public safety by strengthening the criminal justice system or high-risk communities and individuals; and

(C) measure performance of policies and programs enacted or established in subparagraphs (A) and (B).

(3) PROGRAMS.—The programs described by paragraphs (2)(A) and (2)(B) shall—

(A) provide training and technical assistance including—

(i) training of corrections and community corrections, judicial, substance abuse or mental healthstaff and other key staff

on evidence-based practices for reducing recidivism; or

(ii) training and technical assistance to assist jurisdictions in implementing and validating new risk and needs assessment tools; or technical assistance to implement evidence-based policies in corrections or community corrections agencies;

(B) establish risk-reduction programs including—

(i) substance abuse or mental health treatment;

(ii) education or job training;

(iii) job placement, development, and creation;

(iv) intermediate sanction programs and facilities, including community-based reentry programs, day reporting centers and electronic monitoring; or

(v) supportive housing programs;

(C) reduce the number of rearrests, reconvictions, and revocations of people currently on probation and parole and increase the number of successful completions of probation and parole;

(D) establish policies and practices that will avert growth in the prison and jail population and, as a result, avert the need to appropriate funds for the construction or operation of a new prison and jail facilities; or

(E) establish comparable programs that enhance public safety by strengthening the criminal justice system.

(4) PERFORMANCE MEASUREMENT.—The performance measures described by paragraph (2)(C) shall track key criminal justice trends across agencies and departments to measure the impact of the programs described in paragraph (3), and include the following measurements where applicable:

(A) Reduction in rearrest, reconviction, and revocations of people currently on probation and parole.

(B) Increases in the number of successful completions of probation and parole.

(C) General crime trends.

(D) Prison and jail populations.

(E) Number of program and treatment slots added to reduce recidivism.

(5) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall

1 submit to the Attorney General an application, in
2 such form and manner and at such time as specified
3 by the Attorney General that includes a proposal
4 that describes how the grant will fulfill the objectives
5 required by paragraph (2).
6 (6) PRIORITY.—Priority consideration shall be
7 given to applications under this subsection that dem-
8 onstrate that—
9 (A) the proposed programs will improve
10 public safety and improve individual and system
11 accountability while reducing or maintaining
12 criminal justice growth through policies which
13 ensure that—
14 (i) violent offenders are incarcerated;
15 (ii) nonviolent offenders who pose a
16 minimal risk of harm to the community
17 are supervised through effective probation
18 and parole systems and provided with ef-
19 fective risk-reduction programs; and
20 (iii) effective diversion and reentry
21 programs are integrated into a new overall
22 criminal reinvestment strategy;
23 (B) the proposed programs will have a sig-
24 nificant impact on the geographic areas identi-
25 fied by the analysis as having disproportionate

1 numbers of people returning from prison or jail;
2 and
3 (C) data analysis through a Phase 1 grant
4 or similar work has been completed.
5 (c) ANNUAL REPORT.—The Attorney General shall
6 report to the Committees on the Judiciary of the Senate
7 and the House of Representatives on November 1 of each
8 year concerning the development and implementation of
9 grants under this section and strategies developed, which
10 shall include information concerning—
11 (1) the number and identity of the grantees
12 who have received analyses and program develop-
13 ment grants;
14 (2) the progress of grantees in conducting anal-
15 yses and program development;
16 (3) the number and identity of the grantees re-
17 ceiving implementation grants;
18 (4) the progress of grantees in implementing
19 criminal justice reinvestment strategies; and
20 (5) the performance of entities implementing
21 criminal justice reinvestment strategies, including
22 relevant data on—
23 (A) the reduction, if any, in the number of
24 rearrests, reconvictions, and revocations of peo-
25 ple currently on probation and parole;

1 (B) the increase, if any, in the number of
2 successful completions of probation and parole;
3 (C) the reduction, if any, in the growth of
4 the prison and jail population;
5 (D) the portion of averted costs that has
6 been or will be reinvested and used to target
7 high-risk communities and individuals to reduce
8 the rate of rearrest, reconviction, and revoca-
9 tion to increase public safety; and
10 (E) the reduction, if any, in rearrest rates
11 by people under the supervision of the criminal
12 justice system.
13 (d) SHARING INFORMATION.—The Attorney General
14 shall establish an information clearinghouse for data col-
15 lected and for best practices developed by eligible grantees
16 developed in carrying out grants under this section.
17 (e) ADMINISTRATION.—Applications for grants shall
18 be considered on a rolling basis and be responded to in
19 a timely fashion in order to provide assistance to policy-
20 makers facing various budget timelines.
21 (f) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated $35,000,000 to carry
23 out this section for each of the fiscal years 2010 through
24 2014.

○

I

111TH CONGRESS
1ST SESSION

H. R. 4055

To authorize a national HOPE Program to reduce drug use, crime, and the costs of incarceration.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 2009

Mr. SCHIFF (for himself and Mr. POE of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To authorize a national HOPE Program to reduce drug use, crime, and the costs of incarceration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Honest Opportunity Probation with Enforcement (HOPE) Initiative Act of 2009".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Crime continues to inflict a severe cost on victims and communities across the country.

(2) Criminal apprehension and punishment similarly impose substantial costs on taxpayers, with States spending over $50,000,000,000 on corrections in fiscal year 2008, accounting for 1 in every 15 State general fund dollars.

(3) A substantial amount of crime, and a substantial share of prison occupancy, is directly tied to illicit drug consumption. A relatively small group of chronic drug users consumes the vast majority of cocaine, heroin, and methamphetamine in the United States, and approximately three-quarters of this group pass through the criminal justice system at some point. Consequently, reducing drug consumption in the United States requires effectively addressing the drug habits of supervised offenders.

(4) One in 100 adults is behind bars, and 1 in 31 is under some form of criminal justice supervision, including probation and parole. Of the 7,300,000 individuals in the United States who are under criminal justice supervision, the majority (4,300,000) are serving a term of probation in their communities, in lieu of serving time behind bars.

(5) The failure of individuals serving terms of probation to successfully complete such terms is a major contributor to prison admissions. In 2007,

more than 250,000 such individuals were admitted to prison. Consequently, controlling drug use by individuals who are serving a period of probation reduces both national drug consumption and crime rates, and reduces taxpayer burdens.

(6) Innovations in offender supervision prove that swift, certain, and graduated sanctions for noncompliance can reduce drug use, new crimes, and revocation to incarceration.

(7) Hawaii's Opportunity Probation with Enforcement (HOPE) initiative, an offender supervision program to reduce probation violations by drug and other high-risk offenders using a structured sanctions model, has been shown to be highly successful at reducing drug use, crime, and recidivism.

(8) According to an article in the Journal of the American Medical Association in August of 2009, if the HOPE initiative was replicated effectively in multiple jurisdictions, the program might have broader benefits beyond assisting probationer participants at risk for heavy drug use, such as helping to shrink the market for illegal drugs and the profits of drug trafficking organizations.

SEC. 3. HOPE INITIATIVE GRANTS.

(a) PROGRAM ESTABLISHED.—

(1) IN GENERAL.—The Attorney General may establish a competitive demonstration grant program to award grants to State, tribal, and local courts to establish probation programs that reduce drug use, crime, and recidivism by requiring swift, predictable, and graduated sanctions for noncompliance with the conditions of probation, as determined by the Attorney General.

(2) NUMBER AND SELECTION OF GRANTS.—

(A) NUMBER.—The Attorney General shall have the discretion to award not more than 20 grants under this section.

(B) SELECTION.—The Attorney General shall ensure that such grants are awarded in a manner that promotes the strongest proposals, evaluation designs, and geographic diversity of the demonstration programs under this section.

(b) APPLICATION.—To be eligible for a grant under this section, a State, tribal, or local court shall, in addition to any other requirements required by the Attorney General, submit to the Attorney General an application that—

(1) describes the program to be assisted under this section and the need for such program;

(2) describes a long-term strategy and detailed implementation plan for such program, including how the entity plans to pay for the program after the Federal funding is discontinued;

(3) certifies that all government entities affected by the program have been appropriately consulted in the development of the program and that there will be appropriate coordination with all such entities in the implementation of the program;

(4) identifies the key partners that will be included in the program, including the Chief Judge of the court of the relevant jurisdiction and other participating judges in such jurisdiction, State court administrator, probation and parole administrators, jail and prison administrators, prosecutors, public defenders and defense attorneys, and sheriff or police administrators; and

(5) includes an assurance that the applicant will—

(A) collect key process measures, including the number of individuals enrolled in the program, the frequency of drug testing of such individuals, the certainty of sanctions for a violation of the terms of probation, the average period of time from detection of a violation to

1 issuance of a sanction for such violation, and
2 sanction severity;
3 (B) conduct an unbiased comparison of the
4 outcomes between program participants and
5 similarly situated probationers not in the pro-
6 gram, including the positive and negative drug
7 test rates, probation and substance abuse treat-
8 ment appearance rates, probation term modi-
9 fications, revocations, arrests, time spent in jail
10 or prison, and total correctional costs incurred;
11 and
12 (C) partner with an independent program
13 advisor and evaluator, who will assist the appli-
14 cant with designing the demonstration program
15 to be carried out with the grant, identifying the
16 appropriate comparison group for the compari-
17 son required under subparagraph (A), and
18 measuring relevant outcomes for such compari-
19 son.
20 (c) GRANT USES.—A grant awarded under this sec-
21 tion shall be used by the grantee to establish probation
22 programs that—
23 (1) identify for enrollment in the program indi-
24 viduals who are serving a term of probation and who
25 are at high risk of failing to observe the conditions

of supervision and of being returned to incarceration as a result of such failure;

(2) notify probationers of the rules of the probation demonstration program, and consequences for violating such rules;

(3) monitor probationers for illicit drug use with regular and rapid-result drug screening;

(4) monitor probationers for violations of other rules and probation terms, including failure to pay court-ordered financial obligations such as child support or victim restitution;

(5) respond to violations of such rules with immediate arrest of the violating probationer, and swift and certain modification of the conditions of probation, including imposition of short jail stays (which may gradually become longer with each additional violation and modification);

(6) immediately respond to probationers who have absconded from supervision with service of bench warrants and immediate sanctions;

(7) provide rewards to probationers who comply with such rules;

(8) ensure funding for, and referral to, substance abuse treatment for probationers who repeatedly fail to refrain from illicit drugs use;

(9) establish procedures to terminate program participation by, and initiate revocation to a term of incarceration for, probationers who habitually fail to abide by program rules and pose a threat to public safety; and

(10) include regular coordination meetings for the key partners of the demonstration program, including the partners identified in the grant application in accordance with subsection (b)(4).

(d) DETERMINATION OF PROGRAM SAVINGS.—

(1) GRANTEE SAVINGS AND REINVESTMENT.—Each court receiving a grant under this section shall—

(A) not later than 12 months after an initial grant award under this section, and annually thereafter through the end of the grant period, calculate the amount of cost savings, if any, resulting from the reduced incarceration achieved through such grant program; and

(B) report to the Attorney General—

(i) the amount calculated under subparagraph (A); and

(ii) the portion of such amount, if any, that will be reinvested for expansion of such grant program.

1 (2) EVALUATION, GUIDANCE, AND REC-
2 OMMENDATIONS.—The Attorney General shall—
3 (A) annually evaluate—
4 (i) the methods used by courts to cal-
5 culate the cost savings reported under
6 paragraph (1); and
7 (ii) the use of such savings by the
8 courts to reinvest for expansion of the
9 grant program; and
10 (B) provide guidance, assistance, and rec-
11 ommendations to such courts relating to the po-
12 tential reinvestment of such savings for expan-
13 sion of such grant program.
14 (e) EVALUATION COORDINATOR.—The Attorney Gen-
15 eral shall select an entity to serve as the HOPE initiative
16 evaluation coordinator to—
17 (1) analyze and provide feedback on the meas-
18 ures and outcomes the individual HOPE initiative
19 demonstration programs are required to collect and
20 conduct, respectively, in accordance with subsection
21 (b)(5);
22 (2) ensure consistent tracking of the progress
23 of the demonstration programs carried out under
24 this section, including such measures and outcomes;
25 and

1 (3) ensure that the aggregate data from all
2 such demonstration programs is available to each of
3 the programs and the Attorney General.
4 (f) ANNUAL REPORT.—The Attorney General shall
5 annually report to Congress on the results of the HOPE
6 initiative carried out under this section.
7 (g) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated for grants awarded
9 under this section $25,000,000 for each of fiscal years
10 2010 through 2014, of which not more than $500,000
11 shall be available to the Attorney General in each fiscal
12 year for coordination activities necessary to carry out this
13 section.

○

Mr. SCOTT. It is now my pleasure to recognize our colleague, the Honorable Ted Poe from Texas, who is substituting for Ranking Member Gohmert today.

Mr. POE. Thank you, Mr. Chairman.

I want to thank you for convening this hearing to discuss both of these pieces of legislation, the "Criminal Justice Reinvestment Act" and the "HOPE Initiative Act." Both bills aim to reduce criminal recidivism and curb the cost of State and local law enforcement efforts.

H.R. 4080, the "Criminal Justice Reinvestment Act," creates a Federal program to assist State and local government efforts to reform the criminal justice systems. The bill authorizes the Attorney General to provide grants to help jurisdictions study criminal justice trends and implement policies that provide cost-effectiveness of corrections programs.

Similarly, H.R. 4055, the "HOPE Initiative Act," creates a Federal grant program to help State and local jurisdictions to reform their probation systems. The program is modeled after that successful experiment in Hawaii that decreased the strain on corrections facilities by instructing probationers and parolees on the true consequences of violating the term of their release.

While both of these new Federal programs will cost money up front, results from test programs in the States have yielded significant overall cost savings down the road. These bills are, therefore, ultimately likely to save the States and, of course, the taxpayers' money, while contributing to a noticeable increase in public safety.

In the face of projected record State budget deficits, certain States, including my own State of Texas, have undertaken criminal justice reinvestment initiatives to save money by reducing inefficiencies in State and local criminal justice systems. I am pleased to welcome as a witness today Representative Jerry Madden of the Texas House of Representatives, who played a central role in reforming the Texas prison system to operate more effectively.

I will ask you momentarily, Representative Madden, how many people are in the State penitentiary in Texas today, but I suspect it is around 160,000.

Mr. MADDEN. It is 153,950, as of the end of tomorrow.

Mr. POE. I know, you go and you check the stats every day.

And a lot of those people that are in the Texas penitentiary I know on a personal basis.

But, anyway, in Travis County, for example, in Travis County, Texas, a 2-year overhaul of the adult probation department reduced recidivism rates in part by funding classes to teach offenders how to adjust their thinking and make better moral choices.

In May of 2007, the Kansas State legislature created a program for community corrections programs to design strategies to reduce revocations by 20 percent. The legislature approved good time credits to encourage offenders to successfully complete educational, vocational, and treatment programs prior to their release. The State of Kansas is supposed to be able to save about $80 million in the next 5 years.

I am proud to be the cosponsor of H.R. 4055, the "HOPE Initiative"; however, the leading advocate for this legislation is the sponsor, chief sponsor, Congressman Adam Schiff from California. I ap-

preciate his work on this legislation. This legislation will provide funding for up to 20 pilot programs in which State and local court systems impose a set of graduated penalties for probation and parole violators.

I hope the HOPE programs will yield successes similar to those realized in the State of Hawaii. The Pew study says the HOPE probationers in Hawaii were 55 percent less likely to be arrested for a new crime; 72 percent less likely to use drugs; 61 percent less likely to skip appointments with their probation officer; and 53 percent less likely to have their probation revoked than offenders who weren't in the program.

If passed, both of these pieces of legislation will save States money in the long run by developing efficient methods for deterring crime and sentencing law violators. As a former State judge, I support efforts to develop creative methods to reduce crime and recidivism at the State, local, and Federal level. And these bills, I think, will do so while promoting public safety and saving taxpayers' money.

In my experience as a judge for 22 years, it seems to me that, when a person is sentenced, the sentence must mean something. Too often, what takes place in a courtroom is meaningless; it doesn't mean anything to anybody. It should certainly mean something to the offender; it should mean something to the victim. And the public must feel like there is a sense of justice when that sentence is imposed. And, too often, there is a perception that if a person receives a probated sentence, it is just giving away the courthouse to the defender and he is never going to be held accountable for that. Hopefully, those times can change and this legislation will bring some consequences for violating a person's probation. What a novel concept.

So I yield back the balance of my time, and I will have questions later.

Mr. SCOTT. Thank you.

We have two panels of witnesses who will help us consider these important bills today.

Our first panel will have one witness, our colleague, the gentleman from California's 29th District, Representative Adam Schiff, who introduced both H.R. 4080 and H.R. 4055.

Representative Schiff serves on three Committees. In addition to serving on the Judiciary Committee, he serves on the House Appropriations Committee and three Subcommittees on the House Appropriations Committee, including the Commerce, Justice, Science, and Related Agencies Subcommittee; also serves on the Permanent Select Committee on Intelligence.

As a former prosecutor, he has particular expertise when it comes to his service on this Subcommittee as well as the full Judiciary Committee.

Mr. Schiff?

TESTIMONY OF THE HONORABLE ADAM B. SCHIFF, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. SCHIFF. Thank you, Mr. Chairman and today's Ranking Member, Mr. Poe. I want to thank you both for calling the hearing today and for inviting me to testify before the Subcommittee.

Under your leadership, this Subcommittee has closely examined criminal justice policy issues by focusing on the promotion of proven strategies for use of evidence-based research. Today's hearing will focus on two pieces of legislation that are based on innovative and highly promising approaches to addressing criminal justice issues.

A recent Pew study indicates that one in 31 adults is under correctional control. That is up from one in 77 in 1982. Over the past two decades, corrections has been the second-fastest-growing area of State expenditures, second only to Medicaid. State corrections costs now top $50 billion, consuming one in every 15 discretionary dollars, a significant increase from the $10 billion spent some 20 years ago. These numbers, as you have pointed out, Mr. Chairman, are unsustainable, and it is clear that our approach must drastically change.

Determining how to best address our criminal and juvenile justice systems is a task that policymakers have grappled with for years. New and innovative approaches often lose out to established and well-known initiatives even where outcomes are not sufficiently positive, as Congress is often wary of experimentation. As policymakers, we must think outside the box more often and explore new and innovative ideas to tackle criminal justice problems. This is especially important in areas that we have attempted to address for some time but with little success.

Budget cuts and prison overcrowding are creating a crisis situation in many States. In my home State of California, prisons house over 171,000 inmates, nearly twice their operating capacity, and we have spent almost 10 percent of total general fund expenditures on corrections. Because of unacceptable overcrowding, we are now faced with a judicial order to release about a quarter of our entire prison population.

Data-driven reinvestment strategies can assist policymakers in California and elsewhere to reduce spending on corrections while increasing public safety. Promising results, as Representative Poe has pointed out, have been seen in places like Texas, Kansas, and other jurisdictions after such strategies have been implemented. And you will hear about how some of these successes were accomplished from the panel that follows.

Based on the successful work, we have introduced the bipartisan "Criminal Justice Reinvestment Act of 2009" with my colleague Dan Lungren, and Senators Whitehouse and Cornyn have introduced identical legislation, recently reported out of the Senate Judiciary Committee with bipartisan support.

This legislation is designed to assist State and local governments in implementing justice reinvestment strategies. No two States are the same, and the drivers of increased corrections costs and prison populations are unique in each State. The legislation, therefore, devotes grant funding for intensive analysis of criminal justice data,

policies, and cost-effectiveness of current spending on corrections in order to develop data-driven policy options that can address this.

The bill then provides resources for the implementation of solutions—for example, providing training and technical assistance or support for the delivery of risk-reduction programs—and for reinvesting averted prison costs to bolster such initiatives.

Currently, there are at least 14 States on a waiting list seeking such technical assistance, and eight other States are seeking to expand such work. Congress has the opportunity to step in and help answer this call for assistance.

Another area where we have to look for new ideas and approaches is our drug policy. The conservative American Enterprise Institute concluded in a study that tough enforcement, the centerpiece of American drug policy in terms of rhetoric, budget, and substance, has little to show by way of success.

A substantial amount of crime and a substantial share of prison occupancy is directly tied to illicit drug consumption. In addition, we know that a relatively small group of chronic drug users consumes the vast majority of illicit drugs in the U.S., and about three-quarters of this group pass through the criminal justice system at some point. So reducing drug consumption in the U.S. requires effectively addressing the drug habits of supervised offenders.

Furthermore, the failure of individuals serving terms of probation to successfully complete those terms is a major contributor to prison admission. For example, in 2007, more than a quarter-million individuals on probation were admitted to prison. Effectively addressing drug use by these individuals will reduce national drug consumption, crime rates, and burdens on taxpayers.

In 2004, Judge Steven Alm of Hawaii launched a pilot program to reduce probation violations by offenders at high risk of recidivism. This intensified supervision program, called Hawaii's Opportunity Probation with Enforcement, or HOPE, uses graduated sanctions, beginning with the threat of short jail stays, as an incentive for compliance. Defendants are clearly warned that, if they violate the rules, they go to jail. Participants receive swift and immediate sanctions for each violation, such as testing dirty for drugs or missing appointments with a probation officer.

The results, as Mr. Poe indicated, are very positive: 55 percent less likely to be arrested for a new crime; 72 percent less likely to use drugs; 61 percent less likely to skip appointments; 53 percent less likely to have their probation revoked.

An article in the Journal of the American Medical Association found that, if the HOPE initiative was replicated effectively in multiple jurisdictions, the program might have broader benefits beyond assisting probationer participants at risk for heavy drug use, such as helping to shrink the market for illegal drugs and the profits of drug trafficking organizations.

I have introduced bipartisan legislation with my colleague, Representative Poe of Texas, that would promote and expand the use of this model in a number of jurisdictions across the country.

And I very much appreciate your leadership and support, Representative Poe. It is good when you have a former prosecutor team up with a former judge.

The Honest Opportunity Probation with Enforcement, or HOPE, Initiative of 2009 is designed to promote the establish of probation demonstration programs that reduce drug use, crime, and recidivism by requiring swift, predictable, and graduated sanctions for noncompliance. Stringent requirements will ensure that the pilots are designed and evaluated in an appropriate manner, and our legislation would require determination of the cost savings resulting from the program and an accounting for reinvestment of those savings for expansions of the effort.

Earlier today, President Obama transmitted to Congress the 2010 National Drug Control Strategy. In this blueprint for reducing illicit drug use and its harmful consequences in America, support is specifically outlined for Project HOPE and drug testing with certain and swift sanctions in probation and parole systems. The strategy notes that Federal agencies will look for opportunities to expand such programs throughout the country in collaboration with State, local, and tribal agencies.

In closing, Mr. Chairman, I want to commend you again for your leadership in this area and for focusing the Subcommittee's attention on these two innovative and promising approaches. I urge the Subcommittee to act on these proposals so we can address these issues this Congress.

I thank you, Mr. Chairman, and yield back.

[The prepared statement of Mr. Schiff follows:]

PREPARED STATEMENT OF THE HONORABLE ADAM B. SCHIFF,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Testimony of Congressman Adam B. Schiff
House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security
May 11, 2010

Mr. Chairman, I'd like to thank you for calling this hearing today and for inviting me to testify before the Subcommittee. Under your leadership, this Subcommittee has closely examined criminal justice policy issues by focusing on the promotion of proven strategies demonstrated through the use of evidence-based research. Today's hearing will focus on two pieces of legislation I have introduced that are based on innovative and highly promising approaches to addressing criminal justice issues.

A recent PEW study shows that 1 in 31 adults is currently under correctional control, up from 1 in 77 in 1982. Over the past two decades, corrections has been the second fastest growing area of state expenditures, second only to Medicaid. State corrections costs now top $50 billion, consuming one in every 15 discretionary dollars, a significant increase from the $10.6 billion spent some 20 years ago.

These numbers are unsustainable, and it is clear that our approach must drastically change. Determining how to best address our criminal and juvenile justice systems is a task that policymakers have grappled with for years. New and innovative approaches often lose out to established and well-known initiatives, even where outcomes are not sufficiently positive, as Congress is generally wary of experimentation.

As policymakers we must think outside the box more often and explore new and innovative ideas to tackle criminal justice issues. This is especially important in areas that we have attempted to address for some time, but with little success.

Budget cuts and prison overcrowding are creating a crisis situation in many states. In my home state of California, prisons house over 171,000 inmates, nearly twice their operating capacity, and we spend almost 10% of total general fund expenditures on corrections. Because of unacceptable overcrowding, we are now faced with a judicial order to release about 25% of our prison population.

Data-driven "justice reinvestment" strategies can assist policymakers in CA to reduce spending on corrections while increasing public safety. Promising results have been seen in Texas, Kansas, and other jurisdictions after such strategies have been implemented, and you will hear about how these successes were accomplished in the second panel.

Based on this successful work, I have introduced the bipartisan Criminal Justice Reinvestment Act of 2009 with my colleague Rep. Dan Lungren, and Senators Sheldon Whitehouse and John Cornyn have introduced identical legislation which was recently reported out of the Senate Judiciary Committee with bipartisan support.

The legislation is designed to assist state and local governments in implementing justice reinvestment strategies. No two states are the same and the drivers of increased corrections costs and prison populations are unique in each state. The legislation

therefore devotes grant funding for intensive analysis of criminal justice data, policies, and the cost-effectiveness of current spending on corrections, in order to develop data-driven policy options that can address this. The bill then provides resources for the implementation of solutions – for example, providing training and technical assistance or support for the delivery of risk-reduction programs – and for reinvesting averted prison costs to bolster such initiatives.

Currently there are at least 14 states on a waiting list, seeking such technical assistance, and eight other states are seeking to expand such work. Congress has the opportunity to step in and answer this call for assistance.

Another area where we must look for new ideas and approaches is in our drug policy. The conservative American Enterprise Institute concluded in a study that "tough enforcement, the centerpiece of American drug policy in terms of rhetoric, budget, and substance, has little to show by way of success."

A substantial amount of crime, and a substantial share of prison occupancy, is directly tied to illicit drug consumption. In addition, we know that a relatively small group of chronic drug users consumes the vast majority of illicit drugs in the U.S., and approximately three-quarters of this group pass through the criminal justice system at some point. So reducing drug consumption in the U.S. requires effectively addressing the drug habits of supervised offenders.

Furthermore, the failure of individuals serving terms of probation to successfully complete these terms is a major contributor to prison admission. For example, in 2007, more than 250,000 individuals on probation were admitted to prison. Effectively addressing drug use by these individuals will reduce national drug consumption, crime rates, and taxpayer burdens.

In 2004, Judge Steven Alm of Hawaii launched a pilot program to reduce probation violations by offenders at high risk of recidivism. This intensified supervision program – called Hawaii's Opportunity Probation with Enforcement, or "HOPE" – uses graduated sanctions, beginning with the threat of short jail stays, as an incentive for compliance. Defendants are clearly warned that if they violate the rules, they go to jail. Participants receive swift and immediate sanctions for each violation, such as testing dirty for drugs or missing appointments with a probation officer.

The results of a one-year, randomized controlled trial indicate that Hawaii HOPE probationers were:

- 55 % less likely to be arrested for a new crime
- 72 % less likely to use drugs
- 61 % less likely to skip appointments with their supervisory officer; and
- 53 % less likely to have their probation revoked

An article in the Journal of American Medical Association found that if the HOPE initiative was replicated effectively in multiple jurisdictions, the program might have

broader benefits beyond assisting probationer participants at risk for heavy drug use, such as helping to shrink the market for illegal drugs and the profits of drug trafficking organizations.

I have introduced bipartisan legislation, with my colleague Rep. Ted Poe of Texas, that would promote and expand the use of this model in a number of jurisdictions across the country. The Honest Opportunity Probation with Enforcement, or "HOPE", Initiative Act of 2009 is designed to promote the establishment of probation demonstration programs that reduce drug use, crime, and recidivism by requiring swift, predictable, and graduated sanctions for noncompliance with the conditions of probation. Stringent requirements will ensure that the pilots are designed and evaluated in an appropriate manner, and our legislation would require a determination of the amount of cost savings resulting from the program and an accounting of reinvestment of those savings for expansion of the program.

In closing, Mr. Chairman, I would like to commend you again for your leadership in this area and for focusing the Subcommittee's attention on these two innovative and promising approaches. I urge the Subcommittee to act on these proposals so that we can address these issues this Congress.

Mr. SCOTT. Thank you.

Are there questions for our colleague?

If not, I would just recognize the presence of the gentleman from Illinois, Mr. Quigley, who has joined the panel.

Thank you, Mr. Schiff. And we are going to hear the next panel, who will, I hope, say nice things about your bills.

Mr. SCHIFF. Thank you, Mr. Chairman. I hope so, too.

Mr. SCOTT. If the second panel will come forward.

The second panel will consist of five witnesses, and I will introduce them as they come forward.

Our first witness will be Adam Gelb, who directs the Public Safety Performance Project at the Pew Center on the States. At Pew, Mr. Gelb works directly on justice reinvestment initiatives in various States.

He previously worked for the Georgia Council on Substance Abuse and Georgia's Governor's Commission on Certainty in Sentencing; also for the Lieutenant Governor of Maryland and the U.S. Senate Judiciary Committee.

He has earned a bachelor's degree from the University of Virginia and a master's degree in public policy from Harvard University's John F. Kennedy School of Government.

If all of our witnesses will come forward.

Our second witness today is Chief Justice John Broderick of the New Hampshire Supreme Court. He has held this position since 2004. He serves as the chair of the Leadership Group on Justice Reinvestment Initiatives in New Hampshire.

Prior to his service on the bench, he was in private practice and served in various community service positions, including as a member of the board of directors of the National Legal Services Corporation. He is a graduate of the College of the Holy Cross and the University of Virginia Law School.

The third witness is Representative Jerry Madden of the Texas House of Representatives. First elected in November 1992, he is now in his ninth term. He serves on various committees, including vice chair of the Committee on Corrections, which he chaired from 2005 to 2009, and the Judiciary and Civil Jurisprudence Committee.

He is a graduate from West Point, spent 6 years in the Army, and holds a master's degree from the University of Texas at Dallas.

Our next witness is Nancy La Vigne, director of the Justice Policy Center at the Urban Institute, where she works on justice reinvestment initiatives at the county level. Before being appointed as director, she served for 8 years as a senior research associate at the institute.

She holds a bachelor's degree from Smith College, a master's from the University of Texas at Austin, and a Ph.D. from the School of Criminal Justice at Rutgers.

Our final witness will be Steven Alm of Hawaii's First Circuit Court. He was sworn in as a judge in 2001. And, as I noted in my remarks, he formed the HOPE program in 2004. Prior to his judicial appointment, he served as a U.S. attorney for the District of Hawaii from November 1994 until April 2001.

He received his law degree from the University of the Pacific and his master's degree in education from the University of Oregon.

And we will begin with Mr. Gelb.

TESTIMONY OF ADAM GELB, DIRECTOR, PUBLIC SAFETY PERFORMANCE PROJECT, PEW CENTER ON THE STATES, WASHINGTON, DC

Mr. GELB. Thank you, Chairman Scott, Members of the Subcommittee. I appreciate the opportunity to testify before the Subcommittee today.

As you said, my name is Adam Gelb. I am director of the Public Safety Performance Project at the Pew Center on the States. Our mission is to help States advance policies and practices in sentencing and corrections that protect public safety, hold offenders accountable, and control corrections costs.

All of us at Pew applaud you for your leadership here, along with Representative Schiff, Representative Poe, and Representative Lungren, for your leadership in bringing these two bills to the public attention and moving them forward, because they really take aim at a common challenge: How can our Nation get a better return on its massive investment in public safety?

And violent and career criminals need to be off the streets and behind bars and for a long time; there is no question about that. But over the past three decades, the United States, as you pointed out, Mr. Chairman, has built a prison system larger and more expensive than any other on the planet.

When you look at the numbers, the way they were calculated there, you have these, sort of, hard-to-grasp calculations: 700, 500 per 100,000. As we pointed out a couple years ago, when you take juveniles out of the equation and you just look at how many adults are in prison versus how many adults are in the population, you get one in 100. We have one in 100 adults in this country now behind bars.

That is the equivalent of locking up every single adult in Miami, Florida; in Beaumont, Texas; in San Jose—we picked these cities at random—Miami; San Jose; Beaumont; Richmond, Virginia; Memphis, Tennessee; and Detroit, all the adults in those cities combined. That is 2.3 million adults in this country behind bars, one out of 100.

You all have already gone over the costs extremely thoroughly here. Now more than $50 billion that States are spending; probably over $70 billion when you add in the Federal and local costs.

I would just add here quickly that our "One in 31 Report" that you cited a little bit earlier tracked the cost of what we have been spending on probation versus prisons and how the cost of corrections overall has been extremely tilted toward prisons. In fact, that massive growth in overall corrections spending, almost 90 percent of that increased spending has gone to prisons, yet two-thirds of the growth in the correctional population over the last 25 years or so has been on probation. So probation is two-thirds of the growth and only about 10 percent of the funding increase.

What have we gotten for all this money? Crime rates have fallen since the mid-1990's, no question about it, and the research shows that prisons clearly can stake a modest part of the credit for that. But crime is still too high, and recidivism rates do not appear to have dropped. In fact, inmates leaving a State prison in this coun-

try these days probably have spent a few more months behind bars than they would have 25 years ago but they are just as likely to commit crime and return to crime when they come home.

The good news is that we now have solutions, new strategies revealed by research that both cut crime and lower cost to taxpayers. The first is justice reinvestment. JR is an overall approach to State policy reform aimed at increasing public safety by cutting prison costs and reinvesting those savings into mandatory supervision and other alternatives that produce superior results. It was pioneered by the Council of State Governments' Justice Center and has now been applied in a dozen States across the Nation.

Texas, as we will hear from Representative Madden, probably provides the best example of the power of the justice reinvestment strategy. Texas is the very symbol of law and order in this country, and yet, 3 years ago, Texas leaders just said no to a proposal to build eight more prisons and, instead, took the billion dollars that they would have spent on prisons and spent about a quarter of that on building out a network of residential and community-based programs.

Since 2007, Texas has reduced its prison population, it has reduced its corrections spending, and, most importantly, it has reduced the crime rate and recidivism rates all at the same time. So Texas has really proven that we can have less crime at a lower cost.

Justice reinvestment works because it is bipartisan; because it is interbranch, it is an interbranch approach; and because it is driven by data; but also because its fundamental premise is that prisons are a government spending program, and, just like any other government spending program, they should be put to the cost-benefit test.

The second strategy we are talking about today, HOPE, offers perhaps the most promising program model for cutting crime and costs. As you have outlined and Representative Schiff mentioned, more than 5 million people are on probation or parole in this country today, twice the number behind bars. They do consume as much as half of the hard drugs in this country—cocaine, heroin, and meth.

And when they fail drug tests on probation or break other rules of community supervision, they land back in prison. In fact, parole and probation violators are a leading driver of prison admissions in this country, reaching almost two-thirds of prison admissions in some States. So if we even have a small impact on this population, we can have a huge, dramatic impact on crime and drug abuse and cost in this country.

But HOPE's success, as you have outlined, has been huge. In a gold standard evaluation, a randomized, controlled trial, as you have heard, HOPE probationers were compared to a control group. Arrests were down 55 percent, positive drug tests down 72 percent, and the number of days they spent in jail and prison were also down by half. So just imagine what the impact could be on crime and cost of victimization across this country if HOPE were brought to scale.

The Federal role here is clear and compelling. These efforts may multiply on their own, and probably will to a certain extent, but

in the current economic environment widespread adoption is not likely. That means more business as usual—more crime, more victims, more arrests, more prosecutions, and still more incarceration.

In conclusion, nearly 40 years ago prisons became America's weapon of choice in the fight against crime. And there is no question that prisons have helped cut crime. But that is no longer the question at hand. The right question, the one that more and more budget-strapped States are asking is, what policies and programs would do a better job cutting crime and do it at a lower cost? HOPE probation and justice reinvestment offer potent answers. Dollar for dollar, Congress couldn't make two better investments in public safety.

Thank you again for the opportunity to testify with the Subcommittee today.

[The prepared statement of Mr. Gelb follows:]

PREPARED STATEMENT OF ADAM GELB

TESTIMONY
Adam Gelb – Director, Public Safety Performance Project
The Pew Center on the States
Committee on the Judiciary | Subcommittee on Crime, Terrorism, and Homeland Security
May 11, 2010

Chairman Scott and members of the subcommittee:

Thank you for the opportunity to testify today.

My name is Adam Gelb, and I am director of the Public Safety Performance Project of the Pew Center on the States, a division of the Pew Charitable Trusts that helps states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable and control corrections costs.

All of us at Pew applaud you, along with bill sponsors Representatives Schiff, Poe and Lungren, for your leadership in drawing attention to two extremely promising strategies for reducing crime and victimization in America.

The two bills before you today—the Honest Opportunity Probation with Enforcement Initiative Act (HOPE) and the Criminal Justice Reinvestment Act—take aim at a common challenge: How can our nation get a better return on our massive investment in public safety?

One in 100 Behind Bars
Over the past three decades, the United States has built a prison system larger and more expensive than any other on the planet. Violent and career criminals need to be locked up, and for a long time. But, as the Pew Center on the States reported in 2008, we now have 1 in 100 adults in America behind bars. That's the equivalent of locking up every single adult in Miami, Florida; San Jose, California; Beaumont, Texas; Richmond, Virginia; Memphis, Tennessee; and Detroit, Michigan—combined.

High Costs
The cost of this has been consuming state budgets. At more than $50 billion per year, corrections has been the second fastest growing budget category, behind only Medicaid, and now accounts for one in every 14 general fund dollars, twice its share in the mid-1980s. Five states now spend more on corrections than higher education. Add in the federal and local incarceration costs, and the tab surpasses $70 billion.

Low Public Safety Return
What have we gotten for our money? Crime rates have fallen since the mid-1990s, and research shows that increased incarceration can claim a modest part of the credit. But crime still is well above the levels we had through the late 1960s, and violent crime, especially in our most disadvantaged communities, remains intolerably high.

On top of that, recidivism rates do not appear to have come down. The average inmate released today has spent several months longer behind bars than he would have 25 years ago, but he is

just as likely to return to crime. And over the past 10 years, seven states have reduced both their crime rates and incarceration rates, firmly debunking the notion that if imprisonment goes down, crime will go up.

The good news is that we now have solutions—new strategies revealed by research that both cut crime and lower costs for taxpayers.

Justice Reinvestment

The first is Justice Reinvestment. JR is an overarching approach to state policy reform aimed at increasing public safety by cutting prison costs and reinvesting the savings into mandatory supervision and other alternatives that produce superior results. It was pioneered by the Council of State Governments Justice Center and has now been applied in a dozen states across the nation.

In states that take on Justice Reinvestment, policy makers working with researchers identify the state and local policies that are driving prison growth, and then use sophisticated modeling techniques to forecast the impact of various policy changes on the prison population and on the costs. This science-based approach allows state leaders to ask a critical question: "By reallocating funds from our most expensive correctional tool (prisons) to a portfolio of alternatives (mandatory community supervision, drug courts, HOPE Probation), can we get more public safety with fewer dollars?" States have come up with very different ways of getting to "yes," but the answer, in every case, with a strong bipartisan consensus, has been "yes."

Texas provides probably the best example of the power of the Justice Reinvestment strategy. Texas is the very symbol of law and order in this country, and three years ago, Texas leaders just said "no" to building eight more prisons at a cost of nearly a billion dollars. Instead, they invested about a quarter of that into a network of community-based and residential programs. Since 2007, Texas has reduced its prison population, reduced its corrections spending and, most importantly, reduced its crime rate—all at the same time. Texas has proven that we can have less crime at a lower cost.

Justice Reinvestment works because it is a bipartisan, inter-branch approach, because it is driven by data, and because its premise is that prisons are a government spending program, and just like any other government program, they should be put to the cost-benefit test.

HOPE

Justice Reinvestment provides a *policy* framework for reallocating correctional funding to achieve more public safety. The second strategy, HOPE Probation, offers perhaps the most promising *program* model for achieving the same ends.

More than 5 million people are on probation or parole in the United States, twice the number behind bars. They consume as much as half of the nation's cocaine, heroin and methamphetamine, and when they fail drug tests or break other rules of community supervision, they land in prison. In fact, probation and parole violators are a leading driver of prison growth, reaching nearly two-thirds of prison admissions in some states. So if we have even a small

success with them, we could make a profound impact on crime and drug abuse, and on correctional costs.

HOPE success, though, has been huge. In a gold-standard, randomized controlled evaluation, HOPE probationers were 55 percent less likely than the control group to be arrested for a new crime; 72 percent less likely to use drugs; 61 percent less likely to skip probation appointments; and they use 48 percent less jail and prison space. Just imagine the impact, or even half the impact—on crime, on drug abuse, and on the cost of prisons and jails—if HOPE Probation was brought to scale across the country.

Judge Alm will describe in detail how he's achieved these spectacular results, but the essence of it is that HOPE actually puts what we know about deterrence into action, and combines that with treatment and other practices proven to reduce recidivism. We know from research that if we want to shape behavior, penalties (and rewards) need to be applied swiftly and certainly. The severity is of less importance. Those who need treatment get it, but at the same time, HOPE sends a clear, unmistakable message: if you violate, you go to jail, no ifs, ands or buts. This strict accountability approach helps move us past the paralyzing debates between rehabilitation and punishment to the research-backed, policy and political middle ground of the carrot and the stick.

Common Themes

The solutions proposed by the two bills have much in common. First, they reflect the most innovative practices emerging from states. Second, they prove that we can have more public safety at less taxpayer expense. These are non-ideological, pragmatic approaches to criminal justice issues that are too often mired in empty slogans and posturing.

Third, they recognize that while prisons are an effective tool for society's most violent and recalcitrant criminal offenders, they are also the most expensive arrow in our correctional quiver and should be used as frugally as any other public resource. Finally, they demonstrate that managing crime is not just about managing offenders – it's about governmental management and leadership. Sentencing and corrections systems will reduce crime if they are exposed to the right information, provided appropriate resources and held accountable for results.

Federal Role

Both HOPE Probation and Justice Reinvestment create savings for states and localities, so no doubt you're wondering, "Why is Congress being asked to get involved?"

Pew's work and funding of these innovative approaches spans four years, and we along with other private funders have been carrying most of the load. We're here today because the demand for these approaches has now outstripped supply. Governors, state legislators, judges, corrections executives—entire states are requesting assistance and struggling to maintain services in the face of dire budget cuts. They know that if they continue with business as usual, there will be more crime, more victims, more arrests, more prosecutions and still more incarceration.

In addition, Congress has long supported state and local crime control initiatives, and has a unique role in supporting the replication of innovative policies and programs. Most states simply don't have the research capacity to crunch the numbers, or the limited funds it takes to start up alternative programs so that offenders can be adequately supervised in the short run, until the reduction in prison population translates into actual savings that can be reinvested into those programs. The federal government needs to prime the pump. But then it should be able to step away.

Less Crime, Lower Cost

Nearly 40 years ago, prisons became America's weapon of choice in the fight against crime. There is no question that more prisons have helped cut crime, but that's no longer the question at hand. The right question, the one that more and more states are asking, is "What policies and programs would do a better job cutting crime and do it at a lower cost?"

HOPE Probation and Justice Reinvestment offer potent answers. Dollar for dollar, Congress couldn't make two better investments in public safety.

Thank you again for the opportunity to speak with the subcommittee today.

Mr. SCOTT. Thank you.

I forgot to mention the lighting device that is at the table. I would ask you to your confine your comments to 5 minutes, to the extent that you can.

Justice Broderick?

TESTIMONY OF THE HONORABLE JOHN T. BRODERICK, JR., CHIEF JUSTICE OF THE NEW HAMPSHIRE SUPREME COURT, CONCORD, NH

Justice BRODERICK. Chairman Scott, Congressman Poe, for the record, my name is John Broderick. I have the privilege to serve as the chief justice of the New Hampshire Supreme Court and have done so since 2004.

I appear before you today to speak in support of the Criminal Justice Reinvestment Act, which would enable more States like mine and local jurisdictions to utilize the kind of data-driven and bipartisan justice reinvestment process that New Hampshire has found to be so valuable.

I would like to offer an account of the assistance New Hampshire has received over the last year, thanks to the support of the Department of Justice Bureau of Justice Assistance, the Pew Center on the States, and the New Hampshire Charitable Foundation.

Last year, the leadership of New Hampshire, all three branches of government—the Governor, the Senate President, the House Speaker, and myself—came together for a new approach to address the serious challenges facing our corrections system in New Hampshire. I joined with other State leaders to request this assistance because the costs of recidivism are too high, both in terms of lives and budgets, and because it is long past time to begin bending the cost and public safety curves back toward less spending and better outcomes.

New Hampshire was facing many challenges. Over the last decade—and our State, by the way, has a population of only 1.3 million people—over the past decade, our State's prison population had increased 31 percent and spending on corrections had doubled to over $100 million. To give you a benchmark of sorts, New Hampshire spends only $76 million a year on the court system. The recidivism rate in New Hampshire had increased dramatically over the previous 10 years and was above the national average.

Unless New Hampshire took action, independent estimates suggested that our prison population would otherwise soon increase by another 11 percent at a cost of $179 million in construction and operations.

The Council of State Governments' Justice Center provided technical assistance and real expertise, allowing us to fully investigate the root causes of the growth of our corrections system and to establish a process to begin, together with State leaders from both parties and stakeholders from across the criminal justice spectrum, to review the analysis they produced.

Over a period of several months, a working group chaired by the attorney general, composed of all three branches of government, myself included, as well as representatives of county government and the public at large, carefully reviewed the analysis presented by the Justice Center.

The process revealed, surprisingly to us, that 57 percent—57 percent—of the people admitted to our State prison in the previous year had not committed a new crime; rather, they failed to comply with the conditions of their probation or parole, which resulted in their being incarcerated. The vast majority of those individuals re-

turned to jail or went to jail for the first time on a probation violation because of drug or alcohol abuse.

Despite significant growth in the probation and parole population, the number of offices supervising the population had been stable. Caseloads had risen, and we did not have the right tools to hold those folks accountable. And so the default position, sadly, is: revoke their probation, revoke their parole, send them to prison at $32,000 a year. It is a failed system. It doesn't make any sense. It didn't make any sense to us.

Relying upon data analysis and stakeholder input, the working group endorsed a set of pragmatic policy options that policymakers and stakeholders across the criminal justice system in my State embraced. They included increased supervision for those most likely to re-offend; not to treat everyone the same; new tools for probation and parole officers to hold offenders accountable when they failed to play by the rules in their communities; and expanded access to substance abuse and, I want to underscore, mental health treatment.

In my State, in the 1980's, we were rated number one in the United States in mental health services in the community. We are now rated somewhere around 38th in America. It is no surprise to me that the jails have shown the increase.

The policy framework we were provided has turned into bipartisan legislation—bipartisan legislation—in a time when bipartisanship is almost extinct. And that legislation was recently approved by both houses of our legislature with overwhelming support. For New Hampshire, this will mean safer communities with lower recidivism, cost savings for the State and counties, and saved lives and saved families.

Over the next 4 years, our State is on track to save between $7 million and $10 million. I know that must not sound like a lot of money in this city, but in my State of New Hampshire, where the budget is in stress, I can assure you it is a lot of money.

The most important changes, however, are that lives, people can be restored through effective treatment and appropriate supervision and that increased public safety will follow lower recidivism rates, as has shown to be true in Texas and Kansas.

It is my belief, 22 years as a lawyer, 15 years as an appellate judge, and the belief of many in my State who have been involved in this effort through the justice reinvestment initiative, that other States and local jurisdictions would benefit greatly, would benefit greatly, from the additional resources that would be made available under this act to help them secure access to data, which we needed so desperately, and to reduce taxpayer spending.

As I said, in New Hampshire I think we have reached the point in American society on this issue where good social policy and good economics have finally intersected. And I encourage you to pass this legislation. It is a powerful tool for change, and the status quo is not working.

Thank you, Mr. Chairman.

[The prepared statement of Justice Broderick follows:]

PREPARED STATEMENT OF THE HONORABLE JOHN T. BRODERICK, JR.

Statement by
The Honorable John T. Broderick, Jr.

Chief Justice of the New Hampshire Supreme Court

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 appear before you today to speak in support of the Criminal Justice Reinvestment Act, which would enable more states and local jurisdictions to utilize the kind of data-driven and bipartisan justice reinvestment process that New Hampshire has found to be so valuable.

I would like to offer an account of the assistance New Hampshire received over the last year, thanks to the support of the Department of Justice Bureau of Justice Assistance, the Pew Center on the States, and the New Hampshire Charitable Foundation.

Last year, the leadership of New Hampshire's three branches of government—the Governor, Senate President, House Speaker, and I—came together for a new approach to address the serious challenges facing our corrections system.

We all recognized that doing nothing would allow corrections costs to continue to climb and our already staggering level of recidivism to worsen.

As Chief Justice of the New Hampshire Supreme Court, I joined with other state leaders to request this assistance because the costs of recidivism were too high, both in terms of lives affected and budgets impacted, and now was the time to bending the cost curve and public safety curve back toward less spending and better outcomes.

Our state lacked the data analysis capability to fully investigate the causes of our corrections system's growth, however, and we needed a process to bring together state leaders from both parties and stakeholders from across the criminal justice system to review this analysis. Together, through this process, we needed to forge consensus around a policy framework that would make our state safer.

Thanks to the partnership our state formed with Pew, BJA, and the technical assistance provider, the Council of State Governments Justice Center, we began a process of analyzing data, soliciting input from state and local stakeholders in the criminal justice system, and developing a policy framework that was turned into bipartisan legislation that was recently approved by our legislature's House and Senate with overwhelming support. As a result, our state will be safer and spend less on corrections.

Let's look at the major challenges New Hampshire was facing.

In the past 10 years, the state's prison population increased 31 percent and spending on corrections doubled to over $100 million.[1] Unless the state took action, independent estimates suggested that the prison population would otherwise increase by another 11 percent at an additional cost of $179 million in construction and operating costs.[2]

Figure 1. New Hampshire's Prison Population and Costs Have Increased

Despite these increases in the prison population and taxpayer spending, reported crime did not decline and was already lower than nearly every other state.

The comprehensive analysis conducted by the CSG Justice Center helped us identify that the state's prison population had increased due to rising rates of failure for people on probation or parole.

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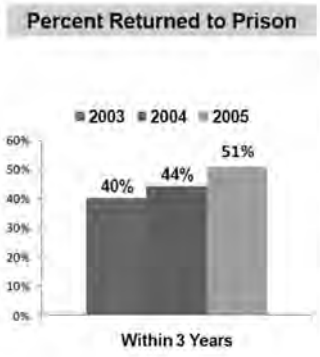
[1] Data analysis presented in this testimony was independently carried out by the CSG Justice Center. This and additional analysis is available in the Justice Center report "Justice Reinvestment in New Hampshire: Analyses & Policy Options to Reduce Spending on Corrections and Increase Public Safety," which can be accessed by visiting this webpage: http://justicereinvestment.org/states/new_hampshire/pubmaps-nh

[2] Delay, Dennis, Ryan Tappin, and Steve Norton. "New Hampshire Center for Public Policy Studies." *Prison Projections 2008*, March 2009). p. 13. http://www.nhpolicy.org/reports/prison_population_2009.pdf (accessed August 19, 2009).

Figure 2. New Hampshire's Recidivism Rate Has Increased



Recidivism by Age (2004 Cohort)	
17-19	60%
20-25	51%
26-29	42%
30-39	43%
40-49	41%
50-59	29%

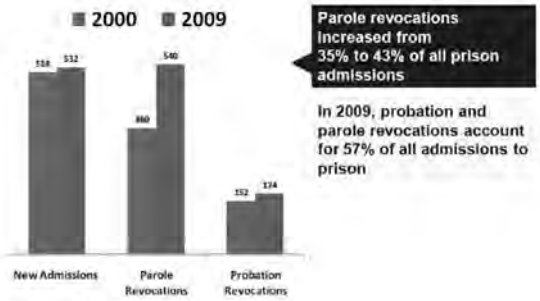
Recidivism by Offense Type	
Violent	40.0%
Property	50.0%
Drug	37.0%
Public Order	48.0%
Burglary	57.8%
Robbery	53.7%
Fraud	53.2%

The recidivism rate in New Hampshire increased dramatically over the past 10 years and is now above the national average.

Fifty-seven percent of people admitted to state prison last year did not commit a new crime. They failed to comply with the conditions of their supervision in the community and were revoked to prison.

The vast majority of these revocations involved drug or alcohol use.

Figure 3. Failures on Probation and Parole Drive New Hampshire Prison Admissions



Without available state funds for rapid drug tests, intermediate sanctions to quickly respond to minor violations, or contracted drug treatment in the community to require offenders to attend, probation and parole officers have few tools besides revoking offenders to prison

Not only did probation and parole officers lack the right tools, they also had less time to supervise and work with each offender. The number of people placed on probation and parole grew significantly while the number of supervising officers remained stable, which caused caseloads to rise.

The intensive technical assistance that we received in New Hampshire also made it possible for a broad assessment to be conducted on the services and treatment available in our state for people in the criminal justice system with substance use and / or mental health needs.

The majority of individuals in jail and prison have either addiction or mental health disorders (or both).

More than 70 percent of individuals in the criminal justice system with mental illness also have a substance use problem.

Mental illness often leads to homelessness, joblessness, family dysfunction and crime. Failing to treat it in our community mental health system is a formula for more crime, more failure, and more expense.

This population represents a significant driver of the people who fail on community supervision.

Figure 4 Case Review of 90 Parole Revocation Files

- **59% of parole revocations to prison did not involve any new offense convictions or allegations, and of these:**
  - ✓ **75% involved drugs**
  - ✓ **41% involved program failure**
  - ✓ **25% involved absconding**
  - ✓ **19% indicated prior violations**
- **86% of revocations will be eligible for parole again**

New Hampshire currently does not provide resources to the Department of Corrections for community-based substance abuse and mental health, despite research showing the effectiveness and value of specialized treatment combined with effective supervision.

This provides you with a sense of the challenges New Hampshire was facing. Other states have simply resorted to building more and more prisons at greater and greater expense to taxpayers, yet without any appreciable impact on recidivism rates. Other states, we knew, had tried policies that when applied retroactively, understandably caused great concern among some law enforcement, prosecutors, and victim advocates. Instead, the Governor, state legislative leaders, and I chose to follow in the footsteps of Texas, Kansas and other states that had used the data-driven approach of justice reinvestment to identify pragmatic, bipartisan policies that could help us improve public safety, reduce spending on corrections, and put us in a position as a state to be able to reinvest in the community-based drug and mental health treatment services that we know can have the greatest impact on crime and individual lives.

Over a period of several months, a work group chaired by state Attorney General Michael Delaney—and composed of the Senate President, Speaker of the House, myself, Republican and Democratic state lawmakers, three other judges, two state agency commissioners, a county jail superintendent, and several public members—met at length and repeatedly to carefully review analyses presented by the CSG Justice Center. Our mission: to develop a set of pragmatic policy options that policymakers and stakeholders across the criminal justice system could embrace.

The courts played an integral role in the process, including the participation of judges in the work group, the channeling of input from additional judges across our state through focus groups, and the contribution of court data to the analysis.

This impressive bipartisan, inter-branch work group unanimously endorsed a policy framework that was carefully crafted to gradually lower the prison population by reducing the number of people who fail on probation and parole.

It does this in three ways:

- Increasing supervision for those we're most concerned about and are likely to reoffend,
- Providing probation and parole officers new tools to hold offenders accountable when they fail to play by the rules in the community, and
- Expanding access to substance abuse and mental health treatment.

It was equally important to many policymakers and victim advocates in our state that we did not have to alter our state's truth-in-sentencing laws, or make any policies retroactive, or cause any mass early release to achieve the goals of lowering recidivism and reducing spending on corrections.

For our state, this will mean safer communities with lower recidivism and cost savings for the state and counties. Over the next four years, our state is on track to save between $7 and 10 million. That may not sound like a lot of money here in DC, but in the context of the New Hampshire General Fund budget, I can tell you it means a great deal. The cost of providing states with the kind of intensive, state-specific technical assistance we received in NH is significant,

I'm sure. But few other efforts generate the same kind of return on investment. Just the cost savings alone over four years will be more than twenty times the cost of the technical assistance required to help us identify the specific polices we employed.

The most important changes, however, are those less easily measured: the lives that are restored through effective treatment and appropriate supervision and the increased public safety our residents will enjoy as we bring down our recidivism rates, as states like Texas and Kansas have shown to be possible.

It is both my belief, and that of many in New Hampshire who were involved with Justice Reinvestment Initiative, that other states and local jurisdictions should benefit greatly from the additional resources that would be made available under the Criminal Justice Reinvestment Act, to help them have access to the data and expertise to increase public safety and reduce taxpayer spending on corrections.

I would be happy to respond to members' questions.

Mr. SCOTT. Thank you.
Representative Madden?

TESTIMONY OF THE HONORABLE JERRY MADDEN, TEXAS HOUSE OF REPRESENTATIVES, PLANO, TX

Mr. MADDEN. Thank you, Mr. Chairman, Judge Poe, Mr. Quigley. It is good to be here today.

I am the rookie in this group. There is a lot of years of experience up here. My years in criminal justice didn't start—I was a member of the legislature for 12 years, had never had a criminal justice bill in my background. I am not a lawyer. I was not involved in the criminal justice system. I am an engineer by background.

And, in doing that, I had no experience until the Speaker calls me in ine day and says, "You are chairman of corrections." And, of course, I look over and, as you always do to the Speaker, you say, "Thank you, Mr. Speaker." And under my breath, I am saying, "Oh, God, why me? What did I do to deserve this."

But I then ask him, I said, "Well, what do you want me to do, Mr. Speaker?" And he told me one thing; he said, "Don't build new prisons. They cost too much." And that is what started Texas down this road, because I had never heard of what you would call justice reinvestment now, but we started looking at those kinds of things.

I looked at it as an engineer. Simple project. I can't build any more of these; I have a block, it is this big. I can't do anything, I can't build anymore. I have people coming into that, I have people going out of it. I can tell you, in Texas, to control that population, if I had more coming in, it looked like we were having more coming in, it was not going to be a satisfactory solution to open the doors and let them out. So, at that stage, we had to figure out, well, what can I do, and started looking at how do I at least do something about the input?

Fortunately, we had some people working from our department of corrections, particularly in our areas that do probation, in our probation departments, and they had looked at probation and had some good information that they started off with. And they had an idea of how cost worked and things like that, how they could do some savings, how many people were coming in and out of probation and how many were coming back in for revocations of probation, et cetera.

That was my starting point. So I had to start looking at cost, I had to start looking at programs, and I looked basically at how this whole system worked, looking at this whole equation of incoming and outgo. And basically I had a system that had 157,000 people in it. We have about 72,000 people come into the system every year, into the prisons, and about 72,000 leave every year.

But we had this recycling going on, obviously people coming back, this thing called recidivism, returned people coming back. What were we doing? And I started looking at, well, what were the alternatives?

Fortunately, in Texas, we had a couple of groups that are think tanks. One is a very conservative think tank, our Texas Public Policy Foundation, and we have a Criminal Justice Policy Council that is a much more liberal think tank. And we had them in, and we were looking at a probation bill.

I fortunately had found on the Senate side a senator who knew a lot about the criminal justice system. His name is John Whitmire. He happened to be the opposite party that I am, but he was the Chairman of the Senate Criminal Justice Committee. And I will tell you, he knows more about what goes on in the prisons in Texas than probably any other legislator does or probably ever will. He knows more than I do.

But we had certain things that he looked at. He came up with a probation bill that I had to do some major modifications on, because it wasn't going to pass my side of the House unless we did some major things. We came within one vote of passing that bill that time, and that was the Governor's. But we fortunately had learned a lot about what the process was.

Because when we came in in our 2007 legislative session, we had a projection from our Legislative Budget Board that said we were going to need 17,000 new prison beds. Remember, my boss had told me, "Don't build new prisons," and I got a forecast that says I need 17,000 more of them. What could we do differently?

And that is when we had looked at—in the interim, we had looked at what are the alternatives that were out there. That is when I got to meet people like Adam Gelb and like Mike Thompson from the Council of State Governments and so many of the other people around here that are around this table. They would come in, and I started learning that they were out there, they had some wonderful ideas, some great ideas, and we started putting them together.

And in that period of time just before that session, we basically came up with the ideas of the things that Texas could do. We had fortunately had some researchers and had done some things in Texas previously that had proved to have worked. We just didn't have enough of them, we didn't have enough people involved in them, and we needed to expand those resources.

We did that. That was the great thing that we did. We basically did not invent a new program. We took and added to. We found those things that would break the cycle, because we looked at breaking the cycle of people in the prison system in five different places. I looked at those people who were leaving on parole, and we did some things in parole. I looked at what happened in the prison systems so that we could make a difference on the programs that were there and making sure that the people had the right programs they needed so that we could change their minds and their hearts.

We looked at the probation side and tried to see, well, what else can we do to reinforce probation and the work they were doing and giving additional resources to our judges and our other people that are in the system at that stage. And that is where we did things like—we are going to hear about some of the additional specialty courts that are out there. We did some, obviously, reenforcement in those specialty courts and public funding.

We looked at breaking the cycle in the schools, because you have this pathway to prison that is out there that people get on, and how do you break that. And I looked even younger and saw all those things that we could do.

We actually put those to work in our funding bill; we actually passed them in that. We actually thought it was going to work. I will tell you, there are some things that need to be given to a legislator like myself to give us the standing that we can and the support that we need.

First of all, we need data. As an engineer, I didn't have enough data. There were some of these things that we were wandering on with a prayer that they were going to work. There is research that

is needed, additional research. Every bit of that helps; every bit can do some good things for us. And we can't do all of that within our own resources.

And there are some good research that is done outside of our own particular State. We needed the dissemination of that information—gosh, it is hard to get—what really works, what actually makes a difference, and what can save the State money.

Because I found that this was a great tool for both my—it was a truly bipartisan legislation. Because for my Democratic, liberal friends, it made a lot of sense to do things about people. It helped people. It changed lives. And for my conservative friends, it saved money. And you know what? We did both. In Texas, we did them both. And so, there are reasons to say that this is truly a bipartisan piece, because it works. It does work to do all of those things.

Each State is different. I have learned that in the last 2 years, because I am now the chairman of the Council of State Governments, on their board. I am the chairman of National Conference of State Legislators' Law and Criminal Justice Committee. I am the chairman of the American Legislative Exchange Corrections and Re-Entry Committee, just because of all the stuff we started doing in Texas.

And the message that we have to the various States is: You have to do it yourself. You have to do what your system allows you to do. But in preaching that message to each of the States and learning what they can do, there is a great deal of innovation that is going on out there, a great deal of demonstrations and projects that are working, like the judge's program in Hawaii, that can, in fact, be implemented in other States that do make a big difference.

And I thank the Committee.

[The prepared statement of Mr. Madden follows:]

PREPARED STATEMENT OF THE HONORABLE JERRY MADDEN

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

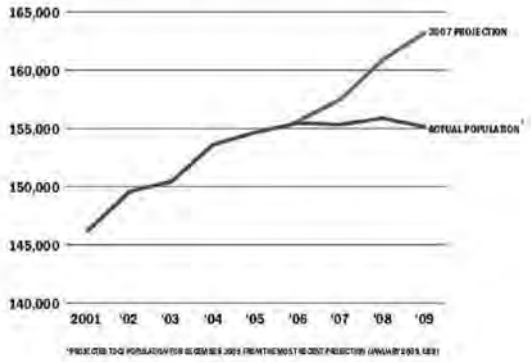
[1] Iris J. Lav and Elizabeth McNichol, "State Budget Troubles Worsen," *Center on Budget and Policy Priorities*. 13 March 2009. 30 March 2009. < http://www.cbpp.org/cms/index.cfm?fa=view&id=711>
[2] John Gramlich, "At least 26 states spend less on prisons," *Stateline.org* (Aug. 11, 2009) (available 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.

TEXAS PROJECTED PRISON POPULATION



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.

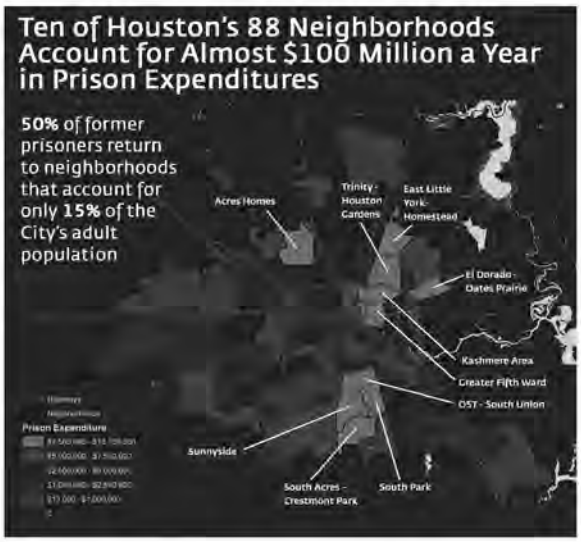
Working closely with my Democratic counterpart in the Texas Senate, Senator John Whitmire, Chair of the Senate Criminal Justice Committee, we requested intensive technical assistance from the Council of State Governments Justice Center ("Justice Center"), with support from Pew and the Bureau of Justice 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.



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.

Mr. SCOTT. Thank you.
Dr. La Vigne?

TESTIMONY OF NANCY G. LA VIGNE, Ph.D., DIRECTOR, JUSTICE POLICY CENTER, THE URBAN INSTITUTE, WASHINGTON, DC

Ms. LA VIGNE. Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to speak today about the justice reinvestment and HOPE initiative bills under consideration by this Committee.

I am director of the Justice Policy Center at The Urban Institute, where we have engaged in extensive research on the impact of correctional policies on individuals, communities, and State and county budgets. In the course of conducting that research, we have spoken with State and local government leaders who strongly desire guidance on the most efficient strategies for allocating their scarce and often diminishing criminal justice resources in an effort to improve public safety. It is this appetite for a more effective criminal justice system that makes justice reinvestment, the HOPE project, and similar models so compelling.

As has been well-documented, most States, counties, and cities are grappling with burgeoning criminal justice populations. While recent statistics indicate that some States have experienced their first declines in prison populations in many years, other States' populations continue to grow.

But I believe I am here today to share the local context. And the truth is that local governments are in a similar, if not more dire, predicament. City and county governments have experienced a 30 percent increase in the number of people in jail or under criminal justice supervision in the past 10 years alone.

The escalation in these local criminal justice populations has been accompanied by an 80 percent spike in county correctional costs in the last decade, with most of these expenses driven by jail costs. These costs create difficult choices for public officials, many of whom are forced to freeze or reduce spending on education and human services to balance their budgets. In effect, jail population growth can divert funds from programs and social services aimed at preventing people from entering the criminal justice system in the first place.

So, what can city and county managers do to control these costs without compromising public safety? They can engage in justice reinvestment, a process designed for public officials who want to rethink how they allocate resources throughout their criminal justice and social services systems. This process is for leaders who are aiming not just to contain criminal justice costs but also to achieve a greater public safety benefit with current resources.

Justice reinvestment can help prioritize jail space for those who pose the greatest risk to public safety, while also guiding which individuals will be better off in the community, where services and treatment may be more readily available. Justice reinvestment can also help achieve substantial cost savings by expediting the case processing of those awaiting trial or disposition, revising probation policies, creating more alternatives to jail for unsentenced populations, and preventing jail residents from returning by increasing re-entry preparation and services both before and after their release.

The Urban Institute is working with three counties on justice reinvestment projects: Alachua County, Florida; Allegheny County, Pennsylvania; and Travis County, Texas. To date, the sites have collected and analyzed data to help understand what drives their criminal justice costs.

In Alachua County, our analyses found that 85 percent of jail detainees are unsentenced. This led local officials to re-examine the bail-bonding process, the use of bond reduction hearings, and the effectiveness of pretrial diversion programs.

In Travis County, analyses revealed that frequent jailed residents make up slightly less than one-third of the jail population but account for over two-thirds of jail bed use. Many of these repeat residents are chronic inebriants, leading officials to explore the development of a sobriety center as a less expensive and potentially more effective alternative to jail incarceration.

Allegheny County also identified a high proportion of repeat jail residents. Many have extensive histories of substance addiction, which prompted county decision-makers to create a goal of developing more substance abuse treatment beds in the jail and ensure that the jail is operating within its recommended capacity.

Now, The Urban Institute's work with these sites has been supported with a grant from the U.S. Department of Justice Bureau of Justice Statistics. The grant covers the cost of Urban Institute staff in providing data analysis and technical assistance, but it does not support the staff time and other costs incurred by the sites. The "Criminal Justice Reinvestment Act" would therefore provide greatly needed resources to these sites and to other State, local, and tribal jurisdictions to help manage the growth in spending on corrections and increased public safety.

In this time of shrinking budgets and increasing demands on the criminal justice system, the "Justice Reinvestment Act" and the complementary "HOPE Initiative Act" hold promise in helping jurisdictions manage and allocate scarce resources cost-effectively, generating savings that can be reinvested in more prevention-oriented strategies. In doing so, justice reinvestment can yield benefits for communities affected by crime, as well as for jurisdictions whose budgets arestrained by increases in the criminal justice population.

Thank you for your time. This concludes my formal statement. I welcome any questions you may have later.

[The prepared statement of Ms. La Vigne follows:]

PREPARED STATEMENT OF NANCY G. LA VIGNE

Statement by

Nancy G. La Vigne, Ph.D.
Director, Justice Policy Center, The Urban Institute

At a 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"

by the

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

May 11, 2010

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to speak today about the justice reinvestment and HOPE initiative bills under consideration by this committee. I am the director of the Justice Policy Center at the Urban Institute, where we have engaged in extensive research on the impact of correctional policies on individuals, communities, and state and county budgets. We have documented best practices regarding incarceration policies, reentry preparation, and postrelease supervision practices. In the course of conducting that research, we have spoken with state and local government leaders who strongly desire guidance on the most efficient strategies for allocating their scarce and often diminishing criminal justice resources to improve public safety. It is this appetite for a more effective criminal justice system that makes justice reinvestment, the HOPE project, and similar models so compelling.

As has been well documented, most states, counties, and cities are grappling with burgeoning criminal justice populations. While recent statistics indicate that some states

have experienced their first declines in prison populations in many years, other states' populations continue to grow (The Pew Center on the States 2010). Local governments are in a similar predicament. City and county governments have experienced a 30 percent increase in the number of people in jail or under criminal justice supervision in the past 10 years alone (Glaze, Minton, and West 2009). The escalation in these local criminal justice populations has been accompanied by an 80 percent spike in county correctional costs in the past decade (Gifford and Lindgren 2000; Perry 2008). Most of these expenses are driven by jail costs: on average, county jail populations increased by 33 percent in the past decade, outpacing the 24 percent increase in state prison populations and the 17 percent increase in probation and parole populations during the same period (Glaze et al. 2009). These costs create difficult choices for public officials, many of whom are forced to freeze or reduce spending on education and human services to balance their budgets. In effect, jail population growth can divert funds from programs and social services aimed at preventing people from entering the criminal justice system in the first place.

What can city and county managers do to control these costs without compromising public safety? They can engage in justice reinvestment, a process designed for public officials who want to rethink how they allocate resources throughout their criminal justice and social service systems. This process is for leaders who are aiming not just to contain criminal justice costs, but also to achieve a greater public safety benefit from current resources. Justice reinvestment is not, however, a single decision, project, or strategy. Rather, it is a multistage and ongoing process whereby local stakeholders collaborate across city and county systems to identify drivers of criminal justice costs and then develop and implement new ways of reinvesting scarce resources—both within the

jail system and in the community—to yield a more cost-beneficial impact on public safety.

Justice reinvestment can help prioritize jail space for those who pose the greatest risk to public safety while also guiding which individuals would be better off in the community, where services and treatment may be more readily available. Justice reinvestment can also help achieve substantial cost savings by expediting the case processing of those awaiting trial or disposition; revising probation policies; creating more alternatives to jail for unsentenced populations; and preventing jail residents from returning by increasing reentry preparation and services before and after their release. The HOPE project is one such justice reinvestment strategy, as it aims to increase the successful completion of probation by imposing swift, certain, yet inexpensive consequences for probation violations.

The Urban Institute is working with three counties on justice reinvestment projects: Alachua County, Florida, home to the city of Gainesville; Allegheny County, Pennsylvania, for which Pittsburgh is the county seat; and Travis County, Texas, which includes Austin. Each site has experienced tremendous growth in its jail population and looked to justice reinvestment as a means of avoiding new and costly jail construction in the future.

To date, the sites have collected and analyzed data to help understand what drives their criminal justice costs. In Alachua County, where 40 percent of the county's government funds was spent on criminal justice in the past fiscal year, 85 percent of jail detainees are unsentenced. This led local officials to reexamine the bail bonding process, the use of bond reduction hearings, and the effectiveness of pre-trial diversion programs.

In Travis County, analyses revealed that frequent jail residents[1] make up slightly less than one third of the jail population but account for over two-thirds of jail bed use. The fact that many repeat residents are chronic inebriants has led officials to begin exploring the development of a sobriety center as a less expensive and potentially more effective alternative to jail incarceration for these repeat residents.

Allegheny County also identified a high proportion of repeat jail residents. Many have extensive histories of substance addiction, which prompted county decisionmakers to create a goal of developing more substance abuse treatment beds in the jail and ensure that the jail is operating within its recommended capacity.

These three pilot sites have not yet implemented their interventions, so it is too early to measure how effective they are. However, their purpose is to reduce the costs of the criminal justice system to free up resources that can be reinvested in more cost-effective prevention activities in the jail and the community. The Urban Institute's work with these sites has been supported by a grant from the U.S. Department of Justice, Bureau of Justice Assistance. The grant covers the costs of Urban Institute staff in providing data analysis and technical assistance, but it does not support staff time or other costs incurred by the sites. The Criminal Justice Reinvestment Act would therefore provide greatly needed resources to these sites and other state, local, and tribal jurisdictions to help manage the growth in spending on corrections and increase public safety. The grants provided through the Act would also support a comprehensive analysis of crime, recidivism, and criminal justice system expenditures to evaluate the cost-effectiveness of

[1] Frequent jail residents were defined as those individuals who were booked two or more times in the past two and a half years.

corrections spending and develop data-driven policy options that can increase public safety.

In this time of shrinking budgets and increasing demands on the criminal justice system, the Justice Reinvestment Act and the complementary HOPE Initiative Act hold promise in helping jurisdictions create more efficient systems that manage and allocate scarce resources cost-effectively, generating savings that can be reinvested in more prevention-oriented strategies. By following this process, justice reinvestment can yield benefits for communities affected by crime as well as for jurisdictions whose budgets are strained by increases in the local criminal justice population.

Thank you for your time. This concludes my formal statement. I welcome any questions you may have.

Note

The views expressed are those of the author and should not be attributed to the Urban Institute, its trustees, or its funders.

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Mr. SCOTT. Thank you.
Judge Alm?

TESTIMONY OF THE HONORABLE STEVEN S. ALM, JUDGE, SECOND DIVISION, CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT, HONOLULU, HI

Judge ALM. Good afternoon, Mr. Chairman, Members of the Committee. I am Judge Steven Alm. I am thrilled to be able to come here and testify about HOPE probation.

Over the last several years, I have worked with a group of dedicated public servants—State workers, city workers, Federal workers—who are working smarter and harder to make our probation system work better. And research is showing that we have cut arrests for new crimes, use of drugs, missed appointments, and getting sent to prison by more than half.

This is not a miracle. This can be done everywhere. It takes coordination, it takes a will, and it takes an ability to put all the pieces together. It is a simple idea in concept; it is a little bit of a challenge to put together in reality.

By way of background, I am a State felony trial judge. Murders, rapes, robberies, thefts, drugs are the standard fare. I think I come from the Judge Poe school: The violent and dangerous and those who won't stop stealing have to go to prison, often for a very long period of time.

But most of the people in court are going to get put on probation, and we have got to do a better job of supervising them on probation.

When I started on this calendar in June of 2004, I could tell the probation system was broken. I would get motions to revoke probations from the probation officer with 10, 20, 30 individual violations of probation, and now the person was getting referred back to court. The PO had worked with them, threatened, cajoled them, whatever, until they had a good argument for revocation; and 99 times out of 100, the probation officer would be recommending to me, Send this person to prison, they are not amenable to probation; and I just thought there has got to be a better way to work this. This took hours on the PO's part, and we weren't getting a good result.

So I thought to myself: this is a crazy way to try to change anybody's behavior, and I thought: What would work? I thought: What did I do as a father with my kid when he was younger? You tell him what not to do, how to behave; then if he violates that, if he misbehaves, you give him a consequence immediately. That is how we were raised. That is how we learned to tie together bad behavior with a consequence, and then you don't do it again.

So I thought: How can I do that to provide swift, certain and proportionate consequences to the probation system? I knew, if you bring people to work together, that can happen, so I brought together court staff, probation, prosecution, defense, the courts, jails, the sheriffs, police—everybody working together to make this happen swiftly.

First, we identified the highest risk probationers. As we have learned from research, if you focus on the highest risk folks—those convicted of violent crimes or who have violent histories, drug of-

fenders, property offenders—and we have about a third of each—they are the most likely to fail and the most likely to go to prison.

Secondly, in one of these meetings, the public defender said to me, You know, Judge, the rules are going to be the same, but you are actually enforcing them for the first time. Can you, like, warn our guys about this? So we thought that made sense.

Next, we thought: How do we monitor people more closely? We set up a drug test hotline. Every weekday morning, the offenders are supposed to call the hotline to find out if they have to come into the courthouse that day for a drug test. It is going to come up at least once a week, maybe 2 days in a row. One of the offenders told me, I don't smoke meth anymore because every night I'm worried I'm going to get tested tomorrow, go to jail tomorrow. It just ruined the high, so I stopped.

Now, you know, when they come in for these drug tests, these are observed urine tests. So I had one young lady. She had a little vial strapped to her rear end. She tried to substitute it for the test. She got caught, so when she came to court, I gave her more time in jail for tampering, but I also told her, Young lady, you are going to have to get some new friends because that sample was dirty, too.

Fourth, the probation officers have to act immediately. So they lose discretion with this. If there is a violation, they have to get the person into custody. If they come in and test dirty, they get arrested on the spot. Sheriffs take them into custody; they go to jail; we come back 2 days later for a hearing, and that has to happen very quickly. Law enforcement traditionally gives low priority to warrant service.

As former U.S. Attorney, we set up a HIDTA. I talked to the HIDTA director, then the U.S. marshal. The U.S. marshal agreed to serve warrants for my courtroom. HIDTA pays the overtime; and then we have got to make sure this happens within 2 days. So the hearings typically happen 2 days later.

On October 1, we had the warning hearing. I told the offenders, you are on probation because you are not in prison. You are making a deal with me you are going to follow the rules of probation. So, from now on, if you use drugs, you go to jail. If you miss an appointment, you go to jail. We are trying to create a culture of responsibility. So, even if you screw up but come in and turn yourself in, I am going to that into account in what my sanction is; but if you decide, I am going to go to jail anyway, I might as well go party and hang out with the boys and wait for law enforcement to get me, I am going to give you a bunch of more time.

Now, we thought we would have a lot of hearings. We started with 34 people on October 1 of 2004. We only had three hearings the following week, two hearings the week after that. I have only had five contested hearings in the last 4½ years. The typical hearing is 7½-minutes long. That is why we can handle a lot of cases, and it is because the offenders admit to it. It is something that happened a few days ago, and they know they are going to go to jail for some days or maybe some weeks, not for years.

HOPE has grown from 34 offenders 5½ years ago. We now have more than 1,500 in the program, including 1,350 of the 8,000 felons on Oahu. That is one out of six. The police department has stepped

up. Now they are serving 90 percent of the warrants. We are trying to target those most likely to fail.

As has been described, Dr. Hawken did a randomized control trial study: 74 percent fewer arrests, 72 percent less likely to test positive for drugs, 61 percent less likely to miss an appointment. The biggest numbers are 55 percent less likely to get arrested for a new crime, which has led to a 48 percent reduction in bed days. Dr. Hawken testified at our house finance committee in Hawaii a month ago that that has led to a current savings of between $4,000 and $8,000 per HOPE probationer.

So Nevada started their program in January. Oregon started their program in March. Arizona, Alaska, Virginia are getting organized and are ready to go. This is one of those true, rare win-win propositions in law enforcement. Crime victimization is cut by more than half. It is good for offenders and their families because it keeps them out of prison, and it saves the taxpayers millions of dollars. So we are going to start slowly with all the States. What this bill could do is get this revolution going across the entire country. We could save millions of dollars.

I thank you for inviting me to address you, and I will be happy to answer any questions that you have. Thank you.

[The prepared statement of Judge Alm follows:]

PREPARED STATEMENT OF STEVEN S. ALM

TESTIMONY
Judge Steven S. Alm, Circuit Court Judge
First Judicial Circuit, State of Hawaii
Committee on the Judiciary | Subcommittee on Crime, Terrorism, and Homeland Security
May 11, 2010

Good afternoon, Mr. Chairman and Members of the Committee:

I am Judge Steven Alm, and I am thrilled to be able to testify here today about Hawaii's Opportunity Probation with Enforcement, or HOPE Probation.

Over the past several years, I've worked with dedicated public servants and private-sector service providers to develop HOPE probation. I'm proud to report that, when compared with identical probationers under typical supervision, HOPE probationers are less than half as likely to be arrested for a new crime, use drugs, skip appointments with their supervisory officer or treatment provider or be sent back to prison. My message today is that this is *not* a miracle – any probation department in the country can do this with the right leadership, strong management, appropriate resources, technical assistance and rigorous performance tracking.

By way of background, I am a state felony trial judge in Honolulu, Hawai`i. For the last several years, I have had a typical caseload of felonies: burglary, sex assaults, murder, drugs, thefts, etc.

Hawai`i has 12,000 offenders on felony probation or deferral, and Oahu, where my courtroom is located, has about 8,200. We also have about 4,200 men and women in State prison.

From my first week on this court calendar in June of 2004, I could tell that the current probation system was broken. Probation officers had caseloads of up to 180, and the dynamic was that offenders would repeatedly break the rules of supervision – by using drugs, skipping probation appointments and failing treatment – because there were no real consequences. After

the offender racked up 20, 30 or more violations, the probation officer would feel they had a "good" case for bringing a Motion for Revocation of Probation. The probation officer would spend hours working on the affidavit and motion, and a warrant for the offender's arrest would be prepared and he or she would eventually be arrested and typically ten weeks later be brought into my court for a Motion to Revoke Probation. The probation officer would typically deem the offender "not amenable to probation" and almost invariably recommend I sentence the offender to the underlying 5, 10 or 20 years in prison.

I saw this dynamic in June of 2004, and I thought to myself, "this is a crazy way to operate. A crazy way to try to change anybody's behavior."

I thought to myself, "What did I do as a parent when my child misbehaved?" I would repeat the rules and warn him that if it happened again, I would give him a specific consequence right away. And he learned to connect the bad behavior with the consequence, and the bad behavior stopped.

I thought if we could reorganize this creaky old probation system to be swift, certain and proportionate for each and every violation, we could more effectively supervise probationers.

And HOPE probation was born. I brought together the different players in the criminal justice system and all agreed to work smarter and harder to make this happen. Just as with my child, we agreed to establish clear rules, do a better job of supervision, respond to misbehavior swiftly and certainly, and track the results to see if it was working. Here's how it worked:

First, we identified the highest-risk probationers. A recent evaluation found that barely a third of HOPE probationers were sentenced on a drug charge. The majority of our clients have a history of property or violent offenses; they average 17 prior arrests; and nearly half were assessed as high risk to reoffend on a validated risk instrument. HOPE is about doing probation

right, and that means focusing our resources on the most risky, not squandering them on folks who will behave regardless of the intervention.

Second, the public defender pointed out that the rules were the same but since we were actually going to be enforcing them for the first time, asked if we could **warn** the offenders about the new HOPE procedures. I thought that made good sense, both from a due process and practical point of view.

Next, we had to do a better job of monitoring behavior so that violations would be predictably detected. Probation established a call-in hotline, which probationers call EVERY WEEK DAY MORNING and which randomly requires them to appear for a drug test THAT DAY between 7:45 a.m. and 2:00 p.m.. This means that there is no safe window for drug use and the probationers know it: one said to me, "Judge Alm – I don't even smoke ice anymore because the thought of getting drug tested in the morning ruins the high."

Fourth, the probation officers agreed to act immediately to arrest the offender each and every time the probation terms were violated. A positive drug test would mean the offender gets arrested on the spot, taken to jail and brought to my courtroom two business days later. A missed probation appointment or failure at drug treatment would lead to the issuance of a bench warrant for the offender's arrest and a hearing soon after he or she was taken into custody.

Now, I knew that traditionally law enforcement hasn't always given warrant service the highest priority. In my prior life, I was the United States Attorney for Hawai`i. I had a number of conversations about HOPE Probation with the federal authorities. So, for the fifth element of HOPE, the United States Marshal agreed to have his Fugitive Task Force serve the HOPE bench warrants for my courtroom and Hawaii's High Intensity Drug Trafficking Area, or HIDTA, agreed to pay any task force overtime.

Sixth, all this work would be for naught if we couldn't process the sanction quickly. Accordingly, the prosecutor and the defense agreed to be ready for more frequent hearings, typically in two days' time. The jail was briefed and agreed to look at their intake procedures as they were warned we were starting small but that they could expect some repeat 'customers.' And new probation forms were designed to reduce paperwork.

On October 1, 2004, we had a HOPE warning/notification hearing for 34 offenders in my courtroom. Also present were the prosecution, the defense and the probation officers. I told the assembled probationers that everyone in the courtroom wanted them to succeed on probation. But, as they were not in prison and were on probation, they were making a deal with me that they would follow the rules of probation. That from then on, any violation of the terms of probation would lead to jail. I said that as adults, they controlled their own behavior. I could only control what I would do if they violated. That it was all about personal responsibility and I hoped they made good choices in the future. I also answered any questions they had about the HOPE procedures.

Given the track record of non-compliance (e.g., 40% positive drug test rate, and 15% missed appointment rate), we braced for a large number of violations. We had three the first week and two the second. The anticipated flood of violations and hearings never occurred. And, the longer offenders are in HOPE Probation, the more compliant they generally become. If they have problems with compliance, we find out immediately and address them.

HOPE Probation has grown from those 34 offenders to more than 1,500 probationers today, including over 1,350 of the 8,200 felons on probation on Oahu.

The Honolulu Police Department has stepped up over the years and now serves 90% of the warrants on an expedited basis. The Federal Fugitive Task Force still serves the remainder.

From the start, we intentionally targeted those most likely to fail on probation and/or those we are most concerned about. Research shows you get the best bang for your probation buck that way. Those targeted include those convicted of crimes of violence and those with substance abuse problems.

Dr. Angela Hawken from Pepperdine University – with support from the National Institute of Justice – conducted a top-of-the-line randomized control trial study of 500 probationers: 2/3 placed in HOPE, 1/3 in the control group of probation-as-usual. She discovered HOPE probationers were 72% less likely to test positive for drugs, and 68% less likely to miss an appointment with their probation officer. HOPE probationers were 55% less likely to be arrested for a new crime and 53% less likely to have their probation revoked. Overall, HOPE probationers were sentenced to or served 48% fewer days of incarceration than those in probation-as-usual. The cost-saving implications of this latter finding are enormous.

Dr. Hawken testified before the Hawai`i Legislature's House Finance Committee in March, 2010, and said that each HOPE probationer was currently saving Hawai`i taxpayers between $4,000 - $8,000 per year in incarceration costs.

A HOPE-inspired effort started in Nevada in January of 2010, and Oregon started theirs in March. Virginia, Alaska and Arizona are getting organized. I am getting calls and emails from all across the country. I have even been to Sweden to talk about HOPE.

HOPE is that rarest of strategies in the criminal justice system. A true win-win proposition. HOPE reduces crime and victimization; it helps offenders and their families by keeping them employed and out of prison; and it saves the taxpayers substantial amounts of money.

I believe that with HOPE, we have found a way to more effectively protect public safety and at the same time, reduce the prison population.

The problem isn't that we're ignorant of what works to reduce crime and our reliance on incarceration. The problem is that innovation spreads too slowly; that probation agencies are overburdened; and that the incentives of individual agencies are poorly aligned with the public safety objectives of the state. HR 4055 aims to resolve those problems through a competitive grant program that will support HOPE pilots through technical assistance, seed funding and rigorous evaluation. The demand from state and local jurisdictions is strong, and well-implemented HOPE pilots would pave the way for a revolution in probation.

Thank you for the chance to address you.

Mr. SCOTT. Thank you very much. I want to thank all of our witnesses for their testimony. We will now ask questions under the same 5-minute rule.

Mr. Gelb, you referred to the one out of a 100 study, which also, I believe, had a point in there that any incarceration rate over 500 was actually counterproductive.

Can you explain what that meant?

Mr. GELB. Sure. Actually, it was not our study. We cited some research in that report that found that when you take so many people, particularly males, out of a community, there are devastating effects on that community. So there is some research that shows that you can have crime control effects in particular neighborhoods. Increasing incarceration will produce public safety up to a point, but then when you start to reach past that point in that neighborhood, you will actually cause—should I go ahead? Thank you—you actually take some of the steam out of that community that it further deteriorates.

Mr. SCOTT. Justice Broderick, you indicated you saved $7 to $10 million. How did you calculate that?

Justice BRODERICK. I am sorry, Mr. Chairman. I couldn't hear you.

Mr. SCOTT. You indicated that New Hampshire saved $7 to $10 million. How did you calculate the savings?

Justice BRODERICK. Well, the idea is that if we act more intelligently than we have, I think, historically, with probation and parole, we will keep fewer people coming back to prison.

In my State—and I think it is true around the United States—I was speaking to the warden of our women's prison one day who had spent her life on probation and parole; and she said, "Judge, you know, one of the problems is that we have too many people to watch and too few people watching them, and so we incentivize a prompt and quick solution, which, sadly, is send them to jail;" and she said, "Probation and parole has become like police on the side of the highway catching speeders. We need to be more thoughtful about it."

And so I think, if we focus there—that is the goal—we would have better outcomes.

And then, as the Chair pointed out, the goal would be to reinvest the savings because, in my view, without reinvesting the savings you haven't done your job, particularly in the area of mental illness, which is something I am very interested in, and there are more people in our jails and prisons with mental illness than there are in mental health facilities across the United States. It is a disgrace and, more importantly, it is an expensive disgrace.

Mr. SCOTT. Thank you.

Representative Madden, you indicated that the programs that you have proposed not only reduce crime but save money. Unfortunately, there are those who are interested in reducing crime and taking care of people, and there are those who are for saving money. There is another little group over here that we have to deal with, and that is those who do their research by taking a poll, and if you sound tough and something scores well, even though it wastes money and increases the crime rate, if it scores well in a poll, they will vote for the "continue business as usual" and not make the "reduce crime/save money" choice.

What can we do to change the dynamics so that a bill that will reduce crime and save money can actually pass?

Mr. MADDEN. That is the nice part, Mr. Chairman, of what we actually did in Texas by working on a bipartisan level, and we worked it through our appropriations cycle also.

I will tell you we now have a great deal of believers that we have had success because what has happened to our crime rate and our prison population is, as Judge Poe has pointed out—or asked the question about how many did we have—we had 157,000 at one time in the prisons of Texas. We are down, as I said, to about the 153,950 number, and it looks like our projections would indicate that that is going to continue to go lower. That is a clear indication to all of our legislative friends that what we have done has been successful, and those kinds of things are actually working to save us money.

So how do you go back in and put that out to your people?

The people are pretty smart out there. You ask them about the criminal justice system now, and I will tell you that, going into almost any group that I have ever gone into, I have asked them specifically: Do they know people that were involved or have been involved in criminal justice? And almost without fail, many of them will tell you that they were family members or somebody they went to school with. And you ask them about the type of person they are or were, and you will find out, well, some of them were the very bad guys, as we have pointed out, that needed to be locked up and the key thrown away. There are a lot of those others that have made mistakes; they have done stupid things; they have done dumb things.

And somehow or another, with the types of programs and many things that we are doing, can we change their minds? Can we change their values? Can we change their hearts? Can we change them as a person? And many of them you can't, and that is the numbers thing. Texas is big. You know, we did a lot of things that were faith-based about numbers because it is not going to work every time. It doesn't, and you are going to have to deal with those situations like the one that came up in Connecticut here a year or so ago with their parole system; but the reality is, if the citizens know that what we are doing is, in fact, intelligent and a wise utilization of their revenues, you are doing three things as a State, okay?

First of all, you are providing public safety. Second of all, you are making wise use of the money; and third, you are doing what a Department of Corrections is supposed to do, which is correct behavior. If you are doing those things, then you, in fact, are doing what you are supposed to be doing.

Mr. SCOTT. You indicated a slight reduction in prisons before you changed directions. What were the projections?

Mr. MADDEN. The projections were 17,000 more people by 2012, which would put me at about 167,000 to 170,000 people that we had in the prison system.

We have also seen a reduction in the number of people that are actually on probation, and we have seen the parole revocations drop significantly in the State in the last 2 years also with those kinds of things, with the programmatic things that we are doing.

And I think the chief justice talked about the importance of mental health. I mean, obviously, working in the mental health system, there is lots of things that we can do in research and data that specifically makes a difference in the mental health fields. We can also do that with alcoholism.

We have over 5,500 people in the prisons of Texas that are there because of multiple DWIs. If you can keep them from going back to drinking, which I am not sure you can—you know, in fact, I know you can't always do, but there are things that do keep some people from—that will make them stop drinking. If they do that, how dangerous are they? How afraid of them are we?

We have two types of people, I think, that we ought to look at—one that we should be afraid of and the others that we are mad at—and that is what our system has, and I have got three types of prisoners. I have got prisoners that will always come back no matter what we do with them. I have got prisoners in the prisons who will probably never come back—the Martha Stewarts of the world—and I have got people in the middle that depend on what we do that I call the swingers. Make a difference in them, and if you can change them, that is when the system changes.

Mr. SCOTT. Thank you.

Judge Poe.

Mr. POE. I thank all of y'all for being here. I am a great believer in trying new methods to get the attention of people who violate the law. When I was on the bench, I tried everything possible with probationers. In fact, I had people ask me to send them to prison rather than me put them on probation or "Poe-bation," as they called it; but I had a low recidivism rate, and it is because of the philosophy that all of y'all are talking about.

We send people to prison. To me, prison just keeps people away from the rest of us. Prison doesn't really correct anybody. It just keeps them away from us. Probation sometimes hasn't been used as, I think, it obviously can be. It seems, if it is used correctly, it can instill a person to have personal responsibility for what they are doing, and then there are consequence. When they are on probation, if they test positive for drugs or they are not working or they are not going to school or they are not supporting their family, whatever it is, then there is an immediate, an immediate consequence, and they are still on probation.

So I really like that philosophy. I think it has worked in the past. I have one concern, though.

Dr. La Vigne, I don't know why you picked Travis County—that is Austin—and their logo is "Keep Austin weird." Any town that has that, you know, is kind of an anomaly in the State of Texas. Anyway, I think the statistics do bear out that it creates the results that we want in the criminal justice system: instilling personal responsibility, a lower recidivism rate, a better cost for the taxpayers, and of course we hold people accountable and there are consequences for their actions.

As I mentioned when I started, sentencing must mean something. It has got to mean something to the victim, to the defendant, and to the public at large. So I commend all of you on your work. I do have one concern, though.

Every sentence is imposed by a judge, and we have got all kinds of judges in this country, and that is all I will say about that; but I want to ask the two judges—the trial judge and appellate judge—and the chief justice: How do we get judges to do these things rather than just say—you know, when a person comes back in with a violation of probation, they don't do anything. Go and send them

more. Then we have got the others who, when you got one little mistake while you are on probation, here comes the gavel and off to the "do right" hotel with you, you know.

So how do we get judges to buy into doing this to instill personal responsibility for people on probation and have the graduated system of probation and consequences? Suggestions?

Chief Justice, I will ask you, and then Judge Alm will be second.

Justice BRODERICK. I guess what I would say about my State is that, I think, given the numbers we have seen, judges may be overzealous on revoking probation, and I think part of the problem, Congressman, is that there are few graduated places to go. It is either/or sadly. It also helps when you have a State which would be the size of a county in Texas and a statewide newspaper that watches closely. So I think that helps, too, but I think the tragedy in my State, which is a cost driver, is that we don't have many options.

Let me give you a very brief example, if I could, which the head of our Department of Corrections laments when he tells it, but I think it makes the point.

He said there was a woman who was on parole from the women's prison in New Hampshire. She had found a job, she was going to school, and she had two children that she was caring for. And one of the conditions of her parole was that she not write a letter to the father of the children, who was at the time incarcerated in the men's prison in Concord. And she wrote a letter, and so they said, You violated a condition of your parole. You are going back to prison. The kids went to foster care, she lost her job, she lost her chance for education. And at the end of the day, every citizen in New Hampshire who drove home, if they had known those facts, would not be safer or smarter than they had been. There has to be some option.

It is not a question, I don't think, of being tough on crime. I don't think any sensible person would be other than that, but I think we have had a deficit in being intelligent on crime, and failure is very expensive. We need graduated and immediate—I agree with the judge from Hawaii—which we don't now have. That would make a huge impact. It is obviously making a huge impact in Hawaii.

Mr. POE. Judge, your last comment, if it is permissible, Mr. Chairman, how do we get judges to buy into this?

Judge ALM. Well, when we started in Hawaii, it was just in my courtroom. We expanded to all 10 judges. Not surprisingly, some of my colleagues were not really thrilled about doing this philosophically—it took more work—but there was no operator effect. The judges did give sanctions, and they got the same results I did.

I think the way the legislation is set up it will help to accomplish this. It will set up for 20 pilot sites in a competitive bidding process. They are going to have to set up a proposal, get people organized and agree to follow the routine in order to do that. They have asked me to be of assistance to help work with the other judges in doing this, and I will absolutely do that.

We have done that with Nevada so far, with Oregon. I have met with those judges. We have talked about it. Some of the time it is going to take that kind of face-to-face contact and explanation and discussion, but when they see the results we are getting—and that

is the message. If you hope to get the results we are getting, you have got to follow through with it, and I think it doesn't hurt if you get a judge who has a somewhat tough reputation because then people will know you are not kidding around, and when you send people to jail each and every time, it isn't the fact of the length of it; it is the fact that it happens, and that is what we have found so far.

Mr. POE. Thank you, Mr. Chairman. I will yield back.

Mr. SCOTT. Thank you.

Judge Alm, it is swift and certain and not length; is that right? The deterrent effect is if it happens swiftly and certainly?

Judge ALM. Absolutely.

Mr. SCOTT. What is the additional cost of intensive probation as opposed to regular haphazard probation?

Judge ALM. Regular probation costs about $1,000 per person per year. HOPE adds another $1,000—so it is a total of about $2,000—and we use most of that for drug treatment dollars. We have been getting $1.2 million from our legislature for the last 5 years. We use $770,000 for drug treatment dollars.

Mr. SCOTT. And have you calculated the reduction in the recidivism and how much you save in a $15,000-, $20,000-, $30,000-a-year incarceration as opposed to the $1,000 extra probation?

Judge ALM. Well, as Dr. Hawken says, we have between $4,000 and $8,000 per, and we now have 1,350 felons in this. So, as we keep expanding this—and our legislature has passed a resolution to have our paroling authority set up a HOPE parole project. We volunteered to help them do that. I want to get pretrial done as well. If we get the whole system going, I am convinced we can reduce our prison population by a third.

Mr. SCOTT. And one of the things about investing in prevention is that no one has any upfront money, and if you can figure out a way to get the thing jump-started and calculate the savings and reinvest the savings, you can keep the program going.

Dr. La Vigne, how accurate can you ascertain who saved the money? In other words, if you are going after some savings, we know that Corrections is going to save some money and that other agencies will save money, and the idea is to recapture some of this money.

In Pennsylvania, they calculated—they saved over five times more than they actually spent. They spent in comprehensive programs about $60 million. They looked back, and they had saved $300 million—about 5-1. So, if we can get whoever is saving the money to kick back in 20 to 30 percent, not all of what they saved but 20 or 30 percent of what they saved, most of these programs can continue on the reinvested savings, but they didn't have the money to begin with, so nothing ever starts.

Ms. LA VIGNE. Right.

Mr. SCOTT. The question is: How accurate can you allocate the savings so you know who ought to be anteing up some reinvestment?

Ms. LA VIGNE. Right. I think that depends a lot on the nature of the intervention, what you are doing to achieve those savings.

So, in the case of Texas, they deliberately decided not to build more prisons. They had the plans in the works, as I understand it,

so they knew how much that would cost and the savings that came from that.

The same goes with the county level. A lot of counties now, because of jail overcrowding, are looking at the only option open to them, which is to expand their existing jails or to build new jails, so they can identify savings there.

But I also think that Judge Alm has a good example there in terms of the fact that we know that a certain share of these people would end up behind bars, be it jail or prison; and through the work of Dr. Hawken, I think we can easily identify the savings associated with that. I don't know if she has done that kind of rigorous analysis, but it is possible. We do a lot of that kind of cost-benefit work at the Urban Institute. So then the question is:

Who saves the money, right? And then how do we know—do we dip into those coffers and say, "Okay. Well, you would have spent this much this year so it needs to go somewhere else"? And I think those are issues we are still struggling with on justice reinvestment.

Mr. SCOTT. I think Representative Madden would show if you have a line item for that budget and their expenses just went down——

Ms. LA VIGNE. Well, that is an easy one.

Mr. SCOTT. You save $17,000 with fewer prisoners? How much does Texas spend per prisoner?

Mr. MADDEN. It was $17,000. Right now, we spend somewhere between $42 and $45 per day per prisoner. That is about $16,500—it depends on whose numbers you take. It is about $16,500 per prisoner per year. So, if you reduce the prison, now, you know, those are nice figures to throw out. We know, for example, if you have one prisoner less, you don't save just that number; it is something less than that. But if you add them all together in bigger numbers, then those numbers really do work.

Mr. SCOTT. But, if you are talking $17,000, it is not just one extra, which you could absorb, but you are talking about building new prisons.

Mr. MADDEN. I had the estimate of seven to eight significant units that we would have to build. The building cost on those were estimated by our legislative budget people at somewhere between $250 and $300 million each.

Mr. SCOTT. Before you started operating them?

Mr. MADDEN. Before you started operating.

The budget had in it that year about $540 million to build three of those new prisons. It was sort of the perfect storm that I ran into because, when we did all our estimates and looked at all our programs and looked at the number of beds we needed and everything else, it came out to be significantly less cost than that would have been, but it was a cost. It is there now.

I will tell you I am working on the American Legislative Exchange Conference, and we are looking at some model legislation, and when you look to get the initial cost savings that you might be able to get first, it would be some places in the probation programs that you could specifically show reductions in cost.

Mr. SCOTT. Another thing to do would be to enact programs like the two bills that are pending now to jump-start so that you can start saving the money——

Mr. MADDEN. Absolutely.

Mr. SCOTT [continuing]. So that you don't have to come up with it out of a budget that is already too tight. You jump-start it, but get people around the table to say, Look, as you save money, you are going to have to reinvest it, that is what keeps the programs going.

Mr. MADDEN. If you have things like specific courts, like Judge Alm was talking about, if you do things for a mental health court or if you do things for a veterans court or if you do things for, you know, specific courts like Judge Alm has in HOPE court, with starting those, you can very quickly see some of those result in dollars saved.

To both the counties—because you have got to look at the system that your State has set up. If it is the county that is spending the money—because there are places that the county is actually spending funds. There are places where the State is actually spending funds. There are losses in money going to victims of crime, for example, by someone who is incarcerated to someone who is not.

There are lots of things that you can do to calculate that, and it is nice to have the people who can do those kinds of calculations. The Council of State Governments has some wonderful people that can do some of those things. There are other great groups out there. The State of Washington has a great statistical group, their public policy statistical people, that have wonderful results for programs that are good information. So it is out there right now for the Washington State people.

Mr. SCOTT. Now, do you hear from your local sheriffs, who suggest that one of the ways you get people out of prisons is to have short-term jail stays so that the jailed population might actually go up a little bit while the State population goes down significantly—an overall savings—but that you may end up with your sheriffs mad because you may have increased the jail population?

Mr. MADDEN. We have those problems like we always have. You know, I will say, if the Federal Government says something to the States, they may save the Federal Government money and cost the States. There are things we do at the State that may cost the State; to save the State money, it will cost the locals. We have got to weigh that.

Mr. SCOTT. Dr. La Vigne, have you dealt with that phenomenon?

Ms. LA VIGNE. Not to date, but we have talked about it a lot. It is a big issue for the counties and for the States; and I really think Adam could speak to this quite well with some of the work they have been doing at Pew.

Mr. SCOTT. Well, if you have everybody around the table and there is going to be an overall cost savings and if someone else at the table will have a little budget increase, then the people around the table ought to be able to figure that out—where the table saves money, but you don't punish one person over at one end of the table.

Ms. LA VIGNE. Right. You are asking for a lot of coordination.

Mr. SCOTT. Well, that is kind of what you need to do.

I mean you have got things like zero tolerance in a school system where you kick a kid out of school. You may have solved things in this little silo, but the Corrections Department is going to see the kid a little bit and overall it is just not an intelligent, smart-on-crime policy. So that is one of the reasons you need everybody around the table, looking at a policy, so you are doing something that makes sense.

Mr. Gelb, did you want to comment?

Mr. GELB. Sure. Two quick points.

One, it is not necessarily clear that this is going to increase costs on local jails. It depends what current practice is. It is a similar program that ran in Georgia. Judge Alm, I think, can fill us in on some details of how this actually worked in Hawaii, but in Georgia, in some jurisdictions that tried a similar type of program, what they were doing is what Judge Alm described, which is waiting until violations accumulated and then setting somebody in prison until the next violation of probation hearing, which, on average was from about 28 days to up around 60 days. So they were burning up a lot of beds with violators as it was by just waiting and delaying and having that uncertainty and, certainly, a lack of swiftness. So, in moving to this other system, they reduced, you know, their bed use days at the jail level by about three-quarters by going to shorter sanctions and intermediate sanctions.

The other thing I wanted to point out is that what you are hitting on is a really critical issue that highlights the Federal role here, which is the difference between the economic situation in 2007, when Texas moved, and what we have today, right? In Texas, that line was going up. They had a proposal from the Texas Department of Corrections and the TDCJ to spend, I believe, something like $904 million, and so they were able to spend $240 million on something else. So they had a savings, or a cost aversion. Those are not the way those lines are going now—the budget lines anyway, right? People are cutting back.

That is the point you were getting at, I think, with that jump-start money. You know, you have got to wonder here. Everybody is saying, Well, this is a great win-win, and it can save all this money. Then why is anybody here before Congress saying that there is a Federal role and a need to contribute?

And that is precisely on this point, which is that you do not have and States do not have the dollars right now to put a day reporting center into place, to put a reentry program up, to put a drug court or a HOPE program into place in order to start achieving those savings, because, as Judge Broderick said, you want a viable option here. You just don't want to put somebody on probation with 100 other people on the caseload if there is not going to be that swiftness and certainty and that accountability. So that is where I think the Federal comes in.

Judge ALM. Chairman Scott, Dr. Hawken did look at that. The jail bed-days were neutral. They were a wash. Even though the guys from HOPE were getting sent every time, it is because the guys in the control group were getting their probation revoked 50 percent more. They were sitting 10 weeks until the hearing, and the judge often put them back on probation for another 5 years, and would give them 6 months or a year in jail as a condition of

probation. So the actual jail bed-days were neutral. The savings was all in prison, years in prison.

And following up on Adam's points with that, HOPE got $1.2 million from our legislature in 2006, and we have been getting it every year since. I am just glad the idea came to me back then because if I went to them this year with it, we probably wouldn't have gotten the money. They have approved it, so they have kept funding it.

Mr. SCOTT. One of the ways you reduce the number of people in jail is by pretrial release. What are the public safety implications on pretrial release?

Judge ALM. I am convinced we can do the same thing by putting these folks on a hotline, by watching them closely. We can do that on pretrial release. We have some guys who just can't get out because they can't make any sort of bail, and as long as they are not using drugs, for a lot of them, I think we can safely supervise them on pretrial release. We have been talking to our public safety people, and we are trying to get them started on that. Again, change is hard.

Mr. SCOTT. One final question, Dr. La Vigne.

Can you give us some order of magnitude about how much it costs to get this data?

I know one thing that would be nice to have are the zip codes from which all the State prisoners come. Then you know where to put your more intensive programs.

The data that you need to develop an intelligent plan, what kind of order of magnitude are we talking about?

Ms. LA VIGNE. I don't know if I can put a specific dollar amount to it, but suffice it to say it costs more than we ever thought it would. We selected our three counties because of the wealth of data that they had to work with, and yet we have continued to work with them to clean the data and organize it and analyze it in a way that can help them make sound data-driven decisions.

States are in the same situation. Some States do keep good geographic data on zip codes and even on exact street addresses, but others do not, and you really can't do this kind of justice reinvestment work if you are not working with empirical evidence to help guide decision-making.

What we found, too, is that, with the economic situation in both States and counties, the research staff, if they did exist—and in some places, they don't even have someone who is called a "researcher"—has been shrinking. So, whereas we are coming in and trying to aid people and analyzing the data, our role is to help them have the tools to do it over time because, if we just swoop in and analyze things and leave, they are not going to have the ability to track the impact of their changes and to continually look and sustain their justice reinvestment efforts, and so we really need to support these States and these localities in giving them the staffing and resources to do this kind of work.

Mr. SCOTT. Thank you.

Judge Poe.

Mr. POE. Just one comment about costs.

In all of the research about savings and costs, when you have a probationer under this philosophy—he goes to jail for 2 or 3 days

and then may in a month go again for 2 or 3 days or whatever—in theory, they should still be able to keep their jobs; they should still be able to make their restitution to the victim; they still should be able to pay their court costs and their fines, alimony or whatever else they are out to pay. You put them in prison, then all of that stops.

Is there any data—a number—that I could understand about that factor of the costs?

Ms. LA VIGNE. Well, there is plenty of evidence to suggest that it is more cost beneficial to keep people in the community versus to incarcerate them. Giving you a specific dollar figure, I can't do.

Mr. POE. Mr. Gelb, in all your stats there——

Mr. GELB. I have been looking for it.

Jake, what page number are we on here?

We have some figures in here. Goodness, I will find them very, very quickly. I think, from Colorado, about just the difference in what gets paid by probationers—let's see. One second. All right, I am not coming up with it.

Mr. POE. Can you furnish that to the Committee?

Mr. GELB. Oh, we sure can. There was a report that was distributed, sorry I can't put my hand on the page right now, but you are absolutely right.

Representative Madden, I am not sure if you are familiar with the Texas numbers that the Texas Public Policy Foundation just put out, but we can give you some Texas numbers as well.*

You are right. If you put somebody in prison, the victim restitution stops. The child support payments stop. The other stuff stops. You know, a lot of folks are going to think that this population is not able to pay supervision fees or to pay these other fines and fees, but they are tremendous. They are tremendous.

Thanks, Richard.

So, just looking here at the numbers from Colorado:

Additionally, offenders ineligible for probation but diverted from prison to residential community corrections beds paid $11.75 million toward their own housing, meals and treatment, nearly $900,000 in child support, over $1.2 million in State taxes, and over $3 million in Federal taxes in fiscal year 2007.

Mr. POE. Can you furnish that to me in writing or to the Chairman? I can't remember those numbers.

That is all I have, Mr. Chairman. Thank you.

[The information referred to follows:]

*See page 2 of the prepared statement of the Honorable Jerry Madden printed on page 57 of this hearing.

Prisons: 32% of the Growth, 88% of the Cost

State correctional budgets spiked along with their offender populations in recent years. In FY2008, states are estimated to have spent more than $47 billion of general funds on corrections, a 20-year jump of 303 percent.[7] Add in another $4 billion in state special funds and bonds, and about $900 million from the federal government, and total state spending for corrections is estimated to top $52 billion.[8] *(See Appendix A-2 for additional cost information.)*

This growth rate outpaced budget increases for nearly all other essential government services tracked over the same period, from elementary and secondary education (205 percent) to transportation (82 percent), higher education (125 percent) and public assistance (9 percent). Only Medicaid spending grew faster than spending on corrections, increasing 492 percent in the last two decades.[9] As a share of total state general fund spending, corrections has grown from 5.2 percent in 1988 to 6.9 percent today.[10] For all levels of government, total corrections spending has reached an estimated $68 billion, an increase of 330 percent since 1986.[11]

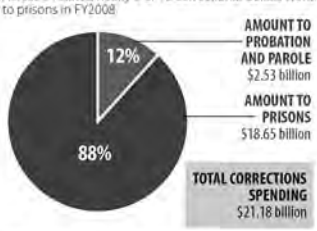
To get a better picture of how states have invested their corrections dollars, the Pew Center on the States and several partners recently completed the first national survey of corrections spending by function in the past seven years.[12] Thirty-four states, accounting for 58 percent of total state correctional populations,[13] made complete data available while the others did not.

The largest beneficiaries of those mushrooming budgets, by far, have been prisons. For the most part, probation, parole and other programs that manage offenders outside prisons and jails have scrambled for funds needed to keep pace with expanding caseloads of offenders with increasingly complex and demanding problems.

In FY2008, these 34 states spent $18.65 billion on prisons but just $2.53 billion on probation and parole, a ratio of more than seven to one. Viewed over time, the spending gap looks just as substantial. For eight geographically diverse states[14] that were able to provide data for the past 25 years, 88 percent of the increase in corrections spending was directed toward prisons, which now consume nearly nine out of every ten state corrections dollars.

PRISONS DOMINATE SPENDING

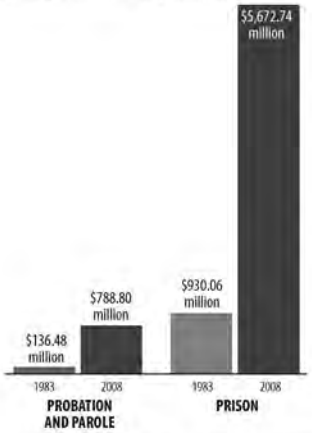
Across 34 states, nearly 9 of 10 correctional dollars went to prisons in FY2008



SOURCES: Spending figures were collected from AK, AL, AR, CO, DE, GA, ID, IA, KY, LA, ME, MD, MI, MN, MS, MO, MT, NC, ND, NE, NH, NM, NY, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA and WY.

EXPLOSIVE GROWTH IN PRISON SPENDING

Across 8 states, 88 percent of additional corrections spending since FY1983 has gone to prisons.



SOURCES: Only eight states could provide 25-year spending histories (AL, GA, LA, MO, MT, NV, OR and WY).

So while the incarcerated population has added only half as many offenders as community supervision over the last quarter century, if the survey states are representative of the nation, prisons have received almost 90 percent of the new funding.

Community Corrections Far Less Expensive

Society should expect to pay more to punish its most serious and violent offenders by removing them from our communities. Not surprisingly, then, it's more expensive to house and feed an offender in a facility watched around-the-clock by guards than it is to monitor him or her in the community. Prisons and jails also are buildings that need to be cooled, heated and lighted, equipped with security, and continually cleaned and maintained.

The difference in cost between institutional and community corrections, however, is huge. While there is wide variance among states, in 2008 prisons cost our 34 surveyed states an average of about $79 per inmate per day—or almost $29,000 per year. In contrast, the average daily costs for managing an offender in the community in these states ranged from $3.42 per day for probationers to $7.47 per day for parolees or about $1,250 to $2,750 a year, respectively.

Another reason community corrections costs less is that offenders are often required to pay a substantial share of the tab. In Colorado, for instance, probationers under the authority of the state pay a $50 per month supervision fee, and some drug and sex offenders pay a surcharge on top of that. Ninety-four percent of the funding for treatment services provided by the court is covered by these probationer fees as are 5.5 percent of all staffing costs.[29] Additionally, offenders ineligible for probation but diverted from prison to residential community corrections beds paid $11.75 million toward their own housing, meals and treatment, nearly $900,000 in child support, and over $1.2 million in state taxes and over $3 million in federal taxes in fiscal year 2007.[30] *See chart, next page, for Colorado spending details.*

Probation and Parole Stretched Thin

Managing offenders in the community, when done well, produces appreciable costs savings and public safety outcomes. However, the funding

PRISONS: 32% OF THE GROWTH, 88% OF THE COST

SOURCES: Spending figures were collected from AR, AL, AK, CO, DE, GA, ID, IA, KY, LA, ME, MD, MI, MN, MS, MO, MT, NC, ND, NE, NH, NM, NY, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA and WY.
NOTE: Caution should be used in making interstate comparisons since a wide variety of factors beyond agency performance or efficiency can account for daily cost differences. Some states have separate probation and parole agencies while others have combined them.

struggle has stretched probation and parole staffing woefully thin, leading to inflated caseloads with a high ratio of offenders to officers. The average probation officer now has about 100 offenders on his or her caseload; parole tends to be slightly lower, at about 60 offenders per officer.[10] Agencies often put higher risk and high stakes cases on priority caseloads.

That's a logical compromise but one which leaves many other offenders without supervision or services adequate to prevent a relapse into destructive behavior, including committing new crimes.

The low priority of probation and parole has forced officers in some regions to do without important and sometimes basic tools of the

SOURCE: Colorado Commission on Criminal and Juvenile Justice, "2008 Annual Report," and Colorado Department of Corrections. All figures fiscal year 2007.

trade. In Cook County (Chicago), Illinois, for example, probation officers don't have personal computers to help them perform everyday case work, exchange information with other agencies or investigate criminal histories.[18] By contrast, many parole officers in California have handheld PDAs, a convenience that allows them to access files and accomplish other tasks from the field.[19]

Beyond often lacking the basic resources and technology, community corrections agencies have been assigned a widening array of responsibilities, often without the funds to carry them out. Over the past decade or so, for example, an explosion of well-intentioned laws governing the supervision of sex offenders has created a multitude of new duties, or expanded existing ones, for probation and parole departments. The new responsibilities include conducting DNA testing, mental health screening and risk assessments for sex offenders, as well as continual registration checks of their address and work status. These are vital public safety tasks, but they are too seldom backed up with the resources to conduct them and are further watering down supervision across the board.

To make matters worse, the economic situation this year is forcing states to consider cutting back on what limited resources community corrections agencies do have. In Sacramento County, California, 76 probation officer positions—9 percent of the total force—are on the chopping block. In Washington State, half of all taxpayer-supported drug treatment beds are slated for elimination. And in Florida, the two streams converge as lawmakers consider cutting both $3 million in drug treatment slots and 66 probation officer positions. Across the nation, tight budgets are jeopardizing the basics of community supervision: caseloads, services and day-to-day resources.

> "Currently, we spend next to nothing on community-based corrections. We get what we pay for."
>
> *Prof. John J. DiIulio*
> *The Wall Street Journal*
> *March 12, 1999*

Without adequate resources and authority, community supervision agencies are hard-pressed to fulfill their traditional case management workloads, let alone adequately handle their new responsibilities. The huge increase in corrections spending has favored prisons over probation and parole by nearly nine to one. Supervising 1 in 45 adults and holding them accountable to victims will require that funding gap to narrow. The sheer scale of community supervision obliges policy makers to recognize the major role of probation and parole agencies in helping states protect public safety and control public spending.

Mr. SCOTT. Thank you.

I would like to thank our witnesses for their testimony today.

Members may have additional written questions, which we will forward to you and ask you to answer as promptly as possible so that the answers can be made part of the record. The hearing record will remain open for 1 week for the submission of additional materials.

I would ask unanimous consent to enter into the record articles describing the initiatives in North Carolina—the justice reinvest-

ment in North Carolina where they are reducing spending on corrections and reinvesting and strategies to increase public safety.

Also, the Governor of Virginia today issued Executive Order 11—a very aggressive second chance operation to reduce the number of people coming back. That Executive order and statement from the Governor's office will be made part of the record.

Without objection.

[The information referred to follows:]

HON. F. BRUCE BACH
CHAIRMAN

Commonwealth of Virginia

RICHARD P. KERN, PH.D.
DIRECTOR

100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
(804) 225-4398

Supreme Court of Virginia
Virginia Criminal Sentencing Commission

May 6, 2010

The Honorable Bobby Scott
Chairman, Subcommittee on Crime, Terrorism and Homeland Security
1201 Longworth House Office Building
Washington, DC 20515

Dear Mr. Scott:

I am writing to share with you the widespread strong support of Virginia state officials for the Honest Opportunity Probation with Enforcement (HOPE) Initiative Act of 2009 – H.R. 4055 (Rep. Adam Schiff & Rep. Ted Poe).

As you are aware, this proposal is grounded in the tremendous success of the Hope program that was launched by Judge Steven Alm of the First Circuit Court in Hawaii. Over the past year, Judge Alm has traveled to Virginia three times and made four separate presentations to 1) the Governor's Task Force on Alternatives for Nonviolent Offenders, 2) the leadership of our legislative House Courts of Justice Committee, 3) the leadership of our Criminal Sentencing Commission and other members of the judiciary, and, finally 4) all of the judges, prosecutors, public defenders, sheriff deputies, and other court personnel in Fairfax County, our most populous locality.

Today, all of Virginia's top officials have enthusiastically endorsed our pursuit of finding a mechanism to launch Hope pilot sites. Indeed, the Virginia General Assembly, in its recently concluded 2010 session, unanimously passed legislation (H.B. 927), now signed by the Governor, that will authorize up to two Hope pilot programs in our Commonwealth. This adopted legislation is attached.

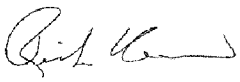
If the principles that underlie Hope's proven success in Hawaii extend to Virginia, we will witness a dramatic drop in the number of felons who are returning to our prisons as technical probation violators. This is a population that has grown dramatically, putting tremendous pressure on our limited prison bed spaces as well as extracting a great expense on our taxpayers. However, Virginia, like many states, is fiscally stressed and not in a position to properly fund the start up and operation of Hope pilots. Accordingly, H.R. 4055, if successful, would allow Virginia to compete with localities from all across the nation for the funds required to properly implement Hope initiatives. While, in the short term, there are new expenses upfront in setting up and operating a Project Hope program, the Hawaii experience informs us that, in the long run, the savings to the criminal justice system in the form of lowered recidivism rates and significantly less use of prison sanctions will be quite dramatic.

In conclusion, I feel very confident in saying that our Governor, Chief Justice, the General Assembly and the Criminal Sentencing Commission all enthusiastically support H.R. 4055 which will be up for consideration by your committee.

Should you have any questions or require any additional information on this matter, please do not hesitate to contact me.

Best wishes.

Sincerely,



Richard P. Kern, Ph.D.
Director
Virginia Criminal Sentencing Commission

CHAPTER 845
An Act to establish up to two pilot immediate sanction probation programs.
[H 927]
Approved April 21, 2010

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That there may be established in the Commonwealth up to two immediate sanction probation programs in accordance with the following provisions:*

A. As a condition of a sentence suspended pursuant to § 19.2-303 of the Code of Virginia, a court may order a defendant convicted of a crime, other than a violent crime as defined in subsection C of § 17.1-805 of the Code of Virginia, to participate in an immediate sanction probation program.

B. If a participating offender fails to comply with any term or condition of his probation and the alleged probation violation is not that the offender committed a new crime or infraction, (i) his probation officer shall immediately issue a noncompliance letter pursuant to § 53.1-149 of the Code of Virginia authorizing his arrest at any location in the Commonwealth and (ii) his probation violation hearing shall take priority on the court's docket. The probation officer may, in any event, exercise any other lawful authority he may have with respect to the offender.

C. When a participating offender is arrested pursuant to subsection B, the court shall conduct an immediate sanction hearing unless (i) the alleged probation violation is that the offender committed a new crime or infraction; (ii) the alleged probation violation is that the offender absconded for more than seven days; or (iii) the offender, attorney for the Commonwealth, or the court objects to such immediate sanction hearing. If the court conducts an immediate sanction hearing, it shall proceed pursuant to subsection D. Otherwise, the court shall proceed pursuant to § 19.2-306 of the Code of Virginia.

D. At the immediate sanction hearing, the court shall receive the noncompliance letter, which shall be admissible as evidence, and may receive other evidence. If the court finds good cause to believe that the offender has violated the terms or conditions of his probation, it may (i) revoke no more than 30 days of the previously suspended sentence and (ii) continue or modify any existing terms and conditions of probation. If the court does not modify the terms and conditions of probation or remove the defendant from the program, the previously ordered terms and conditions of probation shall continue to apply. The court may remove the offender from the immediate sanction probation program at any time.

2. That the Virginia Criminal Sentencing Commission shall report to the Chairmen of the House and Senate Courts of Justice Committees on or before January 12, 2012, on the operation and costs of any established immediate sanction probation program, including statistics on the characteristics of the participants and the outcomes of their participation.

3. That the Virginia Criminal Sentencing Commission may calculate the impact of a revocation of a suspended sentence for a participant in an immediate sanction probation program differently than the revocation of a sentence pursuant to § 19.2-306 of the Code of Virginia.

4. That the provisions of this act shall expire on July 1, 2012.

LORENN WALKER, J.D., M.P.H.

U. S. House Judiciary Subcommittee on Crime, Terrorism and Homeland Security

Testimony for: 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.*

Hearing: Washington D.C.
Tuesday, May 11, 2010
4:00 p.m.

I STRONGLY SUPPORT these two measures to: 1) Establish a criminal justice reinvestment grant program to help States and local jurisdictions reduce spending on corrections, control growth in the prison and jail populations, and increase public safety, H.R. 4080; and 2) Authorize a national HOPE Program to reduce drug use, crime, and the costs of incarceration, H.R. 4055.

I endorse these measures based on my professional and personal experiences. Professionally, I am a 58-year-old public health educator, long time criminal justice practitioner, and researcher who formerly both defended and prosecuted criminal cases. Additionally, I defended civil claims against Hawai'i state agencies including its prison and child welfare systems. Personally, I lived on my own at age 14; dropped out of school at 15; was incarcerated at 16; had a baby at 18; certified as a Montessori teacher at 19; taught pre-school and was eventually made director of it at 22; was almost murdered and seriously injured in a violent assault by a stranger at 24; and put myself through college and law school on federal grants and loans, while raising my daughter. Please see www.lorennwalker.com for my current publications and further review of my work and experiences.

In 1973, Hawai'i had the lowest recidivism rate in the country at 5% when people were paroled more often, and the head of the paroling authority, Russell Takaki, took parolees "home for dinner, got them jobs and took them surfing." In 1979, I worked as a student intern and volunteer at the Hawai'i women's prison when there were about 20 women incarcerated by the state. Today, there are almost 800 women incarcerated by Hawai'i.

Research shows that most young people desist or "grow out of crime," even without professional intervention, if they are given opportunities to succeed in society. (Shadd Maruna, 2006, *Making Good: How Ex-Convicts Reform and Rebuild Their Lives*, American Psychological Association: NY). Research also confirms that most imprisoned people have serious histories of substance abuse problems, which are substantially unaddressed by our correctional institutions (Jeremy Travis, 2005, *But They All Come Back,* The Urban Institute Press: Washington D.C.).

Our country suffers from recidivism and people relapsing with substance abuse, and from the exorbitant cost of maintaining our unsustainable correctional system, e.g., the state of Hawai'i is mainly relying on volunteers to do prison rehabilitation work, while educational and social programs, that prevent and rehabilitate people from crime and substance abuse, are being eliminated here and across the country.

If we do not spend the money to stop recidivism, support rehabilitation measures, and treat substance abuse with meaningful interventions, we will spent more later on further prison costs, and more damaged victims and offenders in the future.

Recidivism hurts our community and makes it less safe. It is short sighted to not support rehabilitation programs shown to work. In the long run we will suffer the consequences. We must address recidivism and find evidence-based ways to prevent repeat crime and substance abuse relapsing.

Thank you for this opportunity to submit my testimony and for your hard work.

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HAWAII SUBSTANCE ABUSE COALITION
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Kaneohe, Hawaii 96744
236-2600 ext. 228

May 7, 2010

U. S. House Judiciary Subcommittee on Crime, Terrorism and Homeland Security
Hearing: Washington D.C.. Tuesday, May 11, 2010, 4:00 p.m.

H.R. 4080 *Criminal Justice Reinvestment Act of 2009*
H.R. 4055 *Honest Opportunity Probation with Enforcement (HOPE) Initiative Act of 2009*

Testimony in Support:

The Hawaii Substance Abuse Coalition (HSAC) supports Project HOPE (Hawaii's Opportunity Probation with Enforcement). This program, launched by the First Circuit Court in 2004, is the first and only of its kind in the nation. Probationers in HOPE Probation receive swift, predictable, and immediate sanctions – typically resulting in several days in jail – for each detected violation, such as detected drug use or missed appointments with a probation officer.

Further, Judge Alm does refer to treatment for some offenders who are motivated yet need more help than sanctions. We believe that Judge Alm is most effective because he genuinely cares such that the offenders realize that the sanctions are in their best interest to help them change and if they are motivated yet unable to change by sanctions alone, he will refer them to treatment. Mandated treatment can be effective. Treatment combined with sanctions from HOPE produces better outcomes than just treatment alone.

Treatment agencies who are part of the Coalition report that outcomes with HOPE probationers have been very positive. HOPE probationers are definitely more responsive than other (non-HOPE probationers or parolees). When dealing with HOPE probationers, treatment counselors get a better and timelier response from both the probationers as well as from their probation officers. The reality of immediate consequences helps to motivate probationers as well as improve accountable. A weekend in jail causes sliding probationers to "wake up".....even the prospect of a potential few days of jail time certainly gets the attention of most HOPE probationers. Consequently, HOPE probationers are more engaged in treatment, which results in improved outcomes.

Evaluation results indicate that project HOPE, by imposing sanctions for each probation violation, is highly successful at reducing drug use and crime, even among difficult populations such as methamphetamine abusers and domestic violence offenders. In a one-year, randomized controlled trial comparing HOPE probationers to probationers in a control group, HOPE probationers were 55% less likely to be arrested for a new crime, 72% less likely to use drugs, 61% less likely to skip appointments with their supervisory officer, and 53% less likely to have their probation revoked.

Project HOPE when supported by treatment is most cost-effective. When offenders do re-offend, the cost for incarceration is enormous, approaching $50,000 per year. However, Project HOPE applies sanctions, which work for a large percentage, and refers to treatment for those who are motivated but not drug free through sanctions alone. The result is that he does incarcerate a very few minority. As a front line response and alternative to expensive incarceration, the savings per year are tremendous and also have future savings. Even more, those in recovery become productive tax payers. So yes....TREATMENT WORKS.....WORKS EVEN BETTER FOR HOPE PROBATIONERS!

HSAC supports increased funding for Project HOPE. Very definitely, the HOPE Program needs to be expanded in scope to include a greater percentage of the probation (and even parolee) population. Also, we believe that resources and funding for a continuum of care (e.g., outpatient and residential substance abuse treatment) should be available for offenders who request treatment and/or fail to achieve and sustain abstinence with monitoring and consequences alone.

We look forward to working with Project HOPE to reduce the number of probationers that are re-incarcerated due to revocation of their parole status.

Sincerely,

Alan Johnson
Chairperson
Hawaii Substance Abuse Coalition (HSAC)
President and CEO
Hina Mauka Recovery Center

Mr. SCOTT. Is there anything further to come before the Committee?

Without objection, the Subcommittee stands adjourned.

[Whereupon, at 5:40 p.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

Statement by the Honorable Chairman John Conyers, Jr.
for the Hearing on
H.R. 4080, the "Criminal Justice Reinvestment Act of 2009," and
H.R. 4055, the "Honest Opportunity Probation with Enforcement Initiative Act of 2009"

Tuesday, May 11, 2010, at 4:00 p.m.
2141 Rayburn House Office Building

The criminal justice reinvestment movement could not have arrived at a better time.

For years, States have spent more and more of their budgets on corrections, while the crime and recidivism rates remain unchanged.

Now, nearly every State is struggling to deal with budgetary shortfalls and, as a result, seeking effective alternatives to ever-rising corrections spending and incarceration rates.

It is time to try a different approach, one that takes into account the research about what actually works.

We need to identify innovative ways to prevent crime, and to stop people from becoming repeat offenders, so that we don't have to keep building jail after jail and prison after prison.

That is why I am pleased that my colleague Adam Schiff has introduced 2 bills that aim to do just that – H.R. 4080, the "Criminal Justice Reinvestment Act of 2009," and H.R. 4055, the "Honest Opportunity Probation with Enforcement Initiative Act of 2009."

As we consider these bills today, we should keep in mind 3 critical principles.

First, we should recognize those States that are leading the way on criminal justice reinvestment – Michigan is one of those States.

Between 1998 and 2008, Michigan's general fund spending on corrections

increased 57 percent, from $1.26 billion to $1.99 billion. By 2007, corrections spending accounted for over 22 percent of the State's general fund.

Expenditures for corrections now represent such a large portion of the budget that 1 out of 3 State employees works for the Michigan Department of Corrections.

At the same time, Michigan is in crisis financially. Since fiscal year 2008, general fund revenue has declined $2.1 billion, or 21 percent. Something had to change.

In 2008, the State leadership – Governor Jennifer M. Granholm, Senate Majority Leader Michael D. Bishop, and House Speaker Andy Dillon – recognized that Michigan could not afford to continue on this path.

They established a bipartisan justice reinvestment working group to analyze Michigan's crime, community corrections, and sentencing policies, with an eye toward finding solutions to the State's corrections crisis.

With the support of the Council of State Governments, last year this group agreed on a policy framework that will make the people of Michigan safer, while reducing spending on corrections.

The new framework includes –

- greater investments in targeted crime fighting strategies,
- increased employment opportunities for at-risk young adults,
- and directing services toward high-risk probationers, just like the HOPE project does, to help them avoid re-offending.

I support the important justice reinvestment work that Michigan has undertaken, and look forward to what are sure to be positive results.

Second, justice reinvestment involves directing resources toward policies that work, which means focusing on individuals most at risk of committing a crime or re-offending. This explains why one of the key facets of justice reinvestment work is individualized and validated risk-assessment.

Being able to identify those who pose the greatest risk, and targeting them with

services – whether it be substance abuse treatment, mental health services, or job training – is key.

On a related basis, we must also recognize that there are certain "high-stakes" communities where disproportionately large numbers of people released from jail and prison go.

For example, the HOPE project in Hawaii has been so successful because it places special focus on those individuals on probation who are most likely to get into trouble again, and provides them with the supervision and services they need.

When project participants make a mistake and use drugs, or miss an appointment with their probation officer, they suffer immediate consequences.

This combination of services and accountability is the key to Hawaii's HOPE project. HOPE probationers have fewer setbacks, and therefore spend less time in jail, which saves money.

It's so common-sense, yet so few systems approach probation this way. HOPE is a compelling example of how to keep the public safer, while reducing corrections spending.

Finally, we cannot forget the counties and our jail populations. While much of the justice reinvestment work thus far has focused on State corrections, there is a significant need for counties to engage in justice reinvestment work as well.

Although States spend $74 billion annually on their justice systems, local governments are right behind them, spending $70 billion annually.

The phenomenon of tight budgets, soaring corrections costs, and ever-increasing incarceration is also evident at the county level. Jails are overflowing and county budgets are in crisis.

Between 2000 and 2008, jail populations increased from approximately 621,000 to 785,000 inmates. And recidivism is also a problem among the jail population.

The 3,300 jails nationwide process approximately 13.5 million inmates each year, 4 million of whom are repeat offenders.

Those released from jail are even more likely to return home to their communities, which often face unique re-entry challenges, because of the relatively brief periods of incarceration, which do not allow for much planning and services.

It makes sense to start re-entry planning at the point of admission: the jail, because everyone who ends up in prison goes to jail first. But too often our jails simply do not have the resources to do so.

Many jails lack the type of services, such as intensive treatment, that this population desperately needs.

Also, jails house pre-trial and sentenced offenders, and probation and parole violators, each with unique and significant needs.

The majority of those in jail, 62%, are awaiting trial. Many pre-trial defendants are eligible for bail, but simply lack the resources to post it.

This places an undue amount of pressure on defendants to take a plea deal, so that they can get home fast. But these convictions can cause people great problems down the road.

The Pretrial Justice Institute is working on enhancing pretrial services to allow people who are indigent to post non-money bail and be subject to supervision while they resolve their criminal case. This underscores the importance of doing criminal justice work at the local level, as well as the State level.

The Urban Institute is working on several justice reinvestment initiatives at the county level, and I hope to learn more about this work today.

Whether jails are administered by county or city, justice reinvestment work should include these local stakeholders. In fact, there should be a collaboration between States and counties, as well as collaboration in Congress on both sides of the aisle.

Accordingly, I am particularly pleased that the two bills we are considering today are co-sponsored by Dan Lungren and Ted Poe, respectively.

I hope that this hearing marks the beginning of a corrections reform movement that spreads throughout the Nation.

I thank the witnesses for appearing here today, and I look forward to their testimony.

Commonwealth of Virginia
Office of Governor Bob McDonnell

FOR IMMEDIATE RELEASE
May 11, 2010

Contact: Stacey Johnson
Phone: (804) 225-4260
E-mail: Stacey.Johnson@Governor.Virginia.Gov

Governor McDonnell Unveils Prisoner Re-Entry Initiative

~Issues Executive Order #11 Establishing Virginia Prisoner and Juvenile Offender Re-Entry Council~

Banci Tewolde Serving as State's First Prisoner Re-Entry Coordinator

Signs Public Safety Legislation Which Will Divert Non-Violent Offenders from Incarceration, Assist Prisoners in Working Off Court Costs

RICHMOND- At a press conference this morning, Governor McDonnell announced his initiatives to strengthen the prisoner re-entry program in Virginia, thus increasing safety in communities and neighborhoods and lessening the chances of recidivism. The Governor was joined by Attorney General Ken Cuccinelli, State Senators Ryan McDougle (R-Hanover) and Dave Marsden (D-Burke), Delegates Tommy Wright (R-Victoria) and Mark Keam (D-Vienna), and other state and local officials at today's event. As a part of this initiative, the Governor issued Executive Order #11 that establishes the Virginia Prisoner and Juvenile Offender Re-Entry Council, with the intent to promote collaborative re-entry strategies for adult and juvenile offenders. The Governor also signed two pieces of public safety legislation during the press conference which will divert non-violent offenders from incarceration and assist prisoners in working off court costs accrued. Both as a delegate for 14 years and as Attorney General, Governor McDonnell was a champion for public safety and the rehabilitation of offenders before

and after their release. He was a patron or co-patron of several pieces of legislation to improve the likihood of offenders becoming productive members of society.

Speaking about the initiative, Governor McDonnell remarked, "As Governor, and throughout my career in public service, my number one priority has been, and continues to be to ensure the safety of Virginians and to find ways to make Virginia a safer place to live, work and raise a family. Effective re-entry policies can improve public safety, reduce victimization, improve outcomes for offenders returning to their communities, and reduce recidivism. We must assist prisoners re-entering the community in their effort to succeed, rather to re-offend."

The Governor continued by saying, "This Council established today is a state-wide effort. We must recognize the efforts of non-profit and faith-based organizations, as well as local governments, who have been integral in this cause, and find ways to support them as they continue to provide opportunities to offenders to facilitate successful community re-integration. By implementing a comprehensive re-entry strategy, this Council will take the necessary steps to ensure that we are doing all we can do to assist offenders who have accepted responsibility for their actions and want to become productive members of society."

Attorney General, Ken Cuccinelli added, "Individual re-entry plans that recognize some individuals' need for mental health treatment are important to me. I look forward to working with the Governor to design and implement a re-entry program that will improve the lives of adult and juvenile offenders, as well as the safety of our communities."

The Virginia Prisoner and Juvenile Offender Re-Entry Council will identify existing barriers that impede successful transition of offenders returning to their communities and develop and implement recommend actions to overcome those obstacles. Additionally, the Council will establish partnerships among community colleges, business partners, local service agencies, community-based social service and faith-based communities to promote successful re-entry policies and programs. Each year, the Council will provide the Governor with recommendations and updates regarding actions taken to improve offender transitional and re-entry services. Banci Tewolde, the state's first Prisoner Re-Entry Coordinator, will join Secretary of Public Safety Marla Graff Decker in leading the Council.

*Executive Order #11 can be found here:
http://www.governor.virginia.gov/Issues/ExecutiveOrders/2010/EO-11.cfm

Public Safety Legislation Signed by Governor McDonnell:

SB 670 (McDougle) - *Payment of fines and costs by DOC inmates*

http://leg1.state.va.us/cgi-bin/legp504.exe?ses=101&typ=bil&val=sb670

HB 927 (R Bell) - *Immediate sanction probation*

http://leg1.state.va.us/cgi-bin/legp504.exe?ses=101&typ=bil&val=hb927

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Criminal Justice Reinvestment Act of 2009 (H.R. 4080)

Rep. Adam B. Schiff (D-CA) and Rep. Dan Lungren (R-CA)

Incarceration Crisis

A total of 2,200,000 American adults are incarcerated in State and local prisons and jails, a rate of about 1 out of every 100 adults. State spending on corrections has increased over the last 20 years from approximately $12.6 billion in 1988 to more than $52 billion in 2008. According to a criminal justice report, State and Federal prison populations are expected to increase by 192,000 between 2007-2011, at an additional cost of $27.5 billion.

Between 2000 and 2008, jail populations increased from approximately 621,000 to 785,000 inmates. The 3,300 jails nationwide process approximately 13.5 million inmates each year, 4 million of whom are repeat offenders. Approximately 5 million Americans, or 1 out of every 45 adults, are on probation or parole, an increase of nearly 300 percent since 1980.

Justice Reinvestment Strategies

Policymakers have insufficient access to detailed, data-driven explanations about changes in crime, arrest, conviction, and prison and jail population trends. In the face of ever-increasing correctional costs, with bipartisan leadership, governors and legislative leaders in a number of states have initiated data-driven criminal justice reinvestment strategies that increase public safety, hold offenders accountable, and control corrections spending.

Despite increasing corrections expenditures, recidivism rates remain high with half of all persons released from prison returning within three years. Reinvestment strategies recognize that in every state there are a handful of "high stakes" communities to which most people released from prisons and jails return. State and community agencies, however, often provide costly uncoordinated services to the same neighborhoods, and to the same families, without successful outcomes.

Justice reinvestment experts work closely with state policymakers to advance fiscally-sound, data driven criminal justice policies to break the cycle of recidivism, avert prison expenditures and make communities safer. To improve results and accountability, policymakers must identify which distinct programs overlap in particular neighborhoods, integrate these efforts, and then employ place-based strategies to increase the capacity for receiving people returning from prison and for engaging individuals at risk of becoming involved in crime.

Work in the States and Results

The Council of State Governments Justice Center has worked with the following states through their justice reinvestment initiative: Arizona, Connecticut, Kansas, Michigan, Nevada, New Hampshire, Pennsylvania, Rhode Island, Texas, Vermont, and Wisconsin.

In each of these jurisdictions, Republican and Democratic legislators, together with the governor, used the findings and policy options developed to enact legislative initiatives that received overwhelming bipartisan support. These policy changes were endorsed by prosecutors and local law enforcement and editorial pages in each of these states because they offered a better dollar-for-dollar impact on public safety than the status quo. **Prison population growth in these states has either slowed or flattened completely; at the same time, crime is down in each of these states.**

For example, in Texas the prison population was projected to grow by more than 14,000 people over a five-year period at a cost to taxpayers of an additional $523 million for the construction and operation of new facilities in the 2008 and 2009 fiscal biennium. Responding to a request for a detailed analysis of the problem, justice reinvestment experts found that three factors were contributing to the buildup of the prison population: an increase in probation revocations, funding cuts for residential treatment programs for probationers and parolees, and a reduction in parole grant rates due a loss of confidence in community-based supervision.

In 2007, state lawmakers enacted a package of criminal justice policies to avert the growth in the prison population and save $443 million. To improve success rates of people under supervision, the legislature reinvested $241 million to aggressively expand the capacity of treatment and diversion programs, and enhance the use of parole for low-risk offenders. The new policies also enhanced parole and probation policies and procedures, such as establishing a maximum limit for parole caseloads to ensure adequate supervision, reducing probation terms for drug and property offenders to focus the treatment and supervision they receive during the years they are more likely to re-offend, 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.

Since the enactment of the policies, the prison population growth has slowed. The official state projection released shortly before these policies were approved estimated that the prison population would swell to 160,126 by September 2008. In fact, however, the actual population for that month was 155,459. At the same time, recidivism and crime rates appear to have fallen. The prison population has now stabilized and is not projected to significantly increase.

Criminal Justice Reinvestment Act of 2009 (H.R. 4080)

The "Criminal Justice Reinvestment Act of 2009" (H.R. 4080) – introduced by Rep. Adam B. Schiff (D-CA) and Rep. Daniel E. Lungren (R-CA) – creates new "Public Safety Performance Grants" to state and local governments to implement justice reinvestment strategies. Phase 1 grants are available for the analysis of criminal justice data, the evaluation of criminal justice policies and the cost-effectiveness of current spending on corrections, and development of data-driven policy options that can increase public safety and improve offender accountability.

Phase 2 grants are available for implementation – to fund programs that strengthen the criminal justice system such as providing training and technical assistance or support the delivery of risk-reduction programs. These grants will also support the reinvestment of averted prison or jail costs into programs that enhance public safety by strengthening the criminal justice system or high-risk communities and individuals.

The total grant program is authorized at $35 million for each of fiscal years 2010-2014. The Attorney General is required to report to Congress each year concerning the implementation of the grants and the performance of the entities implementing these strategies. Identical legislation has been introduced in the Senate by Senators Whitehouse (D-RI), Cornyn (R-TX), and Judiciary Committee Chairman Leahy (D-VT).

The legislation is strongly supported by the National Association of Counties (NACO) and Prison Fellowship, among other corrections and criminal justice organizations.

BEVERLY EAVES PERDUE
GOVERNOR

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

April 21, 2010
Contact: Chrissy Pearson
Office: (919) 733-5612

Gov. Perdue and State Leaders Announce Justice Reinvestment Approach to Increase Public Safety and Reduce Recidivism and Corrections Costs

RALEIGH—Gov. Bev Perdue, Chief Justice Sarah Parker and state House and Senate leaders announced today a bipartisan effort across state government to develop a data-driven approach to public safety that will reduce spending on corrections and reinvest the savings in ways that prevent recidivism and hold offenders accountable for their actions.

State leaders announced their partnership with the Council of State Governments (CSG) Justice Center, the Pew Center on the States, and the U.S. Department of Justice's Bureau of Justice Assistance (BJA), to analyze North Carolina's criminal justice system using a "justice reinvestment" approach. State leaders worked together to secure this public-private assistance and financial support.

"By using a data-driven approach, we will get the information we need to ensure that every taxpayer dollar spent on corrections and other public safety measures has the greatest impact on crime," said Gov. Perdue. "It will also allow us to reinvest savings to reduce recidivism, in turn, reducing the additional prisons that may be needed over the next ten years."

Between 2000 and 2008, the state's prison population increased by 25 percent from 31,581 to 39,326 inmates. During that same eight years, the Department of Correction budget increased from $918 million to more than $1.31 billion. The North Carolina Sentencing and Policy Advisory Commission projects that if existing policies remain unchanged, the prison population will increase by another 25 percent between 2009 and 2019 and the state will need an additional 8,500 prison beds.

"Our courts across the state are impacted by recidivism every day as individuals return to court charged with new crimes," said Chief Justice Sarah Parker. "Regrettably, many of these repeat

offenders are young adults. Hopefully, this initiative will help in reducing the criminal case loads in our courts and result in savings in terms of both dollars and human potential."

"As a state, we must do more to stop the cycle of people returning to prison. I am supportive of this effort to help people lead more productive lives and stay out of our criminal justice system for good,"said Senate President Pro Tempore Marc Basnight.

To guide the work of the project, the state has established a Justice Reinvestment Work Group composed of state agency heads, legislative leaders from both political parties and top court officials. Perspectives and recommendations from groups directly and indirectly involved in the criminal justice system, including judges, district attorneys, public defenders, law enforcement officials, advocates for crime victims and survivors, and community treatment providers will also be solicited.

"This bipartisan initiative brings together various agencies and stakeholders that might not otherwise collaborate extensively," Speaker Joe Hackney said. "All of us are committed to developing stronger corrections policies that will reduce costs to taxpayers while also protecting the public."

"Ever since hearing how other states have used a justice reinvestment approach to make their criminal justice system more cost-effective, I've been eager to see North Carolina pursue a similar approach," said Rep. Alice Bordsen, co-chair of the Appropriations Subcommittee on Justice and Public Safety.

"The data analysis that is being conducted for this initiative will reveal who is making up the corrections population, including the numbers of people identified as having mental health and substance abuse issues," said Senate Minority Leader Phil Berger. "This assessment will help us in deciding how best to spend public safety dollars."

"I'm eager to review the data so we can develop sound policies that control correction spending, while improving the safety of North Carolina communities," said House Minority Leader Paul Stam.

"BJA is pleased to provide assistance to state officials in North Carolina who have demonstrated a bipartisan interest in using a justice reinvestment approach," said Andrew Molloy, BJA Associate Deputy Director for Justice Systems.

In 10 other states, the CSG Justice Center has partnered with Pew and BJA to help policymakers analyze data and develop legislative packages that have generated hundreds of millions of dollars in savings that have then been reinvested in strategies to increase public safety and reduce recidivism.

"I learned about the successes with justice reinvestment in other states as a board member of the CSG Justice Center," said Mecklenburg County District Attorney Peter Gilchrist. "I'm pleased prosecutors will be involved in the process of identifying options for the state of North Carolina to address crime in a smarter way."

"We have high expectations that our partnership will produce a significantly greater public safety return on North Carolina's correctional dollars," said Adam Gelb, director of Pew's Public Safety Performance Project. "Fifteen years ago, North Carolina put in place a model system that increased prison terms for violent and career criminals and established a partnership with counties to supervise low-risk offenders in the community. Now there is a strong commitment from top state officials to build on that national leadership."

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The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. It provides practical, nonpartisan advice and consensus-driven strategies— informed by available evidence—to increase public safety and strengthen communities. To learn more about the justice reinvestment strategy in North Carolina and other states, please visit www.justicereinvestment.org.

The Pew Center on the States is a division of The Pew Charitable Trusts that identifies and advances effective solutions to critical issues facing states. Pew is a nonprofit organization that applies a rigorous, analytical approach to improve public policy, inform the public and stimulate civic life. www.pewcenteronthestates.org.

JOHN M. TONAKI
State Public Defender

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STATE OF HAWAI'I

OFFICE OF THE PUBLIC DEFENDER

October 26, 2010

TIMOTHY E. HO
Chief Deputy

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Testimony of John M. Tonaki, Hawaii State Public Defender,
to the United States House Subcommittee on Crime, Terrorism and Homeland Security

Re: H.R. 4080: The Criminal Justice Reinvestment Act of 2009
H.R. 4055: The Honest Opportunity Probation with Enforcement Act of 2009

Hearing: Tuesday, May 11, 2010, 4:00 p.m.

I respectfully express unequivocal support for both H.R. 4080 and H.R. 4055. My office in Hawaii has been a key participant in Hawaii's HOPE probation project since its inception in 2004. Since that time, HOPE probation has enjoyed proven success in the supervision of high-risk probationers.

Dozens of probationers have had their lives turned around by the program as it has taught them to abide by conditions of probation and assisted them in staying sober. The program has saved many persons from long prison terms and has allowed them to remain in the community as productive citizens.

In an evaluation conducted by Dr. Angela Hawken of Pepperdine University with funding from the National Institute of Justice, it was found that Hawaii HOPE probationers were 55 percent less likely to use drugs, 61 percent less likely to skip appointments with their probation officer, and 53 percent less likely to have their probation revoked. These are astounding statistics which dramatically demonstrate the potential that HOPE has to reform our nation's often dysfunctional probation system.

Having directly experienced the success that HOPE probation has produced, I wholeheartedly support the above measures. Thank you for the opportunity to comment.

JUSTICE CENTER
The Council of State Governments
Collaborative Approaches to Public Safety

February 22, 2010

The Honorable John Conyers
Chairman
House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Lamar Smith
Ranking Member
House Judiciary Committee
2142 Rayburn House Office Building B-351
Washington, DC 20515

Dear Chairman Conyers, Ranking Member Smith and Members of the Committee:

We write to communicate our strong support of the Justice Reinvestment Act, H.R. 4080, sponsored by Congressmen Schiff and Lungren.

This important bill will help state and local governments better address our top criminal justice challenges -- corrections expenditures, probation and parole policies, and data analysis for criminal justice systems. The bill would authorize the U.S. Attorney General to make grants to state and local governments and tribes to help jurisdictions analyze criminal justice trends to understand what is driving the growth in their local jail and prison populations and develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer.

Several states' successful experiences with justice reinvestment have helped inform this legislation.

- In **Michigan**, state general fund spending on corrections increased 57 percent from $1.26 billion to $1.99 billion between 1998 and 2008 and by 2007 accounted for 22.6 percent of state general fund expenditures. Spending on corrections is such a large share of the state budget that now one in three state employees works for the Michigan Department of Corrections. The Governor and legislative leaders formed an inter-branch Justice Reinvestment Working Group to consider policy options to save the state approximately $262 million between 2009 and 2013 by reducing the prison population by 10 percent over this period.
- In **Texas**, the state's prison population in 2007 was projected to grow by more than 14,000 people in the following five years. Lawmakers, relying on justice reinvestment analyses, enacted policies to avert the anticipated growth and saved $443 million—of which more than $200 million was redirected to strengthen probation and parole and to expand treatment services. Since these policy changes, the prison population has stopped growing, allowing the state to cancel plans for additional prisons.

The legislation reflects the strong bipartisan support for expanding justice reinvestment beyond the work currently underway in several states. The Council of State Governments Justice Center, in partnership with the Public Safety Performance Project of the Pew Center on the States, has led initiatives in 12 states, with additional support from a range of public/private partners that include the Department of Justice.

We appreciate your leadership in helping states address these challenges. We look forward to working with the committee to increase public safety, cut corrections spending, create jobs, and strengthen neighborhoods by reducing recidivism and prison growth through justice reinvestment approaches.

Sincerely,

Assemblyman Jeffrion Aubry
Chair, Corrections Committee, NY

Pat Colloton

Representative Pat Colloton
Chair, Committee on Corrections and Juvenile Justice, KS

AMERICAN CORRECTIONAL ASSOCIATION
206 NORTH WASHINGTON STREET, SUITE 200 • ALEXANDRIA, VIRGINIA 22314
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February 23, 2010

The Honorable John Conyers, Chairman
House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

Via Facsimile: (202) 225-7680

Dear Chairman Conyers:

I am writing on behalf of the American Correctional Association and our 18,000 members to express our support for H.R. 4080, the ***Criminal Justice Reinvestment Act of 2009***.

The bill would authorize the Attorney General to make grants to state and local governments and tribes to (1) analyze criminal justice trends and help them to better understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of these changes and develop accountability measures.

The American Correctional Association and its members are as familiar with the difficulties and challenges facing the corrections profession as anyone or any organization in the country, particularly as it relates the growing inmate populations, increasing costs and decreasing budgets. Local jails and state prison systems all across the country are finding it more and more difficult to manage their populations and the growth that is expected in the future while still being able to provide some of the most basic services. We are constantly being forced to find new ways to keep the public safe and to do so as efficiently and effectively as possible – to do more and more with less and less. This bill will go a long way toward helping our members find new and better solutions to this national crisis.

The grants authorized in this bill would provide our members with much-needed resources to help them conduct comprehensive analyses in the areas of crime and arrest rates, conviction rates, probation, parole, prison and jail populations and policies. They would then evaluate the cost-effectiveness of their state and local spending on corrections and develop data-driven policy options to help manage their populations more effectively and keep the public safe.

The American Correctional Association and our members thank you for your leadership on the committee and ask for your help in addressing the challenges we face as a result by high incarceration rates and the growth of our inmate populations. Your support is critical to the successful passage of H.R. 4080, the ***Justice Reinvestment Act of 2009***. We urge you to pass this important legislation as soon as possible.

Sincerely,

James A. Gondles, Jr., Retired Sheriff
Executive Director

FOUNDED 1870

AMERICAN CORRECTIONAL ASSOCIATION

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February 23, 2010

The Honorable Lamar Smith, Ranking Member
House Judiciary Committee
2142 Rayburn House Office Building
Washington, DC 20515

Via Facsimile: (202) 225-7682

Dear Ranking Member Smith:

I am writing on behalf of the American Correctional Association and our 18,000 members to express our support for H.R. 4080, the ***Criminal Justice Reinvestment Act of 2009***.

The bill would authorize the Attorney General to make grants to state and local governments and tribes to (1) analyze criminal justice trends and help them to better understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of these changes and develop accountability measures.

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The American Correctional Association and our members thank you for your leadership on the committee and ask for your help in addressing the challenges we face as a result by high incarceration rates and the growth of our inmate populations. Your support is critical to the successful passage of H.R. 4080, the ***Justice Reinvestment Act of 2009***. We urge you to pass this important legislation as soon as possible.

Sincerely,

James A. Gondles Jr.

James A. Gondles, Jr., Retired Sheriff
Executive Director

ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATORS

Executive Officers

President Patricia Caruso
Vice President Ashbel T. Wall, II
Treasurer Christopher Epps
Past President Harold Clarke

Regional Representatives

Midwest Roger Werholtz
Northeast Brian Fischer
Southern Gene Johnson
Western Ari Zavaras

February 22, 2010

The Honorable John Conyers, Chairman
House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Conyers:

On behalf of the members of the Association of State Correctional Administrators (ASCA) I am writing to express our support for H.R. 4080, the ***Criminal Justice Reinvestment Act of 2009***.

S.2772 would authorize the Attorney General to make grants to state and local governments and tribes to (1) analyze criminal justice trends and help them to better understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of these changes and develop accountability measures.

ASCA members are faced with no greater challenge today than managing a growing inmate population while dealing with decreasing budgets. Every day our members are called upon to find novel ways to cut costs and do more with less while maintaining safety of the staff, inmates, and the public. Bill S.2772 would go a long way toward finding innovative and informed solutions for managing inmate populations while controlling expenditures and expanding public safety.

The grants authorized in this bill would provide our members with much-needed resources to assist them in conducting comprehensive analyses in the areas of crime and arrest rates, conviction rates, probation, parole, prison and jail populations and policies. It would enable state and local correctional administrators to evaluate the cost-effectiveness of their respective correctional operations and develop data-driven policy options to help effectively manage their populations.

The Association of State Correctional Administrators would like to thank you for your committee leadership, and asks for your help in addressing the challenges we face today with seemingly uncontrollable corrections cost due to an ever-growing prison population. Your support is critical to the successful passage of H.R. 4080, the ***Criminal Justice Reinvestment Act of 2009***, and we urge you to pass this important legislation as soon as possible to assist our members in resolving the crisis within our corrections systems.

Sincerely,

George Camp and Camille Camp
Co-Executive Directors

George & Camille Camp, Executive Directors
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ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATORS

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Vice President Ashbel T. Wall, II
Treasurer Christopher Epps
Past President Harold Clarke

Unicorns and Unitarians

Regional Representatives

Midwest Roger Werholtz
Northeast Brian Fischer
Southern Gene Johnson
Western Ari Zavaras

February 22, 2010

The Honorable Lamar Smith, Ranking Member
House Judiciary Committee
2142 Rayburn House Office Building
Washington, DC 20515

Dear Ranking Member Smith:

On behalf of the members of the Association of State Correctional Administrators (ASCA) I am writing to express our support for H.R. 4080, the ***Criminal Justice Reinvestment Act of 2009***.

S.2772 would authorize the Attorney General to make grants to state and local governments and tribes to (1) analyze criminal justice trends and help them to better understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of these changes and develop accountability measures.

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The grants authorized in this bill would provide our members with much-needed resources to assist them in conducting comprehensive analyses in the areas of crime and arrest rates, conviction rates, probation, parole, prison and jail populations and policies. It would enable state and local correctional administrators to evaluate the cost-effectiveness of their respective correctional operations and develop data-driven policy options to help effectively manage their populations.

The Association of State Correctional Administrators would like to thank you for your committee leadership, and asks for your help in addressing the challenges we face today with seemingly uncontrollable corrections cost due to an ever-growing prison population. Your support is critical to the successful passage of H.R. 4080, the ***Criminal Justice Reinvestment Act of 2009***, and we urge you to pass this important legislation as soon as possible to assist our members in resolving the crisis within our corrections systems.

Sincerely,

George Camp and Camille Camp
Co-Executive Directors

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March 1, 2010

The Honorable Patrick Leahy
Chairman
Senate Judiciary Committee
224 Senate Dirksen Office Building
Washington, DC 20510-6275

The Honorable Jeff Sessions
Ranking Member
Senate Judiciary Committee
152 Senate Dirksen Office Building
Washington, DC 20510-6275

Dear Chairman Leahy, Ranking Member Sessions and Members of the Committee:

We write to communicate our strong support of the Justice Reinvestment Act, S. 2772, sponsored by Senators Whitehouse, Cornyn and Leahy.

The bill would authorize the U.S. Attorney General to make grants to state and local governments and tribes to help jurisdictions (1) analyze criminal justice trends to understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of these changes and develop accountability measures.

The Correctional Education Association represents teachers in the nation's prisons, jails and juvenile facilities. The work of our members has a significant effect ou public safety and recidivism. Educational achievement is a key factor in the rehabilitation process and an integral part of justice reinvestment.

These resources will be used to conduct a comprehensive analysis in the following areas: crime and arrest rates, conviction rates, probation, parole, prison and jail populations and policies, evaluate the cost-effectiveness of the state and local spending on corrections and develop data-driven policy options than can increase public safety.

We appreciate your leadership in helping state and local governments address these challenges. We hope you will act quickly to pass the Justice Reinvestment Act of 2009 out of committee.

Sincerely,

Stephen J. Steurer, Ph.D., Executive Director

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SUE BELL COBB, OF EVERGREEN

ASSOCIATE JUSTICES
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LYN STUART, OF BAY MINETTE
PATRICIA M. SMITH, OF INDIAN SPRINGS
MICHAEL F. BOLIN, OF BIRMINGHAM
TOM PARKER, OF MONTGOMERY
GLENN MURDOCK, OF BIRMINGHAM
GREG SHAW, OF MONTGOMERY

February 22, 2010

By U.S. Mail and Fax

The Honorable Jeff Sessions
Unites States Senate
335 Russell Senate Office Building
Washington, D.C. 20515-0104

Dear Senator Sessions:

I respectfully write to encourage you to cosponsor the Justice Reinvestment Act, S. 2772/H.R.4080, sponsored by Senators Whitehouse, Cornyn and Leahy and Congressmen Schiff and Lungren.

This important bill will help state and local governments better address our top criminal justice challenges -- corrections expenditures, probation and parole policies, and data analysis for criminal justice systems.

The bill would authorize the U.S. Attorney General to make grants to state and local governments and tribes to help jurisdictions (1) analyze criminal justice trends to understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of these changes and develop accountability measures.

I appreciate your leadership in helping state and local governments address these challenges. I hope you will cosponsor the Justice Reinvestment Act to increase public safety, cut corrections spending, and reduce recidivism.

With warm regards, I am

Most Sincerely,

Sue Bell Cobb

Sue Bell Cobb
Chief Justice

SUPREME COURT OF ALABAMA
HEFLIN-TORBERT JUDICIAL BUILDING
300 DEXTER AVENUE
MONTGOMERY, ALABAMA 36104-3741
(334) 229-0700

CHIEF JUSTICE
SUE BELL COBB, OF EVERGREEN

ASSOCIATE JUSTICES
CHAMP LYONS, JR., OF POINT CLEAR
THOMAS A. WOODALL, OF BIRMINGHAM
LYN STUART, OF BAY MINETTE
PATRICIA M. SMITH, OF INDIAN SPRINGS
MICHAEL F. BOLIN, OF BIRMINGHAM
TOM PARKER, OF MONTGOMERY
GLENN MURDOCK, OF BIRMINGHAM
GREG SHAW, OF MONTGOMERY

February 22, 2010

By U.S. Mail and Fax

The Honorable Richard Shelby
Unites States Senate
110 Hart Senate Office Building
Washington, D.C. 20515-0106

Dear Senator Shelby:

I respectfully write to encourage you to cosponsor the Justice Reinvestment Act, S. 2772/H.R.4080, sponsored by Senators Whitehouse, Cornyn and Leahy and Congressmen Schiff and Lungren.

This important bill will help state and local governments better address our top criminal justice challenges -- corrections expenditures, probation and parole policies, and data analysis for criminal justice systems.

The bill would authorize the U.S. Attorney General to make grants to state and local governments and tribes to help jurisdictions (1) analyze criminal justice trends to understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of these changes and develop accountability measures.

I appreciate your leadership in helping state and local governments address these challenges. I hope you will cosponsor the Justice Reinvestment Act to increase public safety, cut corrections spending, and reduce recidivism.

With warm regards, I am

Most Sincerely,

Sue Bell Cobb
Chief Justice

The Honorable John Conyers
Chairman
House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Lamar Smith
Ranking Member
House Judiciary Committee
2142 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Conyers, Ranking Member Smith and Members of the Committee:

I am writing to communicate my strong support of H.R. 4080, the Criminal Justice Reinvestment Act, sponsored by Congressmen Schiff and Lungren.

The bill would authorize the U.S. Attorney General to make grants to state and local governments and tribes to help jurisdictions (1) analyze criminal justice trends to understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of these changes and develop accountability measures.

The Corporation for Supportive Housing is a national non-profit organization and community development financial institution that helps communities create permanent housing with services to prevent and end homelessness. We are especially pleased that H.R. 4080 recognizes supportive housing as a risk-reducing activity under the legislation. Upon release, supportive housing can provide a meaningful opportunity for stability for those whose untreated chronic health, mental health, and addiction problems would otherwise likely lead to a quick return to homelessness and recidivism. Experts observe that, of all the issues facing returning prisoners, none is more immediate — or arguably more important — than the need to secure housing.

Resources provided by H.R. 4080 will be used to conduct a comprehensive analysis in the following areas: crime and arrest rates, conviction rates, probation, parole, prison and jail populations and policies, evaluate the cost-effectiveness of the state and local spending on corrections and develop data-driven policy options than can increase public safety.

We appreciate your leadership in helping state and local governments address these challenges. We hope you will act quickly to pass the Justice Reinvestment Act out of committee.

Sincerely,

Deborah De Santis
President and CEO

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

STATE CAPITOL, ROOM 151-S
TOPEKA, KANSAS 66612
(785) 296-7631
pat.colloton@house.ks.gov

COMMITTEE ASSIGNMENTS
CORRECTIONS AND JUVENILE JUSTICE, CHAIRMAN
JUDICIARY
JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT, CHAIRMAN

PAT COLLOTON
28TH DISTRICT

2513 W. 118TH STREET
LEAWOOD, KANSAS 66211
(913) 339-9246
pat@patcolloton.com

February 19, 2010

Senator Sam Brownback
303 Hart Senate O.B.
Washington, D.C. 20510

Dear Senator Brownback:

I write to encourage you to cosponsor the Justice Reinvestment Act, S. 2772/H.R.4080, sponsored by Senators Whitehouse, Cornyn and Leahy and Congressmen Schiff and Lungren.

This important bill will help state and local governments better address our top criminal justice challenges -- corrections expenditures, probation and parole policies, and data analysis for criminal justice systems.

The bill would authorize the U.S. Attorney General to make grants to state and local governments and tribes to help jurisdictions (1) analyze criminal justice trends to understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of these changes and develop accountability measures.

We appreciate your leadership in helping state and local governments address these challenges. We hope you will cosponsor the Justice Reinvestment Act to increase public safety, cut corrections spending, and reduce recidivism.

Sincerely,

Pat Colloton

State Representative Pat Colloton

STEPHEN R. MORRIS
SENATOR, 38TH DISTRICT
600 TRINDLE
PLUGTOWN, KS 67651
(620) 544-2084

STATE CAPITOL, ROOM 32-E
TOPEKA, KS 66612
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State of Kansas

Senate President

COMMITTEE ASSIGNMENTS

CHAIRMAN: ORGANIZATION, CALENDAR AND RULES
INTERSTATE COOPERATION

CHAIR/VICE CHAIR: LEGISLATIVE COORDINATING COUNCIL
PENSIONS, INVESTMENTS AND BENEFITS
NCSL STANDING COMMITTEES

MEMBER: AGRICULTURE
FEDERAL & STATE AFFAIRS
STATE FINANCE COUNCIL
CSG GOVERNING BOARD
ENERGY COUNCIL EXECUTIVE COMMITTEE

February 25, 2010

The Hon. Sam Brownback
303 Hart Senate O.B.
Washington, D.C. 20510

Dear Senator Brownback:

This letter is written to encourage you to co-sponsor the Justice Reinvestment Act, S. 2772/H.R. 4080, sponsored by Senators Whitehous, Cornyn and Leahy and Congressmen Schiff and Lungren. This important bill will help corrections expenditures, probation and parole policies, and data analysis for criminal justice systems for both state and local governments.

The bill authorizes the U.S. Attorney General to make grants to state and local governments and tribes to help jurisdictions (1) analyze criminal justice trends to understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections and expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of those changes and develop accountability measures.

Your leadership is greatly appreciated in addressing correction issues. I hope you will co-sponsor the Justice Reinvestment Act to increase public safety, cut corrections spending, and reduce recidivism.

Sincerely,

Stephen R. Morris

Stephen R. Morris
Senate President

SRM/lar

JOHN VRATIL
SENATOR, ELEVENTH DISTRICT
JOHNSON COUNTY
LEGISLATIVE HOTLINE
1-800-432-3924

State of Kansas

Vice President
Kansas Senate

COMMITTEE ASSIGNMENTS
VICE CHAIR: EDUCATION
WAYS AND MEANS
MEMBER: JUDICIARY
ORGANIZATION, CALENDAR AND RULES
INTERSTATE COOPERATION
KANSAS CRIMINAL CODE RECODIFICATION COMMISSION

February 22, 2010

The Hon. Sam Brownback
303 Hart Senate O.B.
Washington, D.C. 20510

Dear Senator Brownback:

This letter is written to encourage you to co-sponsor the Justice Reinvestment Act, S. 2772/H.R. 4080, sponsored by Senators Whitehous, Cornyan and Leahy and Congressmen Schiff and Lungren. This important bill will help state and local governments better address our top criminal justice challenges – corrections expenditures, probation and parole policies, and data analysis for criminal justice systems.

The bill authorizes the U.S. Attorney General to make grants to state and local governments and tribes to help jurisdictions (1) analyze criminal justice trends to understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of those changes and develop accountability measures.

I appreciate your leadership in helping state and local governments address these challenges. I hope you will co-sponsor the Justice Reinvestment Act to increase public safety, cut corrections spending, and reduce recidivism.

Sincerely yours,

Sen. John L. Vratil

JLV:kkp

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National Association of Blacks in Criminal Justice
"Committed To Justice for All"

March 1, 2010

The Honorable John Conyers
Chairman
House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Lamar Smith
Ranking Member
House Judiciary Committee
2142 Rayburn House Office Building B-351
Washington, DC 20515

Dear Chairman Conyers, Ranking Member Smith and Members of the Committee:

We write to communicate our strong support of the Justice Reinvestment Act, H.R. 4080, sponsored by Congressmen Schiff, and Lungren.

The bill would authorize the U.S. Attorney General to make grants to state and local governments and tribes to help jurisdictions (1) analyze criminal justice trends to understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of these changes and develop accountability measures.

Since our inception, The National Association of Blacks in Criminal Justice focus has been on "seeking equal justice for all" and to find ways to reduce crime in a cost effective manner. We are very concerned about high incarceration rates experienced throughout our country affecting people of color. We support viable Re-Entry Programs to give offenders returning to communities the skills, programs, and support systems to obtain employment and lead productive lives. We also support Education and Mentoring our Youth to remove stumbling blocks to their success. This legislature will assist organizations such as ours to continue having a positive impact on reducing the problems related to crime in our cities and communities.

These resources will be used to conduct a comprehensive analysis in the following areas: crime and arrest rates, conviction rates, probation, parole, prison and jail populations and policies, evaluate the cost-effectiveness of the state and local spending on corrections and develop date-driven policy options than can increase public safety.

We appreciate your leadership in helping state and local governments address these challenges. We hope you will act quickly to pass the Justice Reinvestment Act of 2009 out of committee.

Sincerely,

Robert L. Matthews, President
National Association of Blacks in Criminal Justice

February 24, 2010

The Honorable Patrick Leahy
Chairman
Senate Judiciary Committee
224 Senate Dirksen Office Building
Washington, DC 20510-6275

The Honorable Jeff Sessions
Ranking Member
Senate Judiciary Committee
152 Senate Dirksen Office Building
Washington, DC 20510-6275

Dear Chairman Leahy and Ranking Member Sessions:

On behalf of the National Association of Counties, I write to express strong support for the Criminal Justice Reinvestment Act of 2009, S. 2772, sponsored by Senators Whitehouse, Cornyn and Leahy.

As you know in addition to spending more than $70 billion annually on criminal justice (2007), counties spend many more billions on health and human services and have the potential to shift their investments from one function to another. According to the Bureau of Justice Statistics, there are about 13 million admissions to county jails each year.

The proposed legislation can be used to conduct a comprehensive analysis in the following areas: crime and arrest rates, conviction rates, probation, parole, jail and prison populations and policies, evaluate the cost-effectiveness of the state and local spending on corrections and develop data-driven policy options than can increase public safety.

We appreciate your leadership in helping state and local governments address these challenges. We hope you will act quickly to pass the Criminal Justice Reinvestment Act of 2009 out of committee. For further information, please contact Donald Murray at 202/942-4236.

Sincerely,

Larry E. Naake

Larry E. Naake
Executive Director

25 Massachusetts Avenue, NW | Washington, DC 20001 | 202.393.6226 | fax 202.393.2630 | www.naco.org

NCJA National Criminal Justice Association

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Executive Director
Montana Board of Crime Control

VICE PRESIDENT
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Georgia Criminal Justice Coordinating Council

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Delaware Criminal Justice Council

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Maryland Governor Office
of Crime Control & Prevention

Mary Marshall
Public Information Officer
Arizona Criminal Justice Commission

Karhiton Moore
Executive Director
Ohio Office of Criminal Justice Services

Robert Neff
Manager of Criminal Justice Programs
North Central Texas Council of Governments

Jeanne Smith
Director
Division of Criminal Justice
CO Department of Public Safety

† denotes Executive Committee

March 5, 2010

The Honorable Patrick Leahy
Chair, Senate Judiciary Committee
433 Russell Senate Office Building
Washington, DC 20510

The Honorable Jeff Sessions
Senate Judiciary Committee
335 Russell Senate Office Building
Washington, DC 20510

Dear Senators Leahy and Sessions:

I write on behalf of the members of the National Criminal Justice Association (NCJA), who are the state, territorial and tribal administrators of federal justice assistance grant funding, as well as practitioners from all parts of the criminal and juvenile justice systems. Thank you for your continuing leadership on federal justice assistance issues, in particular the Justice Reinvestment Act now pending before your committee.

The Justice Reinvestment initiative is an innovative, cost-effective and practical approach to exploring and solving major challenges in the criminal justice system. States are led through an intensive, data-driven process to understand the effectiveness of their current spending and to develop options for future policy. Because the process is transparent, the recommendations based on the state's unique circumstances, and because the policy goals are set by the legislative and executive branch leaders in the state, the policy recommendations have been enacted, funded, and sustained with impressive results.

For instance, in Texas, the state's prison population in 2007 was projected to grow by more than 14,000 people in the following five years. After engaging in the justice reinvestment process, legislators adopted policies which redirected more than $200 million that would have been spent on prisons to strengthen probation and parole and expand treatment services. Since enacting those changes, the state has seen a savings of $443 million, and the prison population has stopped growing which has allowed the state to cancel plans for additional prisons.

In 2007, Rhode Island's prison population was projected to increase 21 percent between 2007 and 2017 at a projected cost of $300 million. After the justice reinvestment analysis and technical assistance, the state legislature provided incentives for people in prison to complete certain risk reduction programs, required the parole board to employ risk assessments when making release decisions, and standardized the way Rhode Island calculates earned time credits for people in prison who demonstrate good behavior.

The Justice Reinvestment Act, S. 2772, sponsored by Senators Whitehouse, Cornyn and Leahy, would authorize the Attorney General to make grants to state, local and tribal governments to support the analysis of criminal justice trends, including the conditions driving costs, and to develop specific policy options aimed at reducing corrections expenditures and increasing the effectiveness of current spending.

720 7TH STREET, N.W. THIRD FLOOR • WASHINGTON, D.C. 20001 • OFFICE (202) 628-8550 • FAX (202) 448-1723 • WWW.NCJA.ORG

As the state and tribal criminal justice planning agencies, NCJA members can be instrumental in advancing the justice reinvestment analysis and implementation within their states. In their planning role, State Administering Agencies, or SAAs, engage a broad range of stakeholders across the criminal justice community in dialogue and strategic planning to set priorities for all segments of the system. The justice reinvestment analysis will help inform, and be informed by, that strategic planning activity.

Thank you for your commitment to working with states and tribal nations to improve the functioning of our nation's criminal justice system. The federal-state-local-tribal partnership is more vital than ever as we strive to increase public safety and prevent and fight crime in these very difficult economic times.

Sincerely,

Roland Mena
President

cc: members of the Senate Judiciary Committee

720 Seventh Street NW • 3rd Floor • Washington • DC 20001-3716 • (202) 628-8550 • FAX (202) 628-0080 • WEB http://www.ncja.org

NATIONAL SHERIFFS' ASSOCIATION

March 3, 2010

The Honorable Patrick Leahy, Chair
Senate Judiciary Committee
Washington, D.C. 20510

The Honorable Jeff Sessions, Ranking Member
Senate Judiciary Committee
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Sessions:

On behalf of the National Sheriffs' Association and the over 3,000 elected sheriffs nationwide, I am writing to express our support for the Criminal Justice Reinvestment Act of 2009 (S. 2772). The bill will provide for a comprehensive analysis of target areas in the criminal justice system to assist states and localities in developing data-driven policy initiatives to increase public safety, while reducing crime, recidivism, and unnecessary spending.

S. 2772 creates grants to state, local, and tribal governments to analyze criminal justice trends to fully understand what is driving the growth in their local jail and prison populations. Additionally, the grants would be used to develop tailored policy options to reduce corrections expenditures; increase the effectiveness of current spending and reinvestment that can make communities safer; and the subsequent implementation of the proposed policies and programs. Finally, S. 2772 will provide grants to states and localities to measure the impact of the changes and develop accountability measures.

As you are aware, over 80% of the nation's local jails are operated and managed by sheriffs. In recent years, increasing jail populations, coupled with current budget pressures, have placed a significant strain on sheriff's offices' jail resources and bed space. The bill will enable sheriffs to implement successful programs aimed at not only reducing jail operating costs, but reducing recidivism and promoting public safety.

As the chief law enforcement officer in most jurisdictions, it is imperative that sheriffs are provided the critical resources necessary to keep their communities safe. The Criminal Justice Reinvestment Act of 2009 will ensure that state, local, and tribal governments are afforded the ability to effectively and efficiently operate the prisons and jails throughout the United States. NSA and the nation's sheriffs look forward to working with you to pass this critical legislation during the 111th Congress.

Sincerely,

Sheriff John E. Zaruba
President

1450 Duke St. • Alexandria, VA 22314 • 703.836.7827 phone • 703.683.6541 fax • www.sheriffs.org • nsamail@sheriffs.org

2005 Market Street, Suite 1700 215.575.9050 Phone
Philadelphia, PA 19103-7077 215.575.4939 Fax

901 E Street NW, 10th Floor 202.552.2000 Phone
Washington, DC 20004 202.552.2299 Fax
www.pewtrusts.org

February 25, 2010

The Honorable Patrick Leahy
Chairman
Senate Judiciary Committee
224 Senate Dirksen Office Building
Washington, DC 20510-6275

The Honorable Jeff Sessions
Ranking Member
Senate Judiciary Committee
152 Senate Dirksen Office Building
Washington, DC 20510-6275

Dear Chairman Leahy, Ranking Member Sessions and Members of the Committee:

We write to communicate our strong support of the Justice Reinvestment Act, S. 2772, sponsored by Senators Whitehouse, Cornyn and Leahy.

Since 2006, the Pew Center on the State's Public Safety Performance Project has helped states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable and control corrections costs. Today, states are facing the worst fiscal crisis in a generation and struggling to balance their budgets as demand for services increases and revenues decline. Meanwhile, spending on corrections has been one of the fastest growing segments of state budgets in recent years, consuming one in every 15 state discretionary dollars, but states are not getting a satisfactory return on their public safety investment. Pew and its partners have assisted several states across the country such as Vermont, Texas, Kansas, Arizona, Michigan, South Carolina and Illinois to develop and implement evidence-based policy options that control corrections costs while protecting public safety.

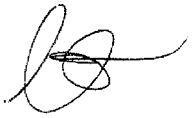
The Justice Reinvestment Act would support the ongoing work in these states and also encourage more states to follow their lead. Specifically, the bill would authorize the U.S. Attorney General to make grants to state and local governments and tribes to help jurisdictions (1) analyze criminal justice trends to understand what is driving the growth in their local jail and prison populations, (2) develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer, (3) implement the proposed policies and programs, and (4) measure the impact of these changes and develop accountability measures.

These resources will be used in each state to conduct a comprehensive analysis in the following areas: crime and arrest rates, conviction rates, probation, parole, prison and jail populations and policies, evaluate the cost-

effectiveness of state and local spending on corrections and develop data-driven policy options than can increase public safety.

We appreciate your leadership in helping state and local governments address these challenges. We hope you will act quickly to pass the Justice Reinvestment Act of 2009 out of committee. Please feel free to contact me (agelb@pewtrusts.org or 202-552-2153) or Richard Jerome (Project Manager, rjerome@pewtrusts.org or 202-552-2063) if you or your staff have questions about this recommendation. We look forward to continuing to work with you in improving our nation's criminal justice system.

Sincerely,



Adam Gelb
Director
Public Safety Performance Project
Pew Center on the States

44180 Riverside Parkway
Lansdowne, VA 20176
703.554.0100 main
703.554.8570 fax
www.prisonfellowship.org

February 24, 2010

Dear Chairman Conyers, Ranking Member Smith and Members of the Committee:

We are writing to communicate our strong support of the Justice Reinvestment Act, H.R. 4080, sponsored by Congressmen Schiff and Lungren.

This bill would authorize the U.S. Attorney General to make grants to state and local governments and tribes to help jurisdictions:

- Analyze criminal justice trends to understand what is driving the growth in their local jail and prison populations;
- Develop tailored policy options to reduce corrections expenditures and increase the effectiveness of current spending and reinvestment that can make communities safer;
- Implement the proposed policies and programs, and
- Measure the impact of these changes and develop accountability measures.

For more than 35 years, Prison Fellowship has reached out to prisoners, ex-prisoners and their families both as an act of service to Jesus Christ and as a contribution to restoring peace to our cities and communities endangered by crime. We have found that the best way to transform our communities is to transform the people within those communities. We believe that at its core, crime is a moral and spiritual problem and that authentic and lasting change must take place from the inside out, beginning with a reconciled relationship with God through Jesus Christ. We believe that restorative justice—justice that heals, repairs and restores both victims and offenders—brings greater peace and security to lives and communities.

In an effort to address ever-increasing incarceration and correctional costs, Prison Fellowship has worked with bipartisan leadership, governors and legislative leaders in several states around the country to implement data-driven criminal justice reinvestment initiatives. We have been continually amazed with the results these efforts engender: lower crime and recidivism rates, lower correctional costs and safer communities. We know these measures work.

We appreciate your leadership in dealing with the crime that plagues our communities. We hope you will support the Justice Reinvestment Act as a way of helping state and local governments address these challenges. Thank you for your service to our nation.

Sincerely,

Pat Nolan

Pat Nolan

Vice President, Prison Fellowship

Prison Fellowship® is a registered trademark of Prison Fellowship Ministries.

MARC LEVIN, ESQ., DIRECTOR
CENTER FOR EFFECTIVE JUSTICE

Mr. Bobby Vassar
Staff Director
Office of Congressman Robert Scott

Dear Mr. Vassar,

I am writing in connection with the House Judiciary Committee Subcommittee on Crime, Terrorism and Homeland Security hearing on May 11th concerning the Honest Opportunity Probation with Enforcement (HOPE) Initiative Act (HR4055) and the Criminal Justice Reinvestment Act (HR4080).

The Texas Public Policy Foundation's mission is to promote and defend liberty, personal responsibility, and free enterprise in Texas by educating and affecting policymakers and the Texas public policy debate with academically sound research and outreach. Through our Center for Effective Justice, which researches policies that cost-effectively protect public safety, restore victims, and reform offenders, we have been at the forefront of criminal justice initiatives in Texas that have gained national attention by reducing both the incarceration rate and the crime rate. The Foundation does not endorse specific federal legislation, but we would like to share our perspective that is based on our research on these issues.

First, the Hawaii Opportunity Probation with Enforcement (HOPE) Court has become a national model for its success in reducing both recidivism and costs. Like other states, Hawaii faced a problem of probationers not showing up for their appointments and declining to take mandatory drug tests. Probationers could commit numerous infractions before action was taken, leading to revocations to prison that might have been avoided had swift and sure sanctions been used to send a message upon initial violations.

The state addressed this challenge by creating the HOPE Court where offenders are ordered to treatment and must call in a number every morning to see if they must report to the court to take a drug test. If they fail, they are jailed for several days, usually on weekends in order to preserve employment. Although participants can ultimately be imprisoned for multiple failures, it is rare because the immediate accountability of a short jail stay deters future drug use.

This court has proven in a randomized controlled trial to reduce positive drug screens by 91 percent and cut both revocations to prison and new arrests by two-thirds.[1] According to U.C.L.A.

researchers, for a group of methamphetamine-using probationers, dirty drug tests declined 80 percent after entering the HOPE program.[2] Similarly, for the 685 probationers who were in the program for at least three months, the missed appointment rate fell from 13.3 percent to 2.6 percent and "dirty" drug tests declined from 49.3 percent to 6.5 percent.[3] HOPE has also been found to reduce new crimes by more than 50 percent.[4]

Ultimately, when a greater share of probationers complies and fewer must be sent to prison for rules violations, the goal of maximizing the use of limited resources to protect public safety is advanced. Many other states from Nevada to Delaware have expressed interest in creating such a court. The potential positive impact of spreading the HOPE model is significant, given that about a third of state prison intakes are revoked probationers, and half of these committed a rules violation but not a new crime.

Secondly, the goal of the Justice Reinvestment Act is to facilitate a stronger federal partnership with states in identifying the best policies to maximize the benefit to taxpayers and victims for every dollar spent on corrections. Justice reinvestment is not a program, but rather a strategy of using data and research to inform corrections budgetary and statutory policies to better ascertain how each dollar can be spent most effectively to promote public safety and control costs to taxpayers. As an example, Texas has achieved positive results, as it moved away from continually building more prisons to instead strengthening the front end of the system to divert nonviolent offenders from incarceration while simultaneously improving public safety.

Several years ago, Texas prisons were overflowing and state estimates forecasted that taxpayers would need to build 17,332 additional prison beds by 2012 at a cost of more than $2 billion to build and operate these beds over five years. Instead of following this path, we performed extensive research and responded to policymaker inquiries to devise an alternative blueprint that took a small share of the funds that would otherwise be spent on new prisons and reinvested them to strengthen evidence-based probation, diversion, and treatment programs for non-violent offenders.

A key element of the reinvestment strategy was enacted in 2005 when Texas lawmakers provided significant caseload reduction grants to probation departments that pledged to reduce their prison revocations by at least 10 percent and implement progressive sanctions. In 2007, a budget package of alternatives to new prisons included the creation of thousands of non-residential and residential treatment slots and beds for offenders with substance abuse and mental health issues.

The results are striking. From 2004 to 2008, Texas' incarceration rate per 100,000 residents declined 9.2 percent and, most importantly, serious crimes per 100,000 residents declined 10.3 percent.[5] This has occurred while Texas taxpayers have saved billions on projected new prisons that were never built.

Like nearly every other state, Texas now faces a significant projected budget shortfall, which only magnifies the importance of the successful efforts the state has taken to increase the utilization of alternatives to incarceration for non-violent offenders that promote public safety and hold offenders accountable without penalizing taxpayers. While many offenders who are being redirected from prison are drug possession offenders who have not committed another type of crime, others are property offenders and succeeding on probation means that they are recompensing their victims while prisoners almost never pay restitution. In 2008, Texas probationers paid $46.8 million in restitution to victims and performed $9.7 million community service hours while the state's prisoners about half a million in restitution, fines, and fees combined.[6]

Similarly positive results have occurred in other states that have pursued this strategy. For example, in December 2009, Connecticut Governor M. Jodi Rell announced a prison closure that will save $3.4 million. Just as in Texas, the incarceration rate did not decline because of any early release policy, but because fewer individuals were entering prison. Governor Rell attributed this outcome to the reinvestment strategy that began in 2003 to strengthen the probation system and expand alternatives to prison that involve strong offender accountability and appropriate treatment resources. This approach resulted in more individuals successfully completing probation and has been associated with a 6.3 percent decline in the state's crime rate. [7]

These proposals authorize the Department of Justice to work with states that are interested in pursuing the HOPE model and the justice reinvestment approach. The DOJ currently partners with states in numerous ways, including within criminal justice, and has many staff knowledgeable in this field. We believe that any new initiative, whether in criminal justice or another area, should be implemented within an agency's existing budget framework by relying on currently available resources, prioritizing expenditures, identifying efficiencies, and reallocating funds based on results.

The Appropriations Committee determines the budget for the DOJ and it is the role of appropriators, in consultation with agency officials, to prudently allocate funds with an emphasis on fiscal restraint and performance measures so that more can be accomplished with the same or fewer taxpayer dollars being spent. As the Appropriations Committee reviews the budget for DOJ and all federal agencies, it is critical that agency budgets not be increased and that existing funds be reallocated from ineffectual programs and those which fall outside the appropriately limited role of the federal government to those that are cost-effective and relate to core functions of the federal government.

Also, these proposals in no way authorize the federal government to dictate any aspect of state corrections policy, recognizing that these decisions must continue to be made by state policymakers but that the federal government can use existing resources to provide technical assistance to interested jurisdictions

In sum, both of these proposals are based on well documented research and demonstrated success in practice. These measures would provide an avenue for collaboration for interested states

to work with the DOJ to enhance public safety, restore victims, and control costs to taxpayers through the proven policies of HOPE probation and justice reinvestment while ensuring all authority in setting policies in regard to state prisons and community corrections continues to remain at the state and local levels where it is vested in our constitutional system of federalism.

Thank you for your consideration and please do not hesitate to contact me with any questions or for additional information.

Best Regards,

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[1] Angela Hawken and Mark Kleiman, "Evaluation of HOPE Probation," July 2008, Pew Center on the States, 25 Sept. 2009, http://www.pewcenteronthestates.org/uploadedFiles/HOPE_Research_Brief.pdf

[2] *Id.*

[3] *Id.*

[4] DuPont, Robert L., M.D., "HOPE Probation: A Model that Can Be Implemented at Every Level of Government, Institute for Behavior and Health, 25 Sept. 2009, http://www.ibhinc.org/pdfs/HOPEPROBATION.pdf.

[5] Marc Levin, "Texas Criminal Justice Reform: Lower Crime, Lower Cost," Texas Public Policy Foundation, Jan. 2010, http://www.texaspolicy.com/pdf/2010-01-PP04-justicereinvestment-ml.pdf.

[6] Marc Levin, "Treat Victims as Consumers of Justice," Texas Public Policy Foundation, Mar. 2010, http://www.texaspolicy.com/pdf/2010-03-PP03-victimsconsumers-ml.pdf.

[7] Marc Levin, "What Conservatives Are Saying About Criminal Justice Reform," Texas Public Policy Foundation, Jan. 2010, http://www.texaspolicy.com/pdf/2010-01-PP02-conservativesarcsaying-ml.pdf.

Justice Reinvestment at the Local Level

URBAN INSTITUTE
Justice Policy Center

What is Justice Reinvestment at the Local Level?

Justice reinvestment employs data and collaborative decisionmaking to help jurisdictions lower crime, reduce local criminal justice spending, and control growth in correctional populations.

The overarching goal of local justice reinvestment work is to reduce county correctional costs and reinvest resources in high-stakes communities to yield a more cost-beneficial impact on public safety and community well-being.

Why is local justice reinvestment necessary?

The escalation in local criminal justice populations (over 30 percent in the past ten years) has been accompanied by a dramatic spike in local correctional costs (over 80 percent in the last decade).

These costs are driven in large part by the expense of incarcerating an increasing volume of people in local jails.

Population growth within the criminal justice system can have a detrimental impact on safety both in the community and within the jail.

What can justice reinvestment accomplish?

Justice reinvestment can help achieve cost savings through expediting case processing, improving the response to repeat residents of the jail, revising revocation policies, and developing alternatives for unsentenced detainees.

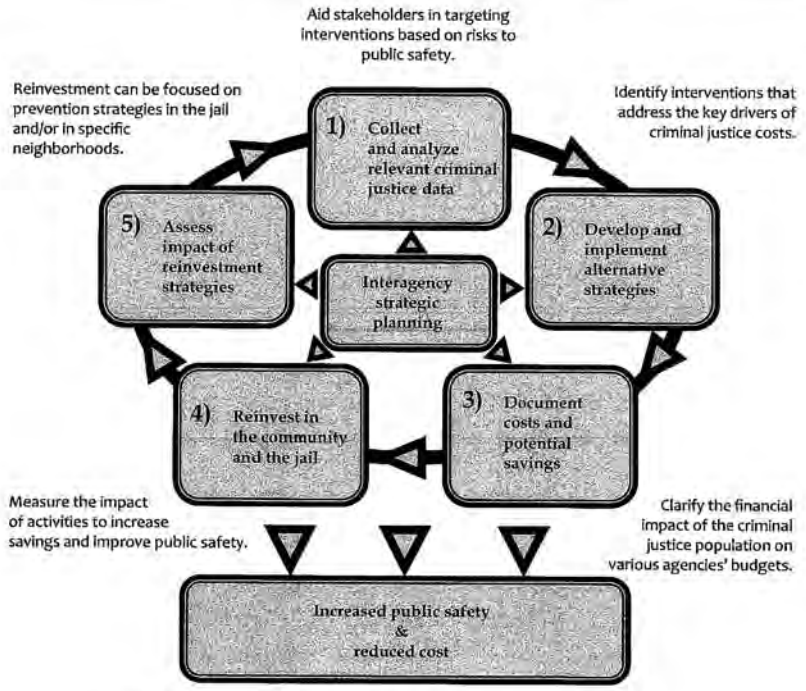
Justice reinvestment can generate a greater impact on public safety with existing resources. Justice reinvestment can improve communication within the criminal justice system and other agencies and enhance the ability to share data across agencies.

URBAN INSTITUTE
Justice Policy Center

The Justice Policy Center of the Urban Institute conducts nonpartisan research and evaluation designed to improve justice and public safety policies and practices at the national, state, and local level.

More information can be found at www.urban.org

Five Steps for Justice Reinvestment



Strategic planning must represent an institutionalized process involving key stakeholders both within and outside of the criminal justice system.

For more information on Justice Reinvestment at the Local Level please visit:
http://www.urban.org/center/jpc/justice-reinvestment

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The Justice Policy Center of the Urban Institute conducts nonpartisan research and evaluation designed to improve justice and public safety policies and practices at the national, state, and local level.

More information can be found at www.urban.org

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May 7, 2010

The Honorable Robert C. Scott, Chairman
Subcommittee on Crime, Terrorism, and Homeland Security
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515
Attn: Liliana Coronado, Legislative Counsel

Dear Chairman Scott:

The Public Safety Performance Project, an initiative of the Pew Center on the States, was launched in 2006 to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable and control corrections costs.

Conducting original research and synthesizing expert opinion, the Public Safety Performance Project and our partners release timely reports and policy briefs covering a range of sentencing and corrections issues. **As you prepare for the May 11 Subcommittee hearing on H.R. 4080, the Criminal Justice Reinvestment Act of 2009, and H.R. 4055, the Honest Opportunity Probation with Enforcement (H.O.P.E.) Initiative Act of 2009, you may find a few of our reports particularly informative.**

Included in this packet are:

- A state fact sheet outlining Virginia's correctional costs and population figures;
- A fact sheet on the impact of Hawaii's HOPE program on drug use, crime and recidivism;
- *One in 31: The Long Reach of American Corrections*, a landmark report on the explosive growth of the correctional population and the resulting demands on state budgets; and
- *Right-Sizing Prisons: Business Leaders Make the Case for Corrections Reform*.

If we can be a resource to you and your staff as these issues advance, please feel free to contact me or Jake Horowitz at 202- 552-2044 or jhorowitz@pewtrusts.org.

Sincerely,

Adam Gelb
Director, Public Safety Performance Project
Pew Center on the States
202-552-2153
agelb@pewtrusts.org

1 in 31: The Long Reach of American Corrections
Virginia

POPULATION

1 in 46 adults[1,2]

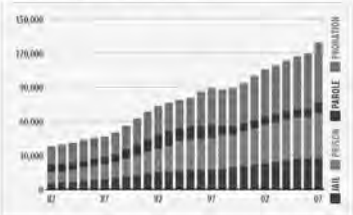
is under correctional control

- **Growth over time:** in 1982, the figure was 1 in 108 adults[2]
- **Percent behind bars:** at year end 2007, 52 percent of the correctional population was in prison or jail (national rank: 4); the figure for 1982 was 40 percent (national rank: 6)[3]

POPULATION, RATES AND RANKS (YEAR END 2007)

	Population: State	Population: Federal	Combined Population	Share of adults	National rank
Probation	51,954[1]	1,157[1]	62,742	1 in 94	44
Parole	6,850[1]	2,781[1]			
Prison	32,972[3]	6,384[4]	66,939	1 in 89	13
Jail	27,583[5]				
Total	129,681			1 in 46	41

TOTAL CORRECTIONAL POPULATION



COSTS

$1.25 billion[6]

spent on corrections

- **Share of general fund:** 7.6 percent in fiscal year 2008[6]
- **Ratio of spending:** For every dollar Virginia spent on prisons in 2008, it spent 11 cents on probation and parole[3]
- **Ratio of costs:** 1 day of prison ($66.62) = 20 days of probation and parole[3]

CORRECTIONS COSTS

SOURCES:

1) Bureau of Justice Statistics, Correctional Surveys (U.S. Department of Justice); 2) U.S. Census, State Population Estimates; 3) Administrative Office of U.S. Courts; 4) Bureau of Prisons (U.S. Department of Justice); 5) Pew, Original Data; 6) National Association of State Budget Officers, State Expenditure Reports

Download the full report and explanatory notes by visiting www.pewcenteronthestates.org/publicsafety

THE PEW CENTER ON THE STATES

The Pew Charitable Trusts applies the power of knowledge to solve today's most challenging problems. Our Pew Center on the States (PCS) identifies and advances effective policy approaches to critical issues facing states. Launched in 2006 as a project of PCS, the Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable and control corrections costs.

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Issue Brief

JANUARY 2010

THE PEW CENTER ON THE STATES

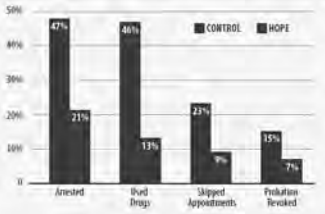
NIJ National Institute of Justice

The Impact of Hawaii's HOPE Program on Drug Use, Crime and Recidivism

The HOPE Program

Launched in 2004, Hawaii's Opportunity Probation with Enforcement (HOPE) program aims to reduce crime and drug use among criminal offenders. HOPE identifies probationers who are likely to violate their conditions of community supervision; notifies them that detected violations will have consequences; conducts frequent and random drug tests; responds to detected violations (including failed drug tests and skipped probation meetings) with swift, certain and short terms of incarceration; responds to absconding probationers with warrant service and sanctions; and mandates drug treatment upon request or for those probationers who do not abstain from drug use while on the testing and sanctions regimen.

Exhibit 1. **HOPE Program Outcomes**



By 2009, more than 1,500 probationers (one in every six felony probationers in Oahu) were enrolled in HOPE. The Public Safety Performance Project of the Pew Center on the States and the National Institute of Justice of the U.S. Department of Justice collaborated to produce this summary of an evaluation conducted to assess HOPE's effectiveness.

Results

In a one-year, randomized controlled trial, HOPE probationers were 55 percent less likely to be arrested for a new crime, 72 percent less likely to use drugs, 61 percent less likely to skip appointments with their supervisory officer and 53 percent less likely to have their probation revoked. As a result, they also served or were sentenced to, on average, 48 percent fewer days of incarceration than the control group (Exhibit 1).[1]

Evaluation Structure

Adult probation officers in Honolulu identified 507 men and women on probation who showed an elevated risk of violating probation conditions based on a widely used risk assessment instrument and prior behavior while under supervision. Office supervisors deemed 493 of these probationers eligible.[2] In October 2007, random assignment by computer placed 330 probationers (two-thirds of

In this Brief:

What is the HOPE Program?
The Impact on Drug Use, Crime and Recidivism
How was the Evaluation Structured?

the eligible group) into HOPE (the "treatment group") while 163 remained on probation-as-usual (the "control group"). This randomized controlled trial followed an intent-to-treat design: all probationers assigned to the treatment group were included in the evaluation *regardless of what occurred after assignment*. Due to randomization, the treatment and control groups were not statistically different in terms of age, sex, race or ethnicity, assessed risk level and criminal history (Exhibit 2).[2]

The evaluation was conducted by Dr. Angela Hawken of Pepperdine University, with funding from the National Institute of Justice. The full evaluation report is available online at ***http://www.ncjrs.gov/pdffiles1/nij/grants/229023.pdf***.

Additional research could focus on which program components are most important, what types of offenders respond best, and whether the outcomes are sustained after probation supervision ends.

Launched in 2006, the Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable and control corrections costs.

NIJ is the research, development and evaluation agency of the U.S. Department of Justice and is dedicated to researching crime control and justice issues.

Exhibit 2. HOPE Program Demographics[1]

	HOPE	Control
Average age (median)	36.1 (35.2)	35.4 (34.4)
Male	75%	73%
Asian/Polynesian	69%	64%
Caucasian	16%	14%
Black	5%	3%
Portuguese	1%	2%
Puerto Rican	1%	1%
Other or Unknown	11%	14%
Percent assessed high risk	46.7%	44.1%
Average prior arrests (median)	17 (13)	16.4 (12)
Most serious prior charge: drug	35%	35%
Most serious prior charge: property	30%	34%
Most serious prior charge: violent	22%	22%
Most serious prior charge: other	14%	11%

1 [illegible] difference across groups are significant at the .05 level. To determine the rate of dropped appointments, the evaluation calculated the percent of dropped appointments for each probationer and then averaged those percentages. The time method—giving equal weight to each probationer—was used full time of [illegible] drug use. Using another method, the evaluation calculated the rate for (dropped appointments divided by total appointments) [illegible] group = 18 percent (459/8 = 1, [illegible] drug screens divided by total drug screens in control group = 40 percent, 16/39 = 9 percent). Because of the [illegible] figures for Sept. [illegible] include both scheduled and unscheduled drug tests [illegible] reviewed, [illegible] may change for both HOPE and control probationers.

2 The 15 excluded probationers included 10 who had been transferred to work programs, 1 to [illegible], and 1 who was serving time for [illegible] and was deceased, and one who was pending transfer to drug court.

3 Between HOPE and control group [illegible] were not significantly different at the .05 level.

THE PEW CENTER ON THE STATES

The Pew Center on the States is a division of The Pew Charitable Trusts that identifies and advances effective solutions to critical issues facing states. Pew is a nonprofit organization that applies a rigorous, analytical approach to improve public policy, inform the public and stimulate civic life.

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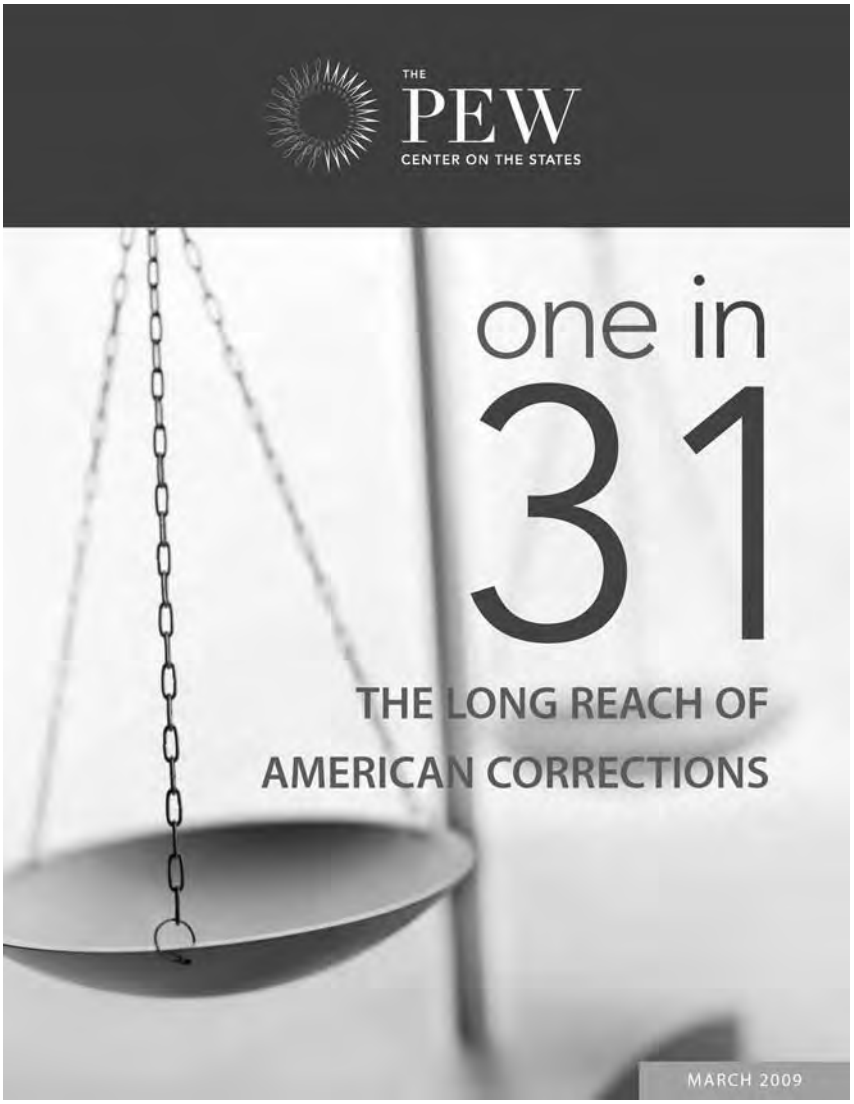
THE
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CENTER ON THE STATES
one in
31
THE LONG REACH OF
AMERICAN CORRECTIONS
MARCH 2009

ABOUT THIS REPORT

The Pew Charitable Trusts applies the power of knowledge to solve today's most challenging problems. The Pew Center on the States identifies and advances effective policy approaches to critical issues facing states.

In 2006, the Pew Center on the States launched the Public Safety Performance Project (PSPP) to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable, and control corrections costs.

PEW CENTER ON THE STATES
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For additional information on the Pew Center on the States and its Public Safety Performance Project, please visit *www.pewcenteronthestates.org*.

For fact sheets about the size and cost of the correctional populations in each of the states, see the online version of this report at *www.pewcenteronthestates.org/publicsafety*.

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Executive Summary

States face the worst fiscal crisis in a generation. Shrinking budgets are forcing governors and legislators to examine all areas of public spending for possible savings, even those that have been off limits.

Corrections is a prime target for cuts. Last year it was the fastest expanding major segment of state budgets, and over the past two decades, its growth as a share of state expenditures has been second only to Medicaid. State corrections costs now top $50 billion annually and consume one in every 15 discretionary dollars.

The remarkable rise in corrections spending wasn't fate or even the natural consequence of spikes in crime. It was the result of state policy choices that sent more people to prison and kept them there longer. The sentencing and release laws passed in the 1980s and 1990s put so many more people behind bars that last year the incarcerated population reached 2.3 million and, for the first time, one in 100 adults was in prison or jail.

> "The fact that so many Americans, including hundreds of thousands who are a threat to no one, are incarcerated means that something is wrong with our criminal justice system and the way we deal with both dangerous criminals and those whose behavior we simply don't like."
>
> *David Keene, President, American Conservative Union*
> Personal communication
> *February 5, 2009*

The escalation of the prison population has been astonishing, but it hasn't been the largest area of growth in the criminal justice system. That would be probation and parole—the sentenced offenders who are not behind bars.

With far less notice, the number of people on probation or parole has skyrocketed to more than 5 million, up from 1.6 million just 25 years ago. This means that 1 in 45 adults in the United States is now under criminal justice supervision in the community, and that combined with those in prison and jail, a stunning 1 in every 31 adults, or 3.2 percent, is under some form of correctional control. The rates are drastically elevated for men (1 in 18) and blacks (1 in 11) and are even higher in some high-crime inner-city neighborhoods.

Community Corrections: Big Promise, Little Support

Probation and parole, the dominant community corrections programs, have had larger population growth than prisons but far smaller budget growth. Looking at a handful of states that were able to provide long-term spending figures, eight times as many new dollars went to prisons as went to probation and parole. And while fewer than one out of three offenders is behind bars, almost nine out of 10 corrections dollars are spent on prisons.

Incarceration understandably costs more. Prisons must house, feed and provide medical care to the

"...Focus must be placed on locking up the most dangerous people instead of diverting time and money to incarcerate the wrong people."

U.S. Sen. Jim Webb (D-Va.)
http://webb.senate.gov

most dangerous offenders. But the price gap is nevertheless staggering: on average, the daily cost of supervising a probationer in fiscal 2008 was $3.42; the average daily cost of a prison inmate, $78.95, is more than 20 times as high.

Community corrections agencies have been further strained by a host of added responsibilities. On top of crushing caseloads, new laws, such as statutes mandating lifetime supervision of some offenders, and expanded roles like sophisticated cyber-crime detection, have created new obligations for departments already stretched thin. The expanded duties are a partial recognition of the role that community corrections plays in protecting public safety, but they have come without sufficient investments in staff, equipment and other support.

Despite the meager funding and ballooning workload, there have been significant advances in community supervision. Sophisticated risk assessment tools now help determine which offenders require the most supervision and what sort of monitoring and services they need. Global positioning systems, rapid-result drug tests and other technology can track offenders' whereabouts and behavior. Offender supervision, treatment and re-entry programs are incorporating solid research on how to cut recidivism. Performance incentives are increasingly available for both offenders and agencies, and managers are doing a better job tracking new arrests, collection of victim restitution and other key outcomes.

Taken together and implemented well, these approaches can produce double-digit reductions in recidivism and save states money along the way. If policy makers want these results, though, they will have to invest in the overburdened system of community corrections.

Opportunity in Crisis

After an extraordinary, quarter-century expansion of American prisons, one unmistakable policy truth has emerged: We cannot build our way to public safety.

Serious, chronic and violent offenders belong behind bars, for a long time, and the expense of locking them up is justified many times over. But for hundreds of thousands of lower-level inmates, incarceration costs taxpayers far more than it saves in prevented crime. And new national and state research shows that we are well past the point of diminishing returns, where more imprisonment will prevent less and less crime.

With the costs of imprisonment rising and the benefits falling, our ability to keep communities safe depends more than ever upon our ability to better manage the 5 million offenders on probation and parole.

The current budget crisis presents states with an important, perhaps unprecedented opportunity to do so. Rather than trying to weather the economic storm with short-term cost saving measures, policy leaders should see this as a chance to retool their sentencing and corrections

"We have to fundamentally rethink prisons."

Newt Gingrich
American Enterprise Institute forum
March 27, 2008

systems. If we had stronger community corrections, we wouldn't need to lock up so many people at such a great cost. By redirecting a portion of the dollars currently spent on imprisoning the lowest-risk inmates, we could significantly increase the intensity and quality of supervision and services directed at the same type of offenders in the community.

This is not a call to slash funding for prison operations. Though efficiencies undoubtedly can be wrung from prisons—like any other government agency—they must be safe and secure and adequately staffed and equipped. Savings significant enough to truly bolster community supervision can come only from reductions of the inmate population large enough to warrant the closure of entire cellblocks or institutions.

This reinvestment strategy wouldn't put a stop to all new crimes. But it would significantly cut recidivism—both for offenders coming out of prison and those diverted from prison in the first place—and do it at a fraction of the cost of a prison bed.

A number of states are seizing the moment, rethinking old policies and reallocating some correctional dollars. Texas and Kansas are off to a strong start, providing community corrections agencies with more resources and authority, but also giving them incentives and holding them accountable for results. States such as Arizona, Michigan, Pennsylvania and Vermont are now following with innovations of their own.

The bipartisan leadership in these states and the advances in correctional practice deserve more than a passing glance, especially in a fiscal crisis that demands more than ever that taxpayer dollars be wisely spent. Armed with the conviction that our current crime and punishment policies are not delivering satisfactory results, policy makers have a chance to both balance their budgets and deliver better public safety.

America's Surging Correctional Population

Last year, the Pew Center on the States reported that for the first time, more than 1 in every 100 adults in the United States was confined behind bars. That sobering news came as a shock for many Americans and sparked discussions about incarceration and its fiscal and social costs in the media, at universities, in statehouses, and around dinner tables.

For policy makers, the 1 in 100 milestone was a reminder that state policy choices have driven the rise in prison populations. The explosive prison growth of the past 30 years didn't happen by accident, and it wasn't driven primarily by crime rates or broad social and economic forces beyond the reach of state government. It was the direct result of sentencing, release and other correctional policies that determine who goes to prison and how long they stay.[1]

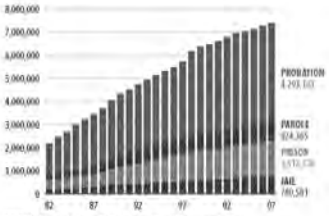
Community Corrections: Population Growth Exceeds Prisons

While the 1 in 100 statistic has seeped into the national consciousness, many Americans remain unaware that a much larger number of offenders are not behind bars at all but receive their punishment in the community. The raw numbers illustrate this story in dramatic fashion. During the past quarter-century, the number of prison and jail inmates has grown by 274 percent. The additional 1,680,661 inmates brought the total population in custody to 2.3 million. During the same period, the number under community supervision grew by a staggering 3,535,660 to a total of 5.1 million. Though the percentage increase of those under community supervision was not as large as the growth of those in custody, the absolute number of probationers and parolees grew by more than twice as much.

In 1982, 72 percent of offenders were managed in the community, with about 28 percent behind bars. At the end of 2007, the most recent year for which figures are available, 31 percent were locked up and 69 percent were on probation or parole. So over the past quarter century, the nation has put 1.6 million more people behind bars, yet prisons and jails still hold roughly the same proportion of offenders and criminal suspects. *(See Appendix A-1 for complete figures.)*

7 MILLION AND COUNTING

Led by probation, the correctional population has tripled in 25 years.



SOURCE: Bureau of Justice Statistics Correctional Surveys available at http://www.ojp.usdoj.gov/bjs/glance/tables/corrtab.htm.
NOTE: Due to offenders with dual status, the sum of these four correctional categories slightly overstates the total correctional population.

LESS THAN ONE-THIRD BEHIND BARS

Despite a 274 percent increase in incarceration, the vast majority of offenders under correctional control remain in the community.

SOURCE: Calculation based on data from the Bureau of Justice Statistics Correctional Surveys available at http://www.ojp.usdoj.gov/bjs/glance/tables/corr2tab.htm.

Adding up all probationers and parolees, prisoners and jail inmates, you'll find America now has more than 7.3 million adults under some form of correctional control. That whopping figure is more than the populations of Chicago, Philadelphia, San Diego and Dallas put together, and larger than the populations of 38 states and the District of Columbia.[2] During Ronald Reagan's first term as president, 1 in every 77 adults was under the control of the correctional system in the United States. Now, 25 years later, it is 1 in 31, or 3.2 percent of all adults.[3]

(For details of each state's correctional population and expenditures, see the state fact sheets included in the online version of this report.)

Who's Under Supervision?

Looking at the numbers through the lenses of race and gender reveals stark differences. Black adults are four times as likely as whites and nearly 2.5 times as likely as Hispanics to be under correctional control. One in 11 black adults—9.2 percent—was under correctional supervision at year end 2007. And although the number of female offenders continues to grow, men of all races are under correctional control at a rate five times that of women.[1]

Geography adds another revealing facet to the picture. In Georgia, 1 in 13 adults is under the correctional system's authority, but in New Hampshire, the figure is just 1 in 88. While Southern states maintain the nation's highest incarceration rates, the addition of probationers and parolees to the mixture casts a spotlight on states that supervise massive numbers of people in the community. The 10 states with the largest number of people in the corrections system include those with reputations for toughness, like Texas and Louisiana, but also Idaho, Ohio and Massachusetts. Similarly,

1 IN 31: DOING THE MATH

ONE

PRISON POPULATION	1,512,576
JAIL POPULATION	780,581
PROBATION POPULATION	4,293,163
+ PAROLE POPULATION	824,365
CORRECTIONAL POPULATION	7,328,200

TWO

ADULT POPULATION	229,030,637
÷	
CORRECTIONAL POPULATION	7,328,200

THREE

ONE IN EVERY 31 U.S. ADULTS IS UNDER CORRECTIONAL CONTROL

SOURCE: Calculation based on data from the Bureau of Justice Statistics "Prisoners at Yearend 2007" as well as "Probation and Parole at Yearend 2007" available at http://www.ojp.usdoj.gov/bjs and the U.S. Census State Population Estimates.

NOTE: Probation, parole, jail and prison populations do not sum to total due to offenders with dual status. Prison and jail populations differ from past reports due to method of counting prisoners held in jail.

THE ROLE OF PROBATION AND PAROLE

The public's perception of corrections most commonly centers on prisons and jails—buildings with bars, locked cells and uniformed guards. But far more offenders pay for their crimes through community sanctions, including drug courts, home detention and electronic monitoring, residential facilities with treatment, and day reporting centers.

The centerpiece of community corrections is probation and parole. Offenders placed on probation—derived from the Latin word *probatum*, for "the act of proving"—are typically lower level offenders who are allowed to remain in the community provided they exhibit good behavior and meet other conditions while supervised by a probation officer. With origins in this country dating to the mid-19th century, probation is ordered by a judge and served under threat of more serious sanctions. If a probationer violates conditions governing his or her community release, a judge may impose additional rules or require a term in custody.

Parolees, by contrast, are offenders who have spent time in prison and are released to complete the remainder of their sentence under supervision in the community. Intended in part to smooth a prisoner's transition back to society, parole, which became prevalent at the turn of the 19th century, is sometimes ordered by appointed parole boards, which also craft conditions governing a parolee's release. More often, the date of parole release reflects an offender's original sentence, perhaps shortened by credits for a clean disciplinary record or completion of in-prison programs. In the community, parolees are supervised by a parole officer and subject to similar rules as those on probation. If parolees violate the rules of their release, they too face penalties including re-incarceration.

The most recent numbers, from year end 2007, show that nearly 4.3 million adults are on probation in the United States, with almost half of them having been convicted of felonies. Property and drug charges accounted for more than 50 percent of probationers, followed by driving while intoxicated and other criminal traffic violations (18 percent), violent crimes (17 percent) and other offenses (13 percent).[1] Parolees, meanwhile, are substantially fewer, with about 824,000 reported at the end of 2007. They also are more likely than probationers to have been convicted of a violent crime (26 percent) or a drug offense (37 percent).[2]

the 10 states with the lowest correctional control rates include rural and northeastern states like Iowa and Maine, but also states with large urban populations, such as New York, and with long sentences for violent offenders like Virginia.

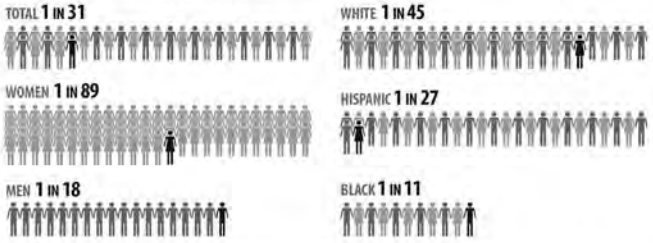
Case Study: Geographic Concentration in Michigan

But even these statewide averages hide extreme geographic concentrations. Michigan, with a correctional control rate of 1 in 27—not far from the national average—provides a useful illustration. Mapping just the 122,165 jail and prison inmates,

AMERICA'S SURGING CORRECTIONAL POPULATION

WHO'S UNDER CORRECTIONAL CONTROL?

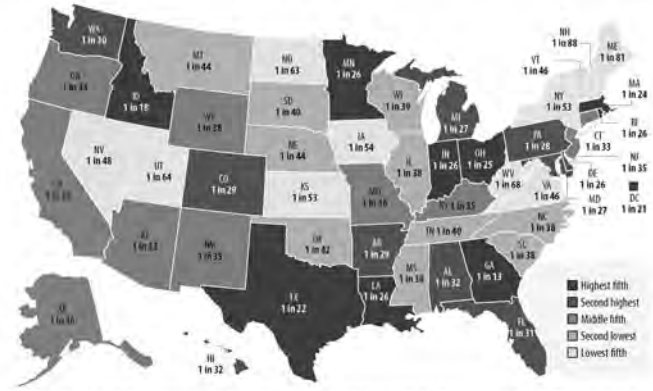
Correctional control rates vary drastically across demographic lines



SOURCE: Calculation for year-end 2007 based on data from the Bureau of Justice Statistics' "Prisons and Jails at Midyear" series as well as "Probation and Parole at Yearend" series available at http://www.ojp.usdoj.gov/bjs and the U.S. Census State Population Estimates.

WIDE VARIANCE IN CORRECTIONAL CONTROL

Share of adults under correctional control, year end 2007.



SOURCE: Calculation includes offenders in state and federal jail, prison and community supervision and is based on data from the U.S. Census State Population Estimates, the Bureau of Justice Statistics Correctional Surveys available at http://www.ojp.usdoj.gov/bjs/pub/ascii/corr2tab.txt, the U.S. Bureau of Prisons, the Administrative Office of U.S. Courts and the Pew Public Safety Performance Project.

CORRECTIONAL CONTROL IN MICHIGAN

Nationally, 1 in 31 adults is under some form of correctional control. But they are not evenly spread across or within states. To illustrate the concentration of correctional populations and costs, the Pew Center on the States partnered with the Justice Mapping Center to map the home address of all adults in jail and prison or under parole or felony probation supervision in one state. Michigan was selected because its correctional indicators are near the national averages and data were available. Excluding misdemeanor and other lower-level probationers, these mapped populations account for 122,165 of the state's 278,808 adults who are behind bars or supervised in the community.

1 Counties of Michigan

1 in 38 adults in Wayne County is under correctional control at an annual cost of more than $500 million.

35 percent of Michigan's state and federal prisoners come from Wayne County.

2 Cities of Wayne County

1 in 25 adults in Detroit is under correctional control at an annual cost of nearly $400 million.

Home to 44 percent of the county's adults, Detroit accounts for over 75 percent of the county's correctional population.

GEOGRAPHIES OF CORRECTIONAL CONTROL

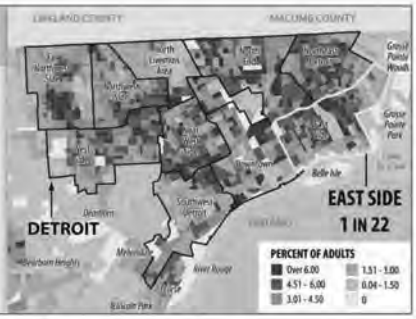
	INCARCERATED POPULATION	COMMUNITY SUPERVISED POPULATION	TOTAL CORRECTIONAL POPULATION	PERCENT OF ADULTS	CORRECTIONAL CONTROL RATE	ANNUAL CORRECTIONS COST (IN MILLIONS)
Wayne County	14,643	22,624	37,267	2.6	1 in 38	$546.9
Detroit	10,882	13,390	24,272	4.1	1 in 25	$393.0
East Side	1,269	1,646	2,915	4.5	1 in 22	$46.1
Brewer Park	78	104	182	6.3	1 in 16	$2.9

NOTES: Based on data from the Michigan Department of Corrections, the Wayne County Sheriff's Office, the Federal Bureau of Prisons, the Administrative Office of U.S. Courts, the U.S. Census and the Pew Center on the States. The difference between Michigan's true correctional control rate of 1 in 27 and the rate of 1 in 61 reflected in these maps is due to the exclusion of approximately 157,000 misdemeanant probationers, residesces.

3 Neighborhoods of Detroit

1 in 22 adults in the East Side of Detroit is under correctional control at an annual cost of over $45 million.

Of the 65,108 residents age 18 or older, 2,915 are behind bars or under community supervision.



4 Blocks of East Side

1 in 16 adults in the blocks surrounding Brewer Park is under correctional control at an annual cost of over $2.9 million.

In one group of blocks, 1 in 7 male adults is behind bars or under community supervision.

AN EVEN WIDER NET?

Probation, parole, jail and prison population data, as used in this report, are provided voluntarily by state agencies and account for the vast majority of supervised offenders in the United States. There are, however, many others involved in our fragmented correctional system for whom there are no reliable state-by-state data.

In particular, recent research points to a hidden population supervised pre-trial, by drug courts or alternative sentencing units, and other specialized programs. The National Criminal Justice Treatment Practices Survey of 2005[5] sampled agencies representing 72 counties and estimated that nationwide as many as one million offenders were under correctional supervision but not included in conventional probation and parole counts.

Additionally, there are well over 100,000 offenders in prisons of the U.S. territories, Immigration and Customs Enforcement facilities and juvenile residential placements.[6] These offenders also are not typically included in incarceration rate calculations.

parolees and felony probationers—excluding nearly 157,000 non-felon probationers—reduces the figures considerably, to only 1 in 61 adults across the Wolverine State.[7] In Wayne County (the state's most populous county), however, the figure is 1 in 38 and in Detroit it is 1 in 25. Further investigation reveals that in the East Side, 1 in 22 adults are under correctional authority. And in the blocks around Brewer Park, the number is a startling 1 in 16 and would be even higher with a count of non-felon probationers.

These disturbing patterns are repeated in most major metropolitan areas of the United States. While people must be held to account for their crimes, a number of researchers have shown the dire consequences of such a high geographic concentration of people in the corrections system. Because offenders from high-incarceration areas also fulfill the roles of family members, neighbors, economic consumers and producers, removing them from the community can result in a wide range of costly side effects, from family disruption and neighborhood destabilization to depressed wages and even increased AIDS infection rates.[8]

Policy makers must consider these implications, along with the budgetary cost of the corrections system itself, in crafting fiscally responsible crime control strategies. This includes deployment of probation and parole officers to the hardest-hit neighborhoods, where they, like community police officers, can be more effective.

Prisons: 32% of the Growth, 88% of the Cost

State correctional budgets spiked along with their offender populations in recent years. In FY2008, states are estimated to have spent more than $47 billion of general funds on corrections, a 20-year jump of 303 percent.[7] Add in another $4 billion in state special funds and bonds, and about $900 million from the federal government, and total state spending for corrections is estimated to top $52 billion.[8] *(See Appendix A-2 for additional cost information.)*

This growth rate outpaced budget increases for nearly all other essential government services tracked over the same period, from elementary and secondary education (205 percent) to transportation (82 percent), higher education (125 percent) and public assistance (9 percent). Only Medicaid spending grew faster than spending on corrections, increasing 492 percent in the last two decades.[9] As a share of total state general fund spending, corrections has grown from 5.2 percent in 1988 to 6.9 percent today.[10] For all levels of government, total corrections spending has reached an estimated $68 billion, an increase of 330 percent since 1986.[11]

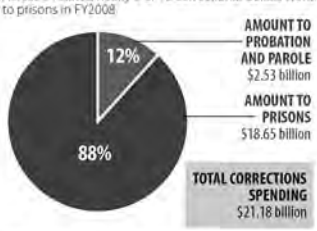
To get a better picture of how states have invested their corrections dollars, the Pew Center on the States and several partners recently completed the first national survey of corrections spending by function in the past seven years.[12] Thirty-four states, accounting for 58 percent of total state correctional populations,[13] made complete data available while the others did not.

The largest beneficiaries of those mushrooming budgets, by far, have been prisons. For the most part, probation, parole and other programs that manage offenders outside prisons and jails have scrambled for funds needed to keep pace with expanding caseloads of offenders with increasingly complex and demanding problems.

In FY2008, these 34 states spent $18.65 billion on prisons but just $2.53 billion on probation and parole, a ratio of more than seven to one. Viewed over time, the spending gap looks just as substantial. For eight geographically diverse states[14] that were able to provide data for the past 25 years, 88 percent of the increase in corrections spending was directed toward prisons, which now consume nearly nine out of every ten state corrections dollars.

PRISONS DOMINATE SPENDING

Across 34 states, nearly 9 of 10 correctional dollars went to prisons in FY2008

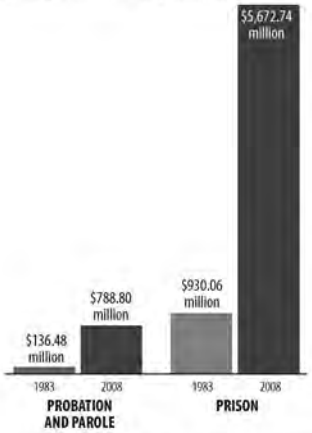


SOURCES: Spending figures were collected from AK, AL, AR, CO, DE, GA, ID, IA, KY, LA, ME, MD, MI, MN, MS, MO, MT, NC, ND, NE, NH, NM, NY, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA and WY.

PRISONS: 32% OF THE GROWTH, 88% OF THE COST

EXPLOSIVE GROWTH IN PRISON SPENDING

Across 8 states, 88 percent of additional corrections spending since FY1983 has gone to prisons.



SOURCES: Only eight states could provide 25-year spending histories (AL, GA, LA, MO, MT, NV, OR and WY).

So while the incarcerated population has added only half as many offenders as community supervision over the last quarter century, if the survey states are representative of the nation, prisons have received almost 90 percent of the new funding.

Community Corrections Far Less Expensive

Society should expect to pay more to punish its most serious and violent offenders by removing them from our communities. Not surprisingly, then, it's more expensive to house and feed an offender in a facility watched around-the-clock by guards than it is to monitor him or her in the community. Prisons and jails also are buildings that need to be cooled, heated and lighted, equipped with security, and continually cleaned and maintained.

The difference in cost between institutional and community corrections, however, is huge. While there is wide variance among states, in 2008 prisons cost our 34 surveyed states an average of about $79 per inmate per day—or almost $29,000 per year. In contrast, the average daily costs for managing an offender in the community in these states ranged from $3.42 per day for probationers to $7.47 per day for parolees or about $1,250 to $2,750 a year, respectively.

Another reason community corrections costs less is that offenders are often required to pay a substantial share of the tab. In Colorado, for instance, probationers under the authority of the state pay a $50 per month supervision fee, and some drug and sex offenders pay a surcharge on top of that. Ninety-four percent of the funding for treatment services provided by the court is covered by these probationer fees as are 5.5 percent of all staffing costs.[29] Additionally, offenders ineligible for probation but diverted from prison to residential community corrections beds paid $11.75 million toward their own housing, meals and treatment, nearly $900,000 in child support, and over $1.2 million in state taxes and over $3 million in federal taxes in fiscal year 2007.[30] *See chart, next page, for Colorado spending details.*

Probation and Parole Stretched Thin

Managing offenders in the community, when done well, produces appreciable costs savings and public safety outcomes. However, the funding

PRISONS: 32% OF THE GROWTH, 88% OF THE COST

SOURCES: Spending figures were collected from AR, AL, AK, CO, DE, GA, ID, IA, KY, LA, ME, MD, MI, MN, MS, MO, MT, NC, ND, NE, NH, NM, NY, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA and WY.
NOTE: Caution should be used in making interstate comparisons since a wide variety of factors beyond agency performance or efficiency can account for daily cost differences. Some states have separate probation and parole agencies while others have combined them.

struggle has stretched probation and parole staffing woefully thin, leading to inflated caseloads with a high ratio of offenders to officers. The average probation officer now has about 100 offenders on his or her caseload; parole tends to be slightly lower, at about 60 offenders per officer.[10] Agencies often put higher risk and high stakes cases on priority caseloads.

That's a logical compromise but one which leaves many other offenders without supervision or services adequate to prevent a relapse into destructive behavior, including committing new crimes.

The low priority of probation and parole has forced officers in some regions to do without important and sometimes basic tools of the

SOURCE: Colorado Commission on Criminal and Juvenile Justice, "2008 Annual Report," and Colorado Department of Corrections. All figures fiscal year 2007.

trade. In Cook County (Chicago), Illinois, for example, probation officers don't have personal computers to help them perform everyday case work, exchange information with other agencies or investigate criminal histories.[19] By contrast, many parole officers in California have handheld PDAs, a convenience that allows them to access files and accomplish other tasks from the field.[20]

Beyond often lacking the basic resources and technology, community corrections agencies have been assigned a widening array of responsibilities, often without the funds to carry them out. Over the past decade or so, for example, an explosion of well-intentioned laws governing the supervision of sex offenders has created a multitude of new duties, or expanded existing ones, for probation and parole departments. The new responsibilities include conducting DNA testing, mental health screening and risk assessments for sex offenders, as well as continual registration checks of their address and work status. These are vital public safety tasks, but they are too seldom backed up with the resources to conduct them and are further watering down supervision across the board.

To make matters worse, the economic situation this year is forcing states to consider cutting back on what limited resources community corrections agencies do have. In Sacramento County, California, 76 probation officer positions—9 percent of the total force—are on the chopping block. In Washington State, half of all taxpayer-supported drug treatment beds are slated for elimination. And in Florida, the two streams converge as lawmakers consider cutting both $3 million in drug treatment slots and 66 probation officer positions. Across the nation, tight budgets are jeopardizing the basics of community supervision: caseloads, services and day-to-day resources.

> "Currently, we spend next to nothing on community-based corrections. We get what we pay for."
>
> *Prof. John J. DiIulio*
> *The Wall Street Journal*
> *March 12, 1999*

Without adequate resources and authority, community supervision agencies are hard-pressed to fulfill their traditional case management workloads, let alone adequately handle their new responsibilities. The huge increase in corrections spending has favored prisons over probation and parole by nearly nine to one. Supervising 1 in 45 adults and holding them accountable to victims will require that funding gap to narrow. The sheer scale of community supervision obliges policy makers to recognize the major role of probation and parole agencies in helping states protect public safety and control public spending.

CASE STUDY: POLICY CHOICES PUT BLUEGRASS STATE IN A BIND

A variety of factors influence the size and cost of the corrections system. Crime and a rising resident population of a state certainly play a role, but studies show correctional policies and practices that determine who is sent to prison and how long they stay—from sentencing laws such as "three strikes" to the extensive use of prison to punish supervision rule violators—are more decisive factors.[71]

Kentucky's experience provides a vivid, if not uncommon, illustration of the consequences of the corrections policy choices that state leaders make.

The Cause

Kentucky's prison population has surged over the past eight years, jumping by 50 percent to more than 22,000 inmates.[72] With the fastest growing prison system in the country, the Bluegrass State could have an incarcerated population of 31,000 within the coming decade.[73] The growth has been propelled largely by a series of tough-on-crime measures that began in 1974 with passage of the first version of the state's "persistent felon law." The original law required three strikes to trigger "persistent felon" status, but that was cut to two in 1976, and several other measures in the 1990's elevated misdemeanors to felonies, reclassified offenses as higher level felonies and enhanced the penalties for a variety of crimes.[74] Another law extends sentences by not counting time served on parole toward completion of the sentence if a parolee was revoked back to prison. These and other measures have created a desperate need for more prison space and sent the state's corrections budget rocketing upward.[75]

> "Nobody's willing to change the laws because everybody wants zero tolerance on everything. But there's something [that's] going to have to give."
>
> *Terry Carl, Kenton County (KY) jailer*
> Lexington Herald Leader
> *January 13, 2008*

If Kentucky's rapid prison growth had led to dramatic decreases in crime, it could be justified on public safety grounds. But it hasn't. From 1987 to 2007, the state's imprisonment rate grew nearly 250 percent, from well below the national average (147 per 100,000 residents compared with a U.S. rate of 228) to slightly above the national average (512 versus 506 per 100,000).[76] During that time, Kentucky's violent crime rate fell 13 percent, but the national violent crime rate fell 23 percent. Kentucky's property crime rate fell 14 percent, also badly trailing the national property crime rate, which fell 34 percent.[77]

The Consequences

With state prisons jam-packed, Kentucky has been forced to pay county jails to house overflow offenders. County officials appreciate the income—and, in fact, have come to rely heavily upon it in recent years. But now their lock-ups, too, have become severely overcrowded, some so much that inmates are

This Case Study continues on page 16

PRISONS: 32% OF THE GROWTH, 88% OF THE COST

Continued from page 15

sleeping on the floor.[14] Moreover, the county jails are designed for short, pre-trial stays, and are less well-equipped than prisons to provide the drug treatment, mental health care and other services designed to reduce the risk of recidivism. Kentucky's jails now hold about 20,000 people—putting them 10 percent beyond their intended capacity—but a recent count showed only 400 slots in treatment programs.[15] The prison system, meanwhile, holds about 15,000 inmates[16] and has about 1,000 treatment beds.[17] One jail treatment supervisor, in Kenton County, summed up the dire need for program slots in vivid terms: "I have a waiting list as long as the New York phone book."[18]

A good share of responsibility for this predicament lies with the state's chronic underinvestment in community corrections. Between fiscal years 2003 and 2008, the state increased annual corrections spending by $100 million.[19] Ninety percent of this additional spending, however, was channeled to prisons, with only 1 in 10 new dollars going to support probation and parole. The evidence in Kentucky suggests that saving pennies on community supervision costs taxpayers dollars in prison expenses: 3,101 of the 17,700 Kentuckians on parole in 2007—1 in every 6—were returned to prison for committing a new crime or breaking the technical rules of release.[20] On the street, these parolees cost taxpayers under $10 per day, but behind bars they cost over $50 per day. A stronger community supervision system could have prevented many of these parolees from returning to prison and at a fraction of the cost.

These troubles would be difficult enough to manage in good economic times. But Kentucky, like other states, faces a fiscal crunch. The state is looking at a projected revenue shortfall of $1.3 billion over the next 18 months and is bracing for cuts to police and other important government services.[21] In late 2008, Kentucky's counties gave the Commonwealth something else to worry about, suing to force the state to cover the cost of housing inmates in county jails before their trial and sentencing.[22] Now, on top of everything else, the projected tab for the corrections budget this fiscal year is $521 million, nearly five times the amount spent 20 years ago.[23]

More Prison Spending Brings Lower Public Safety Returns

States are facing their worst fiscal crisis in years. With revenues down and public needs rising, policy makers are confronting wrenching budget decisions. Reluctant to raise taxes—at any time but especially when their constituents are financially stressed—lawmakers across the country are locked in bitter battles over where to cut spending and by how much.

All told, analysts forecast a $312 billion hole in state budgets over the next two years.[30] This fiscal year alone, 42 states and the District of Columbia are grappling with a combined $46 billion deficit.[31] In response, officials are scavenging for dollars wherever they can, cutting back on everything from government basics—such as how often the grass gets mowed outside the state capitol—to education and services for persons with disabilities and mental illness.

Tennessee Gov. Phil Bredesen has told state department chiefs to prepare for a budget deficit that could hit $1 billion and has warned that cuts to higher education and health care are on the table. Virginia, meanwhile, already has reduced spending by $2 billion and is preparing for another round of cuts, including a possible $400 million reduction in Medicaid. Out West in Washington, state lawmakers are scrambling to plug a $500 million hole in the current budget and cope with a projected deficit of more than $5 billion for the next two-year budget cycle. "It will be heartbreaking. We don't have any money. We simply don't have any money," said Rep. Maralyn Chase, a Democrat from Shoreline.[32]

> "It's not about being tough on crime or soft on crime. We are facing a huge economic challenge here. Are we doing the right thing?"[33]
>
> *William Wren, NH Commissioner of Corrections*
> Concord Monitor
> *January 25, 2009*

Against this grim backdrop, prison spending is deservedly receiving new scrutiny. The central questions: What has our massive investment bought us? How can we curb and reallocate corrections spending in ways that protect public safety and produce better results for taxpayers, offenders and society at large?

These are challenging questions, but they do have answers.

The Myth of the "Average Prisoner"

There is little debate that imprisonment has protected communities from many of the most violent and menacing criminals, and that some offenders should be locked up purely for the sake of punishment. But in casting a wider net for criminals, prisons have snagged many smaller fish. A growing body of research is showing the limits of incarceration as a sanction for these lower level and less frequent lawbreakers, both in terms of its cost-effectiveness and its impact on crime.

To understand this, it's important to remember that all offenders aren't the same. They present different threats to public safety, and thus their incarceration pays vastly different dividends. Criminologists long ago demonstrated that imprisonment of the *average* offender serves to avert many crimes that would otherwise carry considerable public cost. But more recent and refined research reveals that measuring the impacts of the average prisoner hides as much as it reveals because offenders—and their crime-related impacts—vary so dramatically.

> "What we've done with the laws we passed over the last 20 years is thrown our net out there too widely and picked up too many little fish. We filled our prisons with non-violent, first-time offenders, and with no noticeable increase in public safety."
>
> *State Sen. Stewart Greenleaf (R-PA)*
> NCSL Roundtable
> *September 26, 2008*

One such study, published by the Manhattan Institute, ranked all male inmates entering the Arizona prison system in terms of the harm they created in the year before incarceration. Those at the 80th percentile of harm, the research showed, created almost $220,000 in social costs. But those at the 50th percentile—the median—inflicted $25,500 in social costs, while those at the 20th percentile were responsible for just $3,950 in social costs.[41] The authors concluded that for Arizona and the two other states they analyzed (New York and New Mexico), incarceration for half of all entering prisoners would cost taxpayers more than it was worth, in terms of crimes avoided.[42]

The Declining Impact of Incarceration on Crime

Aside from evidence that incarceration doesn't "pay" for all *current* prisoners, there are separate reasons to question its value as a broadly applied correctional tool for the *future*. One is what economists call the law of diminishing returns.

Here, diminishing returns means that the larger the group of offenders scooped up by prisons, the lower the payoff for states in terms of crime reduction.[43] It certainly pays to remove the most prolific offenders from the streets. But once they are locked up, more incarceration grabs the second and third and tenth tier offenders who are less likely to commit as many crimes. So gradually, the crime-prevention payoff declines. Diminishing doesn't necessarily mean no returns at all, but it does mean that each additional prison cell provides less public safety benefit.

Many states appear to have reached a "tipping point" where additional incarceration will have little if any effect on crime. Washington State, for example, found that the number of crimes committed by its average prisoner dropped from 62 in 1980 to 37 in 1990 and 18 by 2001.[44] Back in 1980, state researchers found, each prison bed represented a positive benefit-to-cost ratio. But during the 1990s and the first part of this decade, prison expansion captured less and less harmful offenders, leading to a dilution of impact.[45] Put simply, after 20 years, locking up more drug and property offenders in Washington began to cost more than it was worth.

Researchers have conducted similar analyses in other states, such as North Carolina[30] and Oregon,[31] and reached conclusions of similarly diminishing returns. Indeed, in Washington, from 1980 to 2001, the benefit-to-cost ratio for drug offenders plummeted from $9.22 to $0.37. That is, for every one dollar invested in new prison beds for drug offenders, state taxpayers get only 37 cents in averted crime.[32] An updated analysis from 2006 found that incarceration of offenders convicted of violent offenses remained a positive net benefit, while property and drug offenders offered negative returns.[33]

More recently, scholars have explored the tipping point concept in incarceration on a 50-state basis. A 2006 study suggests that, after exceeding a threshold in the range of 325 to 430 inmates per 100,000 residents, incarceration fails to reduce crime—and may even increase it.[34] Imprisonment was more useful, the authors argue, when state incarceration rates hovered around 111 per 100,000 in the 1970s, or around 207 per 100,000 in the 1980s, than when they accelerated to 397 per 100,000 in the 1990s.[35] Today, of course, the national rate of imprisonment is significantly higher—506 per 100,000.[36]

> "Bed for bed, prisons become less effective as they fill up."
>
> *William Spelman, University of Texas*
> "The Limited Importance of Prison Expansion"
> 2000

Three Strikes for Incarceration

The potency of incarceration is further diminished by three other forces, researchers have found. The first, sometimes referred to as the "replacement effect," applies largely to crimes that occur as part of a market, such as fencing stolen property or, most notably, drug transactions. Once incarcerated, drug dealers tend to be quickly replaced by new dealers and, as during the crack epidemic, the new recruits can be younger and more prone to violence than their predecessors.[37] Thus while drug dealers no doubt deserve punishment, most leading researchers, and many law enforcement officials, now agree that incarcerating the foot soldiers in drug gangs, not to mention drug users, has a negligible impact on crime.[38] Moreover, by creating job openings in drug-dealing organizations, it draws more people into criminal lifestyles and may in certain cases exacerbate crime.[39]

Secondly, statistics have long shown that crime is an occupation of the young, so imprisoning offenders beyond the age at which they would have likely given up their criminal ways brings little benefit—but big expenses. As James Q. Wilson, the noted political scientist at Pepperdine University, has written, "Some thugs may mug and murder until the day they die, but they are the exception. Age slows us all down, mugger and victim alike."[40]

The graying of the nation's prisons suggests that policy makers have not paid much heed to this well-established criminological fact. Rather, many have embraced longer sentences through broadly defined "three strikes" statutes and parole policies that are hiking up the average age of inmates—and the costs to states of treating their more serious medical conditions.

Consider California. Between 1980 and 2007, the average age of California inmates increased from 27 to 37. In 2008, the Golden State's prisons held more than 22,000 offenders over age 50, representing about 13 percent of all adult inmates. That's more than twice the proportion of over-50 convicts in California prisons just a decade earlier.[57]

Finally, research has shed important new light on the impact of one of incarceration's most fundamental selling points: deterrence. Today, it is widely agreed that deterrence is more a function of a sanction's certainty and swiftness than its severity. This means that the 36th month of a 3-year prison term costs taxpayers just as much as the first month, but its value as a deterrent is far less. Unfortunately, the corrections system has put more and more of its eggs into the severity basket, spending billions to extend prison terms—for property and drug offenders as well as violent and sex offenders—but doing little to raise the chances that criminals and supervision violators are caught and brought quickly to justice.

Prisons Reconsidered

This is not to say that prisons haven't reduced crime. One widely respected expert, William Spelman of the University of Texas, concluded that prison growth over the 25-year period ending in 1997 reduced the violent crime rate by roughly 35 percent.[58] Imprisonment, he asserted further, was responsible for about one-quarter of the significant drop in violent crime during the 1990s.[59] More recently, however, another expert, Bruce Western of Harvard University, estimated that only 10 percent of that decade's decline in crime was due to increased incarceration.[60]

> "Very large increases in the prison population can produce only modest reductions in crime rates."
>
> *James Q. Wilson*
> The Public Interest
> *Fall 1994*

The disparities underscore the fact that estimates by researchers in this field vary wildly and are highly sensitive to statistical techniques and modeling assumptions.[61] Whatever level of crime reduction was achieved is worth applauding. What cannot be overlooked, however, is that even the statistical models most generous to prisons find that most of the crime drop was attributable to forces other than incarceration. These include a strengthening economy, aging drug epidemics and changes in law enforcement, including the expansion of police forces and the adoption of new policing strategies.[62]

The questionable value of prisons as a deterrent, combined with other factors that reduce incarceration's effectiveness and overshadowed by a constellation of factors that drive and suppress crime rates, add up to an often overlooked truth: states can carefully reduce incarceration and still protect—and even improve—public safety.

MORE PRISON SPENDING BRINGS LOWER PUBLIC SAFETY RETURNS

NY CUTS CRIME AND INCARCERATION

Between 1997 and 2007, New York State bucked the national trend in prison growth while leading all states in the violent crime decline.

SOURCE: The Bureau of Justice Statistics "Prisoners at Yearend" series and the Federal Bureau of Investigation Uniform Crime Reports.

New York has demonstrated this point in dramatic terms. Between 1997 and 2007, New York experienced both the greatest *decrease* in violent crime and, simultaneously, the greatest *decrease* in prison population and incarceration rate of any state in the country. During that decade, the national prison population grew by more than 350,000 inmates, a 28 percent jump that corresponded to a 14 percent increase in the national incarceration rate. Over the same time period, New York's prison population declined by almost 6,500 inmates, a 9.4 percent dip that amounted to a 15 percent drop in the incarceration rate.[60] To the surprise of many at the time, New York's violent crime rate fell a remarkable 40 percent during the decade, while the national violent crime rate dropped by a much smaller measure, 24 percent. In terms of crime and prison contraction, New York led all regions of the country and every individual state.[61]

Community Corrections: A Strategy for Safety and Savings

Building more prisons is not a cost-effective path to greater public safety. But even if states wanted to add new cells, they will be hard-pressed over the next few budget cycles to find the money to build them.

> "We are never going to build our way out of there being crime. We don't want to put that many people in jail, and we can't afford to."
>
> *Chief District Court Judge Joseph Turner, Guilford County, NC*
> Greensboro News and Record
> *January 25, 2009*

Policy makers must confront the reality that, for the foreseeable future, roughly seven out of every ten offenders will continue to serve all or part of their sentences in the community. Ensuring public safety and balancing a budget, then, require states to strengthen badly neglected community corrections systems, so they can become credible options for more of the lowest risk offenders who otherwise would be in prison. This means states must take a harder look at which offenders should be locked up and which can be managed effectively in the community. It means they must give community corrections agencies the tools and incentives they need to do their jobs effectively and hold them accountable for implementing the supervision strategies that reflect the wisdom gathered through a quarter-century of research on recidivism reduction.

Some states, such as Kansas, Texas and Arizona, are already well underway. To help spread news of their good work and share other useful approaches, the Pew Center on the States in 2008 brought together leading policy makers, correctional practitioners and researchers to identify ways to help corrections agencies adopt the most effective research-based practices. From those discussions came the "Policy Framework to Strengthen Community Corrections." The framework includes measures that provide incentives for offenders to stay crime- and drug-free and fiscal incentives for agencies to improve their success rates—both strategies that can create new resources for community corrections agencies without requiring new appropriations. A detailed menu of policy options, including suggested language for legislation, executive orders or court rules, is available at www.pewcenteronthestates.org/publicsafety.[10]

> "Every time we keep a released inmate from re-offending, we keep an innocent person from becoming a victim, and we save taxpayer dollars."
>
> *CO Gov. Bill Ritter*
> State of the State Address
> *January 10, 2008*

Since its inception, the guiding philosophy of community corrections has bounced back and forth between law enforcement and social work. The hallmark of the new approaches is that they

create a blend of the two strategies that focuses on a primary mission—preventing crime—and that is far more potent than either punishment or treatment by themselves. The key components of this 21st century corrections system are detailed in the pages that follow.

A FRAMEWORK FOR LESS CRIME AT LOWER COST

1. Sort Offenders By Risk to Public Safety
2. Base Intervention Programs on Science
3. Harness Technology
4. Impose Swift and Certain Sanctions
5. Create Incentives for Success
6. Measure Progress

1 Sort Offenders by Risk to Public Safety

A pivotal starting point for community corrections is the ability to sort offenders by risk—that is, to accurately separate those who are more likely to cause great harm from those who may cause relatively little harm. For decades, that sensitive and crucial task was left to the educated hunches of prosecutors, judges and probation or parole officers. Fortunately, a new generation of risk assessment tools can now help officials more accurately predict not only how likely a person is to commit a new offense but also whether that offense will be a violent one.[7]

While risk tools vary in terms of what they evaluate, and how much they cost to administer, they generally rely on a checklist of factors that allow clinicians to establish a risk score for individual offenders. These include "static" factors that don't change, such as an offender's age at the time of first arrest, as well as "dynamic" factors, changeable characteristics such as an offender's living situation or current drug use. The risk score then can be compared with other offenders and used to guide decisions about whether a particular offender should go to prison, what level of community supervision is the best fit, and which interventions will target the attitudes and behaviors that drive that specific offender's criminal activity.

Virginia uses a risk assessment instrument for felony theft, fraud and drug offenders who would otherwise be sent to prison under the state's sentencing guidelines. Defendants whose assessment scores are low, based on elements of the crimes and individual characteristics, are steered away from prison. In 2008, more than 1,400 of these offenders were sentenced to community corrections in lieu of prison.[8] A separate assessment for certain sex offenders is used to find the highest risk cases and double or triple their terms behind bars.[9]

Despite significant advances in risk assessment, the science is still evolving and will always amount to risk management, not risk elimination. Such evaluations are not fool-proof, reflecting instead the best estimate of what a given person will do. But simple logic dictates that aside from locking all offenders behind bars forever, it is impossible to guarantee they will remain crime-free.

2 Base Intervention Programs on Science

Along with establishing a sophisticated system for sorting offenders, states must ensure their community corrections options are rooted in today's robust body of research. While states may

take different paths toward this goal, they should always develop and implement policies based on the best available science. Evidence-based programs should identify desired outcomes for offenders and include a means for measuring progress. Moderate and high risk offenders should have an individual case plan based on their risk assessment, and they should be assigned to programs targeting their unique behaviors and needs.

Supervision agencies should concentrate their resources on higher-risk people, times and places. Risk assessment instruments can help identify the individuals who need higher intensity supervision and services. Greater attention also should be paid to offenders who have just been released, the times when research shows they are most likely to fail. Citing a study of over 240,000 offenders released from prison in 13 states, the National Research Council reported that the probability of arrest is twice as high in the first month of supervision as in the 15th month.[7]

Finally, as the maps of Michigan attest, supervision and services should be located in the neighborhoods where offenders live. Too often, monitoring and resources are located far from these high-stakes neighborhoods, impeding both control and rehabilitation.

Agencies striving for better performance are delivering front-loaded resources to their riskiest cases in the neighborhoods where the offenders live. When rooted in these and other evidence-based principles, community corrections programs can deliver encouraging results.

The implementation of evidence-based practices results in an average decrease in crime of between 10 percent and 20 percent, whereas programs that are not evidence-based tend to see no decrease and even a slight increase in crime.[8] Interventions that follow all evidence-based practices can achieve recidivism reductions of 30 percent.[9]

> "The [evidence based practices] law is intended to focus our funding on services that work and get the greatest return on our investment."
>
> *OR Gov. Ted Kulongoski*
> governor.oregon.gov
> *November 29, 2007*

In one widely cited 2006 review of more than 550 program evaluations, the Washington State Institute for Public Policy found that a moderate-to-aggressive investment in evidence-based programs would save state taxpayers $2 billion, avert prison construction and reduce the crime rate.[10] Some states were already believers, like Oregon. In 2003, Oregon's legislature required that by the 2005 biennium, one-quarter of all program funding for youth and adult offenders go to interventions that were evidence-based. By the 2007 biennium, half of those dollars were to be spent on evidence-based programs, and by the 2009 biennium, lawmakers directed that 75 percent of funding be used for interventions that are evidence-based.

1 Harness Technology

One supervision technique that is playing an increasingly important role in many community corrections programs wasn't even around 20 years ago—electronic monitoring. Although conceived as a correctional strategy in the 1960s, electronic monitoring of offenders did not become a reality until the 1980s.[11]

With dramatic advances in technology, affordable electronic monitoring today allows officials to conduct "active" monitoring, in which an offender wears a transmitter, usually in the form of an ankle bracelet, that sends a continuous location tracking signal to a monitoring center. In recent years, such monitoring has evolved to include the use of Global Positioning Satellite technology—first developed by the Department of Defense in the 1970s—to give supervision agents increasingly detailed information about an offender's whereabouts.[28] In certain cases, for instance, a supervisor may be alerted if an offender violates his parole or probation by going to a location where he is prohibited by his supervision conditions. While an alert may not prevent a crime, the knowledge that law enforcement has such tracking ability can be a deterrent. "We can't be on their doorstep 24/7, but GPS is a way for us to monitor location and compliance of someone in the community," said Chief U.S. Probation Officer Ken Young. "We can, with reasonable certainty, know where someone is or has been."[29]

Florida is among those states that have used electronic monitoring extensively and with positive results. In the early 1980s, Florida launched a home confinement program for drug, property and other offenders dubbed "community control." Later that decade, the state began using radio frequency tracking of certain offenders in the program, and by the 1990s, Florida had added GPS monitoring to its list of options for those on community control.

A study of more than 75,000 offenders who passed through the program between 1998 and 2002 found that, after controlling for offender risk, those assigned to either form of electronic monitoring were significantly less likely to reoffend or abscond.[30] On the minus side, electronic monitoring's overall record in reducing recidivism is mixed, and it places significant new demands on supervisory agents. Nevertheless, the tool is becoming more commonly used as an alternative sanction for some offenders and as an adjunct to traditional community supervision practices for others.[31]

Technology also is changing the way in which offenders are monitored for drug and alcohol use. Some agencies subject offenders to random tests for alcohol through breathalyzer equipment in their homes. "Ignition interlocks" installed in a vehicle prevent a person from starting the engine if alcohol is detected in his system. The driver must blow in the device and pass a breath test before the vehicle will start. Other agencies equip offenders with ankle bracelets that can detect the offender's blood alcohol level as ethanol vapor migrates through the skin.

Technology offers policy makers a spectrum of options that are more intense than traditional face-to-face community supervision yet far cheaper than incarceration. Tracking devices and sensors allow probation and parole officers to monitor offenders' whereabouts and behavior in ways that could hardly have been imagined when the prison boom began. But if states are going to make full use of these advances, they must back the technology with adequate resources and policies to respond when offenders are caught breaking the rules.

4 Impose Swift and Certain Sanctions for Violations

In building stronger community corrections systems, states should be mindful that punishment imposed on offenders who break

the rules of their supervision must be swift, certain and proportionate. If applied in that way, sanctions can stop misbehavior early in the game, thereby reducing the odds that parolees and probationers will commit more serious violations and land in an expensive prison cell.

But making *swift, certain and proportionate* a reality is a challenge in many of today's underfunded, understaffed probation and parole agencies. Officers struggle with high caseloads, a lack of suitable community sanctions, and cumbersome administrative hurdles as they try to hold violators accountable. As a result, they often delay pursuing violations before a court or parole board until an offender has committed a significant number of transgressions, at which point revocation to prison becomes the likely penalty.

To remedy this problem, probation and parole agencies need an array of graduated sanctions, as well as clear authority to impose them. A typical continuum ranges from community service programs on one end to more restrictive options such as day reporting centers and even secure residential treatment facilities on the other. To maximize the certainty and swiftness of the sanctions, states should provide parole and probation agencies the authority to move offenders up and down the ladder of sanction programs—even including short stays in jail—without first requiring a time-consuming trip back to court.

Georgia has taken this very step, through a successful program called Probation Options Management. It allows chief probation officers or hearing officers within the Georgia Department of Corrections to impose administrative sanctions on violators in certain circumstances. An evaluation of the program shows it reduced by 70 percent the average number of days offenders spent in jail awaiting court disposition of their violations cases,[42] saving local jails $1.1 million.[43] The program also drastically reduced the amount of time probation officers spent waiting in courthouses for violations cases to be heard, thus freeing up hours that could be spent on actual supervision of offenders.[44]

5 Create Incentives for Success

An effective community corrections framework needs three other staples: incentives for offenders to change their behavior, a payoff for agencies that succeed and a system for measuring their results.

The first of these boils down to a fundamental principle of psychology: When it comes to motivating people to change their behavior, carrots work better than sticks.[45] The prevailing philosophy of many community supervision agencies is the opposite—to try to catch offenders doing something wrong. But many agencies, led by drug courts, are now learning how to use the carrot of positive reinforcement to keep offenders on the straight and narrow.

What kind of carrots? A variety of approaches are now afoot, from graduation ceremonies to gift certificates from local businesses and removal of restrictions such as curfews. Some states are starting to push even further, telling probationers and parolees that they can earn time off their sentences if they comply with all of their terms of supervision.

Carrots can work for correctional managers, too. If community corrections agencies succeed in

"HOPE" FOR IMPROVEMENT IN HAWAII

With prisons overflowing and correctional budgets straining state finances, probation—allowing lower-risk offenders to undergo community supervision provided they meet certain conditions—is playing an increasingly vital role in our nation's criminal justice system. But all too often, the practice of probation yields disappointing results.

The Challenge

Probation officers are faced with overwhelming caseloads, outdated technology and cumbersome court processes for sanctioning violators. As a result, they often are unable to detect when their charges break the rules or respond with meaningful penalties when they do. Some probationers, convinced that slip-ups won't bring immediate consequences, rack up pages of violations for failed drug tests, missed appointments and other transgressions. Then, at some arbitrary point when they are eventually brought back to court for a violation hearing, many offenders receive society's most expensive punishment—a stay in prison. This approach defies what research and common sense tell us about effective deterrence and behavior change: punishment is far more effective if it is swift, certain and proportionate than delayed, unpredictable and severe.

Such was the case in Hawaii until 2004, when Circuit Court Judge Steven Alm decided to create Hawaii's Opportunity Probation with Enforcement, or HOPE. The Oahu program involves close partnerships with prosecutors and defense counsel, police, wardens, and treatment providers, and it is delivering encouraging results.

HOPE notifies probationers that the old rules remain in place but will now be enforced. That means failures to comply with frequent but random drug tests, office visits and treatment requirements are met with immediate sanctions, typically a few days in jail, time that is served over the weekend for probationers with legitimate jobs. Those who cannot abstain from drugs are placed in residential treatment.

The Results

Preliminary results of a randomized controlled trial found that HOPE participants were less than half as likely to test positive for drugs (11 percent versus 26 percent) or miss appointments (5 percent versus 12 percent). Early results from a matched comparison group study were even more promising. Arrest rates for HOPE probationers were three times lower than for the comparison group, and they experienced significantly lower revocation rates as well (9 percent versus 31 percent).[iii]

This is deterrence in action: a credible threat, combined with resources for those who want to change, averts both the offending behavior and the need for and cost of punishment.

"Our offenders know that if they use drugs today, they will go to jail tomorrow," Judge Alm says. "That means something."

thinning the throng of offenders sent back to prison for new crimes or rule violations, states reap savings by avoiding prison costs. Those savings should, in turn, be shared with the successful community supervision agencies, which can use these funds to expand their success. This redirection of dollars can allow states to strengthen their overall community corrections product without the need to appropriate new funds.

Among the states that have embraced performance incentives, Arizona is a recent standout. As often happens, Arizona's initiative was sparked by a high crime rate and a prison population explosion that was draining taxpayer dollars. From 1997 to 2007, the state inmate count grew 60 percent, from 23,484 to 37,746, leading to a doubling of the corrections budget.[17] Projections forecast another 50 percent jump in the prison population by 2017, at an estimated cost to state taxpayers of $2-3 billion.[18] Despite the prison growth, the state still had the highest crime rate in the nation. State Rep. Bill Konopnicki, a Republican from Safford who pushed for reforms along with Republican State Sen. John Huppenthal of Chandler, painted a gloomy picture of the prospects: "If we decide to do nothing, we are in effect committing an additional one billion dollars in state tax dollars to grow our prison system."[19]

Instead, Arizona last year adopted the Safe Communities Act (SB 1476), a sweeping bill that creates performance incentives for both offenders and the county-based probation supervision system. One part of the law gives probationers an incentive to pay court-ordered restitution, complete community service assignments and comply with their other conditions of supervision. For every month that an offender complies with the terms of supervision, the legislation authorizes the courts to reduce the length of probation by up to 20 days. Slip-ups result in a loss of the earned time.

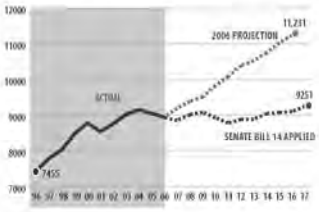
Under a second part of the bill, signed in June by then-Gov. Janet Napolitano, counties that reduce recidivism are awarded 40 percent of the money the state saves by not having to house repeat offenders and probation rule violators in its prisons. The refund is then used by counties to improve victims' services and expand access to drug treatment and other recidivism-reducing programs. Projections show that if counties reduce probation revocations by 10 percent, the state could save nearly $10 million, with 40 percent of that amount returned to the local level.

Faced with a spiking prison population and high rates of failure by community-based offenders, Kansas is another state that has taken performance incentive funding to heart. After recognizing that about two-thirds of all prison admissions were probation and parole rules breakers, and that more than half of the violators needed substance abuse or mental health treatment, Kansas took action. Under SB 14, passed in 2007, the state provides $4 million annually in performance-based grants

> "We were faced with spending millions of dollars on new prisons to house the expanding population. Instead, we developed bipartisan legislation that resulted in treatment programs for nonviolent drug offenders and innovative and collaborative release efforts for inmates returning to their communities."[20]
>
> *KS Gov. Kathleen Sebelius*
> State of the State Address
> *January 12, 2009*

KANSAS PRISON POPULATION TREND

Senate Bill 14 passed in 2007 and was projected to avert the need for more prisons for 10 years



SOURCE: Kansas Sentencing Commission
NOTE: For more information about the Kansas reforms, visit the Kansas page at www.pewpublicsafety.org

to community corrections programs that increase probationer and parolee success rates by 20 percent. The grant money goes hand-in-hand with efforts to train supervision staff in evidence-based practices for effectively managing offenders in the community.[xi]

Only a couple of years have passed, but Kansas is already reporting noticeable results. Overall, the state's prison population dropped 3.6 percent between midyear 2007 and year end 2008. A primary contributor to this drop is a 7 percent reduction in FY2008 of the number of probationers sent to prison for condition violations (the top source of prison admissions in FY2007). Prison admissions of parolees for rule violations (down 2.2 percent since FY2003) and new crimes (down 47 percent since FY2003), as well as parole absconding rates (under 4 percent of the entire caseload), are at or near all-time lows.[xii]

Will the gains hold? Budget woes and other forces are putting them to the test. Recently, Kansas legislators adopted sentence enhancements that are fueling projections for a 10 percent growth in the prison population over the next decade. At the same time, budget cuts threaten the very reforms and incentives that served to reduce the inmate population pressure and put Kansas on stable footing.

4 Measure Progress

Incentives, evidence-based programs and offender sorting all should produce better results—less crime, fewer victims, and more room in state budgets for other pressing priorities. But even the best designed systems must be held accountable through a method for measuring progress. Just as law enforcement has shifted from simply counting arrests to measuring and accepting responsibility for reducing crime, corrections also needs to evaluate outcomes of its work.

An admirable standard for public safety performance measurement was set in the mid-1990s by the New York City Police Department's Compstat program. Short for "compare statistics," Compstat involves the continuous evaluation of agency performance through live, ongoing audits. Information on crimes, arrests and other critical measures is distributed to managers department-wide, then reviewed in weekly sessions where unit commanders are called before their leaders to explain crime trends as well as their strategic and tactical responses. This combination of real-time data and transparent, immediate feedback created incentives to adopt practices that better protect the public. The ultimate payoff: Compstat and better crime analysis helped New York City reduce crime.[xiii]

COMMUNITY CORRECTIONS: A STRATEGY FOR SAFETY AND SAVINGS

Momentum is building to adapt Compstat's core principles—accurate and timely intelligence; deployment of resources where they are most needed; effective tactics; and relentless follow-up and assessment—to the community corrections field.[iii] The overall goal is to lower recidivism rates among probationers and parolees, but other key performance measures include employment, substance abuse and payment of victim restitution rates. Another yardstick would track whether supervised offenders are successfully discharged at the end of their supervision term.

Agencies in several states, including Maryland, New York and Georgia, have adopted Compstat-like systems and are beginning to show promising outcomes. The rate at which offenders successfully complete their parole terms in Georgia, for example, has risen by four percentage points under the new approach. It may not sound like much, but each percentage point is estimated to save the state $6 million to $7 million in reduced incarceration costs.[iv]

A Rare Moment in Time

The revelation last year that 1 in 100 adults is behind bars led to action in some states as political leaders took a fresh look at sentencing and correctional policies with an eye toward better balancing public safety, offender accountability and the realities of tight budgets.

Today, economic crisis is again changing the game. States are in dire fiscal shape, slashing programs and services in ways that will exact a considerable human toll. To balance their budgets, many will have to slow prison growth or even shutter entire institutions. Community corrections programs, already strained from years of neglect, will be asked, once again, to do more with less.

But tight budgets can inspire better policy making and a heightened vigilance to ensure every tax dollar delivers maximum value for the public. Such is the case today with respect to the massive, expensive and underperforming correctional system in America.

Research and experience have led practitioners, analysts and policy makers to develop a set of sentencing and correctional principles that meet that challenge. With adequate resources and authority, courts and community corrections professionals can determine which offenders should be in prison and for how long. With new supervision strategies and technologies, the lower-risk offenders can be managed safely and held accountable in the community, at lower cost and with better results than incarceration achieves.

> "We won't get true public safety and protection for crime victims until we invest in community corrections – because most offenders are not behind bars, but living as our neighbors."
>
> *Anne Seymour, National Crime Victim Advocate*
> *Personal Communication*
> *2009*

These efforts need to be strengthened, not scaled back. Cutting them may appear to save a few dollars, but it won't. It will fuel the cycle of more crime, more victims, more arrests, more prosecutions and still more imprisonment.

Better performance in community corrections can cut crime and avert the need not only for new prisons but even for some we already have. And the accrued savings, if used to reinforce probation and parole, support early-intervention strategies, or shore up the high-stakes neighborhoods where prisoners come from and return to, can generate even further reductions in crime and incarceration.

Some states are putting research into action and carefully modernizing their correctional playbooks. Others should follow suit. Meaningful progress will take time, and will require focus and determination from state leaders. But doing nothing is unacceptable. Continuing down the same path is an affront to taxpayers who rightly expect government to learn from its failings and build upon its success.

Endnotes

1 See *Ten Steps Corrections Directors Can Take to Strengthen Performance*, The Pew Charitable Trusts (Washington D.C.: May 2008); and *Protecting Public Safety During a Budget Crisis: Managing Corrections*, National Governors Association, Social, Economic and Workforce Development Division (Washington D.C.: Dec. 2008).

2 Evidence on the causes of prison growth from 1980 until 1996 points almost entirely to sentencing and corrections policies. According to a seminal article on the issue, the rise in incarceration of non-drug offenders, who constitute the vast majority of the prison population, was due entirely to a higher probability of incarceration after an arrest and an increase in time-served after commitment to a penal institution. Cited in Alfred Blumstein and Allen J. Beck, "Population Growth in U.S. Prisons, 1980-1996," *Prisons* (1999).

3 In descending order of population: the states are WA, AZ, MA, IN, TN, MO, MD, WI, MN, CO, AZ, SC, LA, KY, OR, OK, CT, IA, MS, AR, KS, UT, NV, NM, WV, NE, ID, ME, NH, HI, RI, MT, DE, SD, AK, ND, VT, DC, WY.

4 Glaze, Lauren E. and Thomas P. Bonczar, 2007 Statistical Tables, *Probation and Parole in the United States* (Washington, D.C.: Bureau of Justice Statistics, Dec. 2008). Available online at http://www.ojp.usdoj.gov/bjs/pub/pdf/ppus07st.pdf.

5 Available data do not permit breakdown of rates by race and gender.

6 Glaze, Lauren E. and Thomas P. Bonczar, 2007 Statistical Tables, *Probation and Parole in the United States* (Washington, D.C.: Bureau of Justice Statistics, Dec. 2008). Available online at http://www.ojp.usdoj.gov/bjs/pub/pdf/ppus07st.pdf.

7 Ibid.

8 Taxman, Faye S., Douglas W. Young, Brian Wiersema, Anne Rhodes, and Suzanne Mitchell, "The National Criminal Justice Treatment Practices Survey: Multilevel Survey Methods and Procedures," *Journal of Substance Abuse Treatment*, 32 (3), (April 2007).

9 West, Heather C., and William J. Sabol, Prisoners in 2007, U.S. Department of Justice, Bureau of Justice Statistics (Washington, D.C.: Dec. 2008). Available online at http://www.ojp.usdoj.gov/bjs/pub/pdf/p07.pdf.

10 One in 27 Michiganders are under correctional control but, for mapping purposes, The Pew Center on the States and partner, the Justice Mapping Center, were only able to secure residential information for 122,165 of the 278,808 supervised offenders in the state. In particular, due to the state's structure for misdemeanant probationers, we were unable to gather geographic information for a large portion of the state's overall probationer population. Misdemeanor offenses are those that typically result either in fines, community supervision, or short-term stays in local or county jails. Felony offenses, by contrast, can result in prison stays exceeding one year, in addition to all the sanctions open to misdemeanants.

11 On neighborhood destabilization, see Todd R. Clear and Dina R. Rose, "When Neighbors Go to Jail: Impact on Attitudes About Formal and Informal Social Control" Summary of a presentation at the U.S. Department of Justice, National Institute of Justice, July 1999. On decreased wage growth, see Bruce Western, *Punishment and Inequality in America* (New York: Russell Sage Foundation, 2006). On incarceration and AIDS infection rates, see Rucker Johnson and Steven Raphael, "The effects of male incarceration dynamics on AIDS infection rates among African-American women and men," *Journal of Law and Economics* (forthcoming); available online at http://gspp.berkeley.edu/faculty/raphael/aids-paper-july-2007.pdf.

12 Analysis based on National Association of State Budget Officers, "State Expenditure Report" series. Available online at http://www.nasbo.org/publications.php. Budget figures throughout this report are not adjusted for inflation.

13 Ibid.

14 Ibid.

15 Ibid.

16 Bureau of Justice Statistics, "Direct expenditures by criminal justice function, 1982-2006." Available online at http://ojp.usdoj.gov/bjs/glance/tables/expyrtab.htm.

17 While organizations such as the National Association of State Budget Officers and the National Conference of State Legislators annually conduct surveys of state expenditures, they do not distinguish between spending on prisons, probation and parole when measuring corrections expenditures. The most recent known similar survey was conducted by the Criminal Justice Institute in 2002. The lead partner for this fiscal year 2008 survey was the American Probation and Parole Association, and other partners included the Crime and Justice Institute, the Council of State Governments Justice Center, the National Center of State Courts and the Vera Institute of Justice.

18 They are AK, AL, AR, CO, DE, GA, ID, IA, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NC, ND, NH, NM, NY, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA and WY.

19 They are LA, WY, AL, MO, MT, GA, OR and NY.

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Methodology Notes

Overview: This report analyzed prison, jail, parole and probation populations individually and as a share of the total adult population both on a national and a state level. Trends over time in these corrections populations and as a share of the adult population were expressed in a 25-year span of year end figures, beginning with year end 1982 and ending at year end 2007. These year end data were derived through a variety of methods explained below.

National Corrections Populations: Data from the Bureau of Justice Statistics (BJS) Correctional Surveys (available at www.ojp.usdoj.gov/bjs/ glance/tables/corr/tab.htm) were used for all national-level correctional population figures. These include national prison, jail, probation and parole population figures. Where national corrections populations are expressed as a rate, such as "1 in 31," they have been combined with adult resident population data from the U.S. Census.

Adult Population: U.S. adult resident population figures were derived nationally and for each state from midyear data prepared by the U.S. Census Bureau, State Population Estimates, going back to midyear 1981. These midyear census figures were then averaged to create year end figures which were used for all calculations throughout this report. The rate of growth for midyears 2006 to 2007 was applied to midyear 2007 figures to derive projected midyear 2008 figures; these were then averaged with the midyear 2007 figures to estimate year end figures for 2007.

State Corrections Populations: A variety of sources were compiled to generate the different components of the total corrections population: prisoners, jail inmates, probationers and parolees. The different data sources for each component are described below. Additionally, the methods used to compensate and adjust for missing data are discussed.

Prison Inmates: State prison figures used throughout the report include BJS year end state prison counts as well as year end counts and estimates of federal inmates by state of reported residence from the Federal Bureau of Prisons (BOP). The prison inmate figures in this report exclude state prisoners held in local jails; they have been counted as part of the jail population as described in the section on jail inmates.

State prison counts as reported to BJS are conventionally calculated using only those inmates held under state jurisdiction or custody. Nationally, this method excludes nearly 200,000 inmates who are held in the federal prison system and leads to state imprisonment figures that, purely due to state-federal jurisdictional boundaries, are lower than corresponding national figures. In order to provide a more complete account of prisoners by state, federal inmates were added back into each state's BJS-reported counts. Overall, this adjustment allows, for example, BOP prisoners from Wisconsin to be counted as Wisconsin prisoners. This was done using BOP data.

The BOP provided year end counts of federal inmates by state of reported residence for the years 1999 through 2007. These counts were used in this report, and were also used to estimate year end counts used in this report for the years 1982 through 1998. BOP does not have home-state addresses for all inmates. As a percentage of the total BOP population, the number with a reported home state residence hovers around 83 percent from 1999 to 2003, and climbs steadily to 88 percent from 2004 to 2007. To conservatively estimate the total number of BOP inmates that came from all states for the years 1982 to 1998, the 1999 to 2003 "83 percent" average was applied to the total BOP population reported for each of those years. Then, each state's 1999 to 2003 average share of BOP inmates was applied to the estimated "83 percent" count for each year in the 1982 to 1998 period. This gave a rough estimate of the number of federal prisoners from each state for the years 1982 to 1998 which allowed the state level prison population estimates to better reflect the actual prison population.

Jail Inmates: State jail figures are based largely on BJS surveys of jail inmates conducted in February 1978 and at midyears 1983, 1988, 1993, 1999 and 2005. Since statewide jail counts are not available in the intervening years, a straight-line estimation was applied to obtain jail populations for each of those years, and to adjust all figures to year end counts. This method provided the jail population estimates from 1982 to 2006. To this data set was added year end 2007 state jail counts derived from survey data wherever available and estimates where states wouldn't or couldn't respond to the survey questions.

While BJS was able to provide an estimated national year end 2007 jail population, individual figures for each state were not available. The year end 2007 state jail counts used in this report include a combination of counts reported to JFA Associates by 22 states and Washington D.C. and estimations for 23 states. Five states with unified jail and prison systems (CT, VT, RI, DE and HI) were assigned year end 2007 jail populations of zero, consistent with BJS's reporting in all previous years when these states' jail inmates were counted in their reported prison populations. Though often considered a unified system state, Alaska has a small local jail population and was therefore included in the estimation process.

JFA Associates surveyed all 50 states and DC and received jail population counts from 23 of them. All told, JFA reported jail populations for CA, DC, FL, IN, KY, LA, ME, MD, MA, MI, MN, NJ, NM, NY, OH, PA, SC, TN, TX, VA, WA, WV and WI totaling nearly 547,000 inmates, representing 70 percent of BJS's reported 2007 national jail population. For the remaining 23 states, a year end 2007 jail population was estimated by applying the rate of growth experienced by the 22 respondent states between midyear 2005 and year end 2007 to the midyear 2005 population of the 23 estimated states. The rate, 1.7 percent, appears to be a conservative growth estimate, as BJS recently reported a 1.9 percent rate of growth for jails nationally from midyear 2006 to midyear 2007.[1]

To avoid double-counting of prisoners, a count or estimate of prisoners held in local jails was subtracted from each state's jurisdictional prisoner count. BJS provided these data from

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1999 to 2007; these counts were used in this report, and were also used to estimate year end counts used in this report for the remaining years, 1982 to 1998. The average percent of inmates who would have been double-counted (by state) during the years from 1999 to 2005 was applied to the total jail and prison count of each state for all years before 1999. For 11 states, the average was zero and most states were relatively consistent. The modeling is based on counts from 1999 to 2005 because this is the period for which BJS state-by-state data, or imputed jail populations are available.

Probationers and Parolees: State probation and parole figures include BJS year end counts as well as counts from the Administrative Office of the U.S. Courts (AOC). As with the U.S. Census data, the AOC data were midyear counts, which were averaged to create year end estimates for the purposes of this report. Similar to the how federal prisoners are conventionally absent from state prison counts, state probation and parole statistics typically ignore offenders in the states under supervision in the community by federal authorities. The AOC provided counts by state of community supervision offenders under federal jurisdiction for the entire 25-year period from 1982 to 2007. For counting purposes, the federal definitions "judge probation," "magistrate judge probation" and "pretrial diversion" were combined to form a single federal probation category. A single federal parole category was constructed out of the various federal forms of post-prison supervision—"term of supervised release," "parole," "mandatory release," "military parole" and "special parole." These federal probation and parole categories were added to each state's BJS-reported probation and parole counts, respectively, to obtain total statewide probation and parole counts.

Complicating issues: There were numerous data challenges that make it difficult to provide an accurate state level count. These include problems with double counting, shifting definitions and missing data on the community corrections population. These issues and the steps taken to deal with them are presented below.

Double-counting: Offenders involved with more than one criminal justice agency could be double-counted and artificially inflate most measures of correctional control. For example, an offender on probation or parole might be imprisoned or jailed but not removed from the probation or parole rolls. BJS has used increasingly sophisticated measures to avoid double-counting. In its most recent such release of data, BJS adjusted for possible overlap between probation, parole, prison and jail counts. Its adjusted total correctional population amounts to a 1.11% reduction in the sum of the separate probation, parole, prison and jail counts. Pew could not perform such adjustements for the 50-states with available data. This could lead to overestimates, a risk that could affect states like Georgia that have many agencies, some privatized, handling large corrections populations. In Georgia's case, there are concerns that some individuals on probation in multiple jurisdictions might be counted separately for each jurisdiction and that private agencies report counts of cases under supervision rather than individual offenders.

Change in counting definition: In 1998, BJS revised the probation survey used in its population counts to include more reporting agencies. In states like Georgia and Idaho, this revision expanded counts to include court-based populations, often of misdemeanants. One consequence is that these additional reporting agencies increase the risk of double-counting, discussed above. Unfortunately, due to the limited data on the specifics of these additional groups included in the updated probation and parole statistics, it is impossible to determine the degree to which the additional reporting agencies are correcting previous underestimates of the correctional population and the degree to which the additional agencies are contributing to overestimates of that population.

Share of correctional population in institutional versus community settings: Double-counting of offenders with multiple criminal justice statuses and the change in counting rules would tend artificially to inflate the share of the correctional population that is under supervision in the community. However, as noted in the sidebar, "An Even Wider Net?," there may be a large number of offenders in pre-trial supervision programs, drug courts or other court-based alternative sentencing units, and other specialized programs who are not picked up in conventional probation or parole counts. These populations have likely increased over time, especially due to the proliferation of drug courts. These various counting issues offset each other to some unknown degree. A more precise estimate of the community supervision population, and therefore its share of the total correctional population, will be identified only when more extensive and detailed surveys are designed and conducted.

Spending Figures: To collect current and past prison, probation and parole spending figures from all states, the Pew Center on the States partnered with the American Probation and Parole Association (APPA). APPA designed a survey and coordinated data collection with partner organizations, including the Crime and Justice Institute, the Council of State Governments Justice Center, the National Governors Association and the Vera Institute of Justice. Forty-five states completed at least a portion of the survey and 34 provided data on probation, parole and prison expenditures for both FY08 and at least one baseline fiscal year. Analysis of these data, performed both by APPA and Pew, forms the basis of the fiscal analyses included in this report and the state fact sheets.

The APPA survey asked for total fiscal year expenditures as well as per diem costs for administering probation, parole and prison supervision and services. While respondents were asked to exclude capital costs, they were requested to include costs for personnel, operations, treatment and an undefined "other" category. Respondents were asked for this information both in FY2008 and an historical baseline as far back as FY1983 (or in five-year increments from that point forward).

For states that were unable to complete the APPA survey, statistics were gathered from the National Association of State Budget Officers (NASBO) State Expenditure Reports. These reports contain an impressive scope of state spending information, going back more than 20 years. The corrections spending figures they contain, however, do not distinguish between corrections expenditures including probation, parole and prison.

Throughout the report, spending figures have not been adjusted for inflation.

[illegible]

Jurisdictional Notes

Within the 50 states and the District of Columbia there are hundreds of prison, probation and parole agencies (in addition to many state jails and community corrections agencies) operating with different population and budget counting rules. The following notes are provided to explain some of these differences and to account for many of the idiosyncrasies in the reported data. The notes are based on reports collected by the Bureau of Justice Statistics (BJS) and the American Probation and Parole Association, as well as direct contacts with state officials, but they are not a complete description of all counting issues.

Alabama: Probation and parole spending figures include all probationers under the Department of Corrections, but do not include some offenders sentenced to community supervision. Rental costs are included in operating costs. Treatment services were not provided internally in 1983. Most prison treatment services are now provided by the DOC internally. Mental health treatment is contracted out to private companies. These costs are grouped under professional services that include health care services, leased bed contracts, and all treatment programs.

Alaska: Though the state's prison system manages most jail inmates, BJS reports that there are several dozen jail inmates in local jails throughout the state. A state jail population was therefore estimated for Alaska (see Methodology Notes).

Arkansas: In 2008, the Department of Community Corrections operated community corrections beds and probation and parole. As opposed to later years, some probation and parole costs were included in prison costs in 1984.

Colorado: Per diem costs for Colorado prisons are weighted to include both state and privately managed facilities. Probation figures do not cover all expenditures excluding, for example, grants for pilot programs and victim services. In all reported years, costs cover only those probationers in the state courts as well as from the District Court of Denver, but exclude probationers from the City or County of Denver and the approximately 20,000 probationers in Colorado supervised by private agencies funded through offender supervision fees. Probation figures were adjusted by survey respondent to account for differences in funds received from the collection of drug offender assessment fees, which were collected in 2008 but not 2003.

District of Columbia: Tracking correctional populations in the District is complicated by the transfer to federal custody of all District prisoners as a result of the 1997 Revitalization Act. For this report, District probationers, parolees and jail inmates were counted as described in the methodology section. The District's prisoner count consists of BJS-reported figures for the period 1982-2000, of BOP-reported Superior Court sentenced prisoners for the period 2002-2007, and of an average of the BJS 2000 figure and the BOP 2002 figure for the year 2001. Because the 2002-2007 BOP figures would have overlapped with the BOP data on prisoners by reported home state-address (see Methodology Notes), this latter category of inmates was excluded from DC's prisoner calculation. Also excluded from the District's counts are Federal District Court sentenced prisoners in the BOP and an anomalous figure reported to the BJS of prisoners held in local jails in 2000.

Georgia: The budget total for 1983 did not provide a specific subcategory total for parole supervision or other agency functions. A close approximation of the supervision portion of the budget was calculated by the respondent by determining parole supervision's share of the 2008 budget (69 percent) and applying it to the 1983 total. Figures for parole in 2008 include funds for GPS monitoring, not included in the 1983 budget. Georgia's probation population appears to be inflated both by a number of local ordinance violators under the jurisdiction of the state courts and by counts by private probation providers that reflect probation cases rather than probationers. This means that some probationers with multiple convictions may be counted more than once. The population count also may include a number of people whose probation terms have ended but for whom there are outstanding warrants.

Hawaii: For 1998, the total budget expenditure for probation includes payroll costs but does not include fringe benefits. Hawaii maintains a unified state jail and prison system and, per reporting to the BJS, has in this report a single figure for its incarcerated population.

Illinois: Illinois does not have a reported parole population in the BJS parole survey of 2006. For this report, this void was filled by a straight-line average of the state's 2005 and 2007 figures.

Louisiana: Probation and parole expenditure figures include offender fees.

Maine: Maine does not have a reported parole population in the BJS parole survey from 1985-1990. For this report, this void was filled by a straight-line average of the state's 1984 and 1991 figures.

Maryland: Treatment programs such as the Substance Abusing Offender Program and the Urinalysis and Treatment Program did not exist in 1988 but are reflected in the 2008 expenditure figures. Prison treatment costs include medical services, which in 1988 were approximately $15.3 million across the Division of Corrections. In 2008, these costs were contracted out and totaled approximately $107.2 million in expenditures, all falling under contractual services.

Michigan: Maps of Michigan's correctional population were prepared by the Justice Mapping Center, Inc. (www.justicemapping.org). Geographic data on standing populations of the state's prisoners (as of May 20, 2008), parolees (as of May 28, 2008) and probationers (as of July 15, 2008) was provided by the Michigan Department of Corrections; on the state's county jail inmates (average daily populations for 2007) by the JPIS report from the Michigan Department of Corrections and by the Wayne County Sheriff's office; on the state's federal prisoners by the Bureau

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of Prisons (as of December 21, 2008); and on the state's community supervised, federal custody offenders by the Eastern and Western Districts of Michigan, Administrative Office of U.S. Courts (as of January 7, 2009). The 2008 prison costs include juveniles adjudicated as an adult or youthful trainee, which was not the case in 1998. Michigan's figure for corrections' share of general fund spending (22 percent in FY2008) is not comparable with similar figures from other states, because in 1994, Michigan separated its K-12 education system into a different fund.

Minnesota: Prison costs only include prisons operated by the Department of Corrections and contracted facilities, and exclude private prison costs in Minnesota. Probation and parole figures were provided by the respondent from the Department of Corrections that is in charge of probation and parole supervision for 55 of Minnesota's 87 counties. This respondent was able to provide budget subsidy totals provided by the state legislature through the Minnesota Community Corrections Act. This figure excludes local funding of probation and parole but does capture a large portion of probation and parole spending in Minnesota, and it is consistent across reported time periods.

Missouri: Prison costs include juveniles sentenced as adults. All personnel costs exclude fringe benefits which are paid separately for all state employees. In 2007 and 2008, the State Office of Administration assumed control of budgets for maintenance functions and information systems from other state agencies. Missouri officials made adjustments to the 2008 per offender costs to account for this difference. Probation and parole costs in 2008 include two additional community release centers and six community supervision centers (totaling $13,035,480).

Montana: Probation and parole spending in 1983 included 37 prerelease beds and juvenile aftercare, both of which were removed from the budget by 2008. Personnel costs in 1983 were included in operating costs, but by 2008 they became a separate line item included in the overall budget. In 1983, the alcohol and drug abuse treatment programs had separate budgets from probation and parole, all of which fell under the Department of Institutions. In 2008, probation and parole budgets included all community corrections alcohol and drug programs. The state's survey respondent reported that there were broad changes in budgeting as certain costs were added to probation and parole spending and others were moved to other agencies including, for example, the removal of probation and parole costs for juvenile supervision.

New York: All personnel figures exclude fringe benefits such as health insurance and retirement benefits. These costs are handled in a different fund. Local assistance funds are included for parole and probation figures in 2008, but only probation in 1983. Prison budgets include $300 million in capital costs for 2008 and $75.3 million in capital costs in 1983.

North Dakota: Probation and parole budgets for both reported time periods are included in a Field Services category which includes the five divisions of administration, victim services, interstate compact, security and supervision, and treatment.

Ohio: Prison costs exclude non-expense items (e.g., transfers) and capital costs. 1983 figures include two-thirds of central office costs. On July 1, 2007, Ohio implemented a new accounting system, the Ohio Administrative Knowledge System (OAKS), which brought about some changes to accounting categories, but the state's survey respondent indicated that this shift should not affect survey responses. Reported parole figures are from the Parole and Community Services division which is the parent agency for Adult Parole Authority. These figures include some probation costs for mostly rural portions of the state.

Oklahoma: Oklahoma's 2007 probation figure is missing from the annual BJS report. For this report, this void was filled by applying the 2005–2006 rate of growth (which was negative) to the year end 2006 figure.

Oregon: Probation and parole budgets in 1983 included misdemeanors that are not included in 2008 probation and parole figures. In 1983, probation and parole offices were operated by the state; and in 2008 all but two jurisdictions were operated by counties through state funding received as an intergovernmental block grant. This change gives the counties more flexibility in allocating the funds. Probation and parole costs were separated by the survey respondent.

Pennsylvania: According to state sentencing laws, inmates with maximum sentences of less than two years are subject to the courts' paroling authority and are typically supervised by county adult probation departments. Data for these jurisdictions are included in the state's figures. The state's survey respondent indicated that, on average, approximately 15-19 percent of the supervised population is comprised of these special probation referrals from the courts. Pennsylvania probation figures are for the supervision of probationers by county adult probation departments.

Rhode Island: The total adult prison spending amount does not include administration costs such as finance, human resources, and information technology charges. Earlier probation and parole budget figures do not include expenditures for electronic monitoring. Rhode Island maintains a unified state jail and prison system and, per reporting to the BJS, has in this report a single figure for its incarcerated population.

Texas: All personnel figures exclude employee benefits, which are budgeted through other state agencies. All prison figures exclude inmates held in private prisons.

Vermont: In 1994, the prison budget did not allocate central administration and management costs to facilities, and all treatment costs were centrally administered. In 2008, such prison costs are included. The state's survey respondent noted that Vermont moved in 1999 toward private prison facilities, and these costs are not included. Probation and parole costs were separated by the state's survey respondent. Vermont maintains a unified state jail and prison system and, per reporting to the BJS, has in this report a single figure for its incarcerated population.

Wyoming: The 1983 probation and parole cost figures include juveniles placed under supervision by the court. Probation and parole treatment costs for 2008, but not 1983, include substance abuse assessments, cognitive behavioral programming, and supportive services associated with drug courts. The prison costs for 2008 have increased due to private sector charges for medical and mental health services. Wyoming total correctional cost figures were reported by the state Legislative Service Office, January 2009.

TABLE A-1

National Correctional Populations, 1982-2007

	Rate of Correctional Control: 1 in X	Total Correctional Population	Probation	Parole	Jail	Prison
2007	31	7,328,200	4,293,163	824,365	780,581	1,312,576
2006	31	7,211,400	4,237,023	796,202	766,010	1,492,973
2005	32	7,051,900	4,166,757	780,618	747,529	1,448,544
2004	32	6,995,100	4,143,792	771,852	713,990	1,421,345
2003	32	6,924,500	4,120,012	769,925	691,301	1,390,279
2002	32	6,758,800	4,024,067	750,934	665,475	1,367,947
2001	32	6,581,700	3,931,731	732,333	631,240	1,330,007
2000	33	6,445,100	3,826,209	723,896	621,149	1,316,333
1999	33	6,340,600	3,779,922	714,457	605,943	1,287,172
1998	33	6,134,200	3,670,441	696,385	592,462	1,224,469
1997	35	5,734,900	3,296,513	694,787	567,079	1,176,564
1996	36	5,490,700	3,164,996	679,733	518,492	1,127,528
1995	37	5,342,900	3,077,861	679,421	507,044	1,078,542
1994	38	5,148,000	2,981,022	690,371	486,474	990,147
1993	39	4,948,300	2,903,061	676,100	459,804	909,381
1992	40	4,765,400	2,811,611	658,601	444,584	850,566
1991	41	4,537,900	2,728,472	590,442	426,479	792,535
1990	43	4,350,300	2,670,234	531,407	405,320	743,382
1989	45	4,057,800	2,522,125	456,803	395,553	683,367
1988	49	3,715,800	2,356,483	407,977	343,569	607,766
1987	52	3,461,400	2,247,158	355,505	295,873	562,814
1986	55	3,241,100	2,114,621	325,638	274,444	526,436
1985	59	3,013,100	1,968,712	300,203	256,615	487,593
1984	65	2,690,700	1,740,948	286,992	234,500	448,264
1983	70	2,476,800	1,582,947	248,440	223,551	423,898
1982	77	2,194,400	1,357,284	224,604	209,582	402,914

See methodology and state notes sections for definitions and assumptions.
Sources include the Bureau of Justice Statistics (correctional populations) and the Pew Center on the States (1 in X figures, based upon analysis of data from the U.S. Census State Population Estimates and Bureau of Justice Statistics).
Total correctional population counts are not equal to the sum of probation, parole, jail and prison counts due to offenders with dual status.

TABLE A-2

State and National Correctional Spending

	FY2008 Total General Fund Corrections Spending, in millions	FY2008 Corrections as a Percent of State General Fund Spending
Alabama	$420	2.5%
Alaska	$240	4.7%
Arizona	$951	9.5%
Arkansas	$348	8.0%
California	$9,657	9.3%
Colorado	$625	8.6%
Connecticut	$699	4.3%
Delaware	$200	6.1%
District of Columbia	n/a	n/a
Florida	$2,819	10.0%
Georgia	$1,100	5.9%
Hawaii	$228	4.3%
Idaho	$207	7.3%
Illinois	$1,363	6.1%
Indiana	$869	5.3%
Iowa	$353	6.0%
Kansas	$341	5.6%
Kentucky	$521	5.5%
Louisiana	$625	6.4%
Maine	$153	4.9%
Maryland	$1,192	8.2%
Massachusetts	$1,250	4.6%
Michigan*	$2,178	22.0%
Minnesota	$460	2.6%
Mississippi	$266	6.4%
Missouri	$575	6.8%
Montana	$169	8.6%
Nebraska	$179	5.1%
Nevada	$253	7.9%
New Hampshire	$101	6.8%
New Jersey	$1,381	4.8%
New Mexico	$277	4.6%
New York	$2,871	5.4%
North Carolina	$1,254	6.2%
North Dakota	$65	5.4%
Ohio	$1,794	7.3%
Oklahoma	$491	7.0%
Oregon	$763	10.6%
Pennsylvania	$1,836	6.7%
Rhode Island	$185	5.5%
South Carolina	$487	6.6%
South Dakota	$81	7.1%
Tennessee	$675	5.5%
Texas	$2,958	6.8%
Utah	$330	5.7%
Vermont	$116	9.4%
Virginia	$1,254	7.6%
Washington	$917	6.3%
West Virginia	$181	4.3%
Wisconsin	$1,076	8.0%
Wyoming*	$103	5.3%

	State General Fund Corrections Spending, in millions	Corrections as a Percent of State General Fund Spending
2008	$47,335	6.9%
2007	$43,904	6.7%
2006	$40,078	6.7%
2005	$38,239	6.9%
2004	$35,744	7.0%
2003	$35,285	7.2%
2002	$34,364	6.9%
2001	$33,571	6.9%
2000	$32,195	7.1%
1999	$29,733	7.1%
1998	$27,821	6.9%
1997	$25,440	6.8%
1996	$24,847	6.9%
1995	$23,251	6.7%
1994	$20,062	6.2%
1993	$17,435	5.7%
1992	$16,304	5.6%
1991	$15,890	5.7%
1990	$14,453	5.5%
1989	$12,887	5.3%
1988	$11,744	5.2%

All cost figures from the National Association of State Budget Officers, State Expenditure Reports.
FY2008 figures are estimates.
*On Michigan corrections' share of general fund spending, see state notes.
*Wyoming cost figures reported by State Legislative Service Office, January 2009.

TABLE A-3

State Correctional Populations, Year End 2007

	Rate of Correctional Control: 1 in X	Total Correctional Population	Probation	Parole	Jail	Prison	Federal Prisoners and Community-Supervised Offenders
Alabama	32	108,443	51,745	7,790	13,401	27,818	6,091
Alaska	36	14,005	6,416	1,544	66	5,167	812
Arizona	31	144,221	76,830	6,807	15,743	37,700	7,141
Arkansas	29	73,193	31,676	19,388	6,229	13,307	2,593
California	36	755,256	151,969	123,764	82,662	171,500	23,361
Colorado	29	128,186	77,635	11,086	13,471	22,866	2,928
Connecticut	33	82,655	37,493	2,177	0	20,924	2,061
Delaware	26	25,082	16,696	535	0	7,276	575
District of Columbia	21	22,892	6,485	3,569	2,900	6,606	1,332
Florida	31	462,435	274,079	4,654	64,547	97,072	22,083
Georgia	13	562,763	435,361	23,111	45,732	49,337	9,222
Hawaii	32	31,620	19,426	2,110	0	5,978	4,106
Idaho	18	63,231	48,663	3,114	3,857	6,744	858
Illinois	38	252,776	142,790	33,354	20,408	45,215	11,009
Indiana	26	187,459	126,562	10,362	15,540	25,130	3,865
Iowa	54	42,294	22,776	3,546	3,699	8,732	3,541
Kansas	53	39,275	16,131	4,842	7,022	8,696	2,584
Kentucky	35	91,993	42,510	12,741	18,337	14,545	3,860
Louisiana	28	122,207	39,006	24,085	33,627	20,461	5,028
Maine	81	12,852	7,853	32	1,838	2,222	907
Maryland	27	156,276	98,470	13,856	13,632	23,282	7,536
Massachusetts	24	206,241	175,419	3,209	13,394	11,300	2,919
Michigan	27	278,808	182,706	21,131	18,100	50,190	6,678
Minnesota	26	152,319	127,797	4,744	8,085	8,950	2,743
Mississippi	38	58,208	37,623	2,015	11,617	17,479	3,474
Missouri	36	125,613	56,240	19,849	10,639	29,857	9,028
Montana	44	16,997	9,106	986	2,304	2,940	1,681
Nebraska	44	30,195	18,910	800	3,151	4,505	2,829
Nevada	48	40,172	13,461	3,653	7,231	13,245	2,582
New Hampshire	88	11,628	4,650	1,653	1,757	2,891	677
New Jersey	35	191,473	126,390	15,043	19,627	25,359	5,054
New Mexico	35	42,197	20,774	3,527	8,345	6,350	3,201
New York	53	282,215	119,963	53,669	28,400	62,602	17,581
North Carolina	38	181,435	111,446	3,311	17,464	37,970	11,244
North Dakota	63	7,885	4,468	342	860	1,368	747
Ohio	25	351,879	254,898	17,575	20,560	50,731	8,115
Oklahoma	42	65,720	28,038	2,349	9,748	23,957	3,628
Oregon	33	89,589	43,732	22,658	6,661	13,925	2,613
Pennsylvania	28	346,268	176,987	78,107	35,347	45,989	9,858
Rhode Island	26	31,250	26,137	462	0	4,018	633
South Carolina	38	88,352	42,721	2,433	13,137	23,862	6,199
South Dakota	40	15,211	5,870	2,812	1,456	3,256	1,817
Tennessee	40	117,428	56,179	10,496	23,590	19,248	7,915
Texas	22	797,254	434,309	101,748	67,885	159,016	34,296
Utah	64	29,023	10,829	3,597	6,854	5,223	2,520
Vermont	46	10,622	7,059	936	0	2,145	482
Virginia	46	129,681	51,954	6,850	27,583	32,972	10,322
Washington	30	165,725	116,885	13,017	12,137	17,418	4,276
West Virginia	68	21,065	7,890	1,830	3,828	4,907	2,810
Wisconsin	39	110,642	53,230	16,986	13,931	23,028	3,467
Wyoming	38	10,631	5,358	708	1,577	2,028	862

See methodology and state notes for definitions and exceptions.
Sources include the Bureau of Justice Statistics (probation, parole and prison populations, December 31, 2007), the Federal Bureau of Prisons, the Administrative Office of U.S. Courts and the Pew Center on the States (jail populations and 1 in X figures, based upon analysis of data from the U.S. Census State Population Estimates and Bureau of Justice Statistics).
Total correctional population figures may exceed total correctional population due to offenders with dual status.

TABLE A-4

Adult Incarceration Rates (Jail and Prison)

	2007			1982		
	Rank	1 to X	Percent of Adults	1 to X	Percent of Adults	Growth in Incarceration Rate, 1982-2007
District of Columbia	1	50	2.00%	74	1.35%	48%
Louisiana	2	55	1.81%	205	0.49%	272%
Mississippi	3	69	1.44%	247	0.41%	256%
Georgia	4	70	1.42%	169	0.59%	141%
Texas	5	71	1.41%	215	0.47%	203%
Alabama	6	75	1.33%	208	0.48%	176%
Oklahoma	7	76	1.32%	275	0.36%	263%
Florida	8	82	1.22%	186	0.54%	127%
South Carolina	9	83	1.21%	190	0.53%	131%
Arizona	10	83	1.21%	226	0.44%	173%
Delaware	11	88	1.14%	209	0.48%	159%
Alaska	12	88	1.14%	224	0.45%	154%
Virginia	13	89	1.13%	270	0.37%	205%
Nevada	14	89	1.13%	171	0.58%	93%
New Mexico	15	90	1.11%	298	0.34%	232%
Kentucky	16	92	1.08%	391	0.26%	324%
Wyoming	17	94	1.06%	330	0.30%	252%
Colorado	18	97	1.03%	394	0.25%	307%
Missouri	19	97	1.03%	308	0.32%	217%
Tennessee	20	98	1.02%	272	0.37%	176%
Idaho	21	100	1.00%	415	0.24%	314%
Arkansas	22	102	0.98%	309	0.32%	204%
California	23	102	0.98%	243	0.41%	137%
Maryland	24	103	0.97%	191	0.52%	86%
South Dakota	25	104	0.96%	401	0.25%	285%
Michigan	26	105	0.95%	283	0.35%	169%
Hawaii	27	108	0.92%	448	0.22%	314%
Wisconsin	28	109	0.92%	437	0.23%	300%
North Carolina	29	110	0.91%	211	0.47%	93%
Indiana	30	111	0.90%	327	0.31%	195%
Pennsylvania	31	111	0.90%	420	0.24%	280%
Ohio	32	115	0.87%	314	0.32%	173%
Montana	33	118	0.85%	457	0.22%	287%
Kansas	34	120	0.84%	386	0.26%	223%
Connecticut	35	121	0.82%	446	0.22%	267%
Oregon	36	132	0.76%	303	0.33%	130%
Illinois	37	133	0.75%	348	0.29%	162%
Utah	38	136	0.74%	486	0.21%	258%
New Jersey	39	140	0.72%	408	0.24%	192%
West Virginia	40	140	0.71%	564	0.18%	303%
Nebraska	41	143	0.70%	424	0.24%	197%
New York	42	148	0.68%	294	0.34%	99%
Iowa	43	154	0.65%	533	0.19%	247%
Washington	44	155	0.64%	312	0.32%	101%
North Dakota	45	179	0.56%	817	0.12%	357%
Rhode Island	46	187	0.53%	662	0.15%	254%
Massachusetts	47	190	0.53%	572	0.17%	200%
New Hampshire	48	204	0.49%	740	0.14%	264%
Vermont	49	204	0.49%	587	0.17%	188%
Minnesota	50	211	0.47%	726	0.14%	243%
Maine	51	226	0.44%	488	0.20%	116%

Calculations based on data from the U.S. Census State Population Estimates, the Bureau of Justice Statistics Correctional Surveys, the U.S. Bureau of Prisons and the Pew Public Safety Performance Project. See methodology notes for details

TABLE A-5

Adult Community Supervision Rates (Probation and Parole)

	2007			1982		Growth in Supervision Rate, 1982-2007
	Rank	1 in X	Percent of Adults	1 in X	Percent of Adults	
Georgia	1	15	6.50%	48	2.09%	212%
Idaho	2	21	4.71%	186	0.54%	775%
Massachusetts	3	28	3.58%	163	0.61%	483%
Minnesota	4	30	3.37%	114	0.88%	284%
Rhode Island	5	31	3.26%	104	0.96%	238%
Ohio	6	32	3.16%	183	0.55%	479%
Texas	7	32	3.14%	52	1.92%	64%
Indiana	8	35	2.89%	158	0.63%	356%
District of Columbia	9	35	2.82%	43	2.34%	20%
Michigan	10	37	2.70%	179	0.56%	384%
Maryland	11	37	2.69%	53	1.90%	42%
Washington	12	37	2.68%	49	2.04%	32%
Pennsylvania	13	37	2.68%	129	0.78%	245%
Delaware	14	38	2.63%	82	1.22%	117%
Arkansas	15	41	2.43%	238	0.42%	476%
Colorado	16	41	2.42%	137	0.73%	232%
Oregon	17	43	2.32%	97	1.03%	125%
Connecticut	18	44	2.25%	68	1.47%	53%
Hawaii	19	45	2.23%	112	0.89%	149%
New Jersey	20	46	2.17%	111	0.90%	141%
Louisiana	21	48	2.07%	129	0.78%	166%
Florida	22	50	2.00%	124	0.81%	148%
Illinois	23	54	1.86%	109	0.92%	102%
Arizona	24	55	1.83%	121	0.82%	122%
California	25	56	1.79%	96	1.04%	71%
Missouri	26	56	1.78%	142	0.70%	153%
Alabama	27	57	1.76%	158	0.63%	178%
Kentucky	28	57	1.74%	141	0.71%	146%
New Mexico	29	58	1.73%	170	0.59%	194%
North Carolina	30	58	1.71%	84	1.20%	43%
Vermont	31	60	1.67%	83	1.20%	39%
Wisconsin	32	60	1.66%	149	0.67%	146%
Alaska	33	61	1.63%	151	0.66%	147%
Wyoming	34	63	1.59%	208	0.48%	231%
Nebraska	35	64	1.56%	109	0.91%	71%
South Dakota	36	64	1.56%	192	0.52%	200%
Tennessee	37	68	1.47%	228	0.44%	230%
Montana	38	70	1.44%	172	0.58%	148%
South Carolina	39	71	1.40%	110	0.91%	54%
New York	40	82	1.22%	135	0.74%	64%
Iowa	41	83	1.20%	175	0.57%	110%
Mississippi	42	86	1.17%	183	0.55%	113%
Oklahoma	43	92	1.09%	135	0.74%	47%
Virginia	44	94	1.06%	180	0.55%	91%
Kansas	45	96	1.04%	112	0.89%	17%
North Dakota	46	98	1.02%	327	0.31%	235%
Nevada	47	106	0.95%	107	0.94%	1%
Utah	48	120	0.83%	100	1.00%	-17%
Maine	49	126	0.79%	253	0.40%	100%
West Virginia	50	131	0.76%	376	0.27%	186%
New Hampshire	51	155	0.64%	246	0.41%	58%

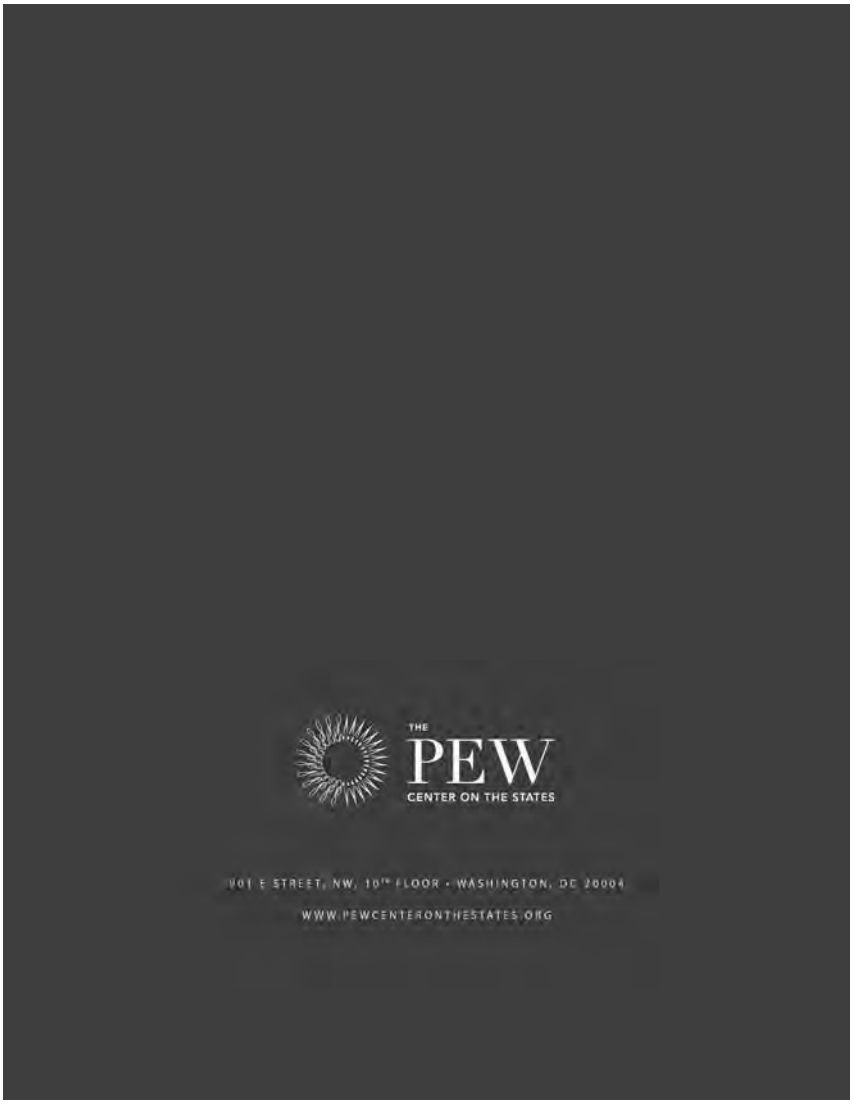
Calculations based on data from the U.S. Census State Population Estimates, the Bureau of Justice Statistics Correctional Surveys, the Administrative Office of U.S. Courts and the Pew Public Safety Performance Project. See methodology notes for details.
Population changes between 1982 and 2007 result both from changes in the true supervised populations and changes in survey instruments. In particular, the Bureau of Justice Statistics amended the annual probation survey to include probationers under local jurisdiction (i.e. not under state jurisdiction). This change in definition may, for some states, result in an artifically inflated growth figure.

TABLE A-6

Adult Correctional Control Rates (Jail, Prison, Probation and Parole)

	2007			1982		Growth in Control Rate, 1982-2007
	Rank	1 in X	Percent of Adults	1 in X	Percent of Adults	
Georgia	1	13	7.92%	37	2.68%	196%
Idaho	2	18	5.71%	128	0.78%	633%
District of Columbia	3	21	4.82%	27	3.69%	31%
Texas	4	22	4.56%	42	2.38%	91%
Massachusetts	5	24	4.10%	127	0.79%	420%
Ohio	6	25	4.03%	116	0.86%	366%
Louisiana	7	26	3.89%	79	1.27%	207%
Minnesota	8	26	3.85%	98	1.02%	278%
Indiana	9	26	3.80%	106	0.94%	304%
Rhode Island	10	26	3.79%	90	1.11%	241%
Delaware	11	26	3.77%	59	1.69%	123%
Maryland	12	27	3.67%	41	2.42%	51%
Michigan	13	27	3.65%	110	0.91%	301%
Pennsylvania	14	28	3.58%	99	1.01%	253%
Colorado	15	29	3.46%	102	0.98%	251%
Arkansas	16	29	3.41%	134	0.74%	358%
Washington	17	30	3.33%	42	2.36%	41%
Florida	18	31	3.22%	74	1.34%	140%
Hawaii	19	32	3.15%	90	1.12%	182%
Alabama	20	32	3.09%	90	1.11%	177%
Oregon	21	33	3.08%	74	1.36%	126%
Connecticut	22	33	3.07%	59	1.69%	82%
Arizona	23	33	3.03%	79	1.27%	140%
New Jersey	24	35	2.88%	87	1.14%	152%
New Mexico	25	35	2.85%	108	0.92%	208%
Kentucky	26	35	2.83%	104	0.97%	193%
Missouri	27	36	2.81%	97	1.03%	173%
Alaska	28	36	2.77%	90	1.11%	150%
California	29	36	2.76%	69	1.46%	90%
Wyoming	30	38	2.65%	128	0.78%	239%
North Carolina	31	38	2.62%	60	1.67%	57%
South Carolina	32	38	2.61%	70	1.44%	82%
Mississippi	33	38	2.61%	105	0.95%	174%
Illinois	34	38	2.61%	83	1.21%	116%
Wisconsin	35	39	2.57%	111	0.90%	185%
South Dakota	36	40	2.52%	130	0.77%	228%
Tennessee	37	40	2.49%	124	0.81%	208%
Oklahoma	38	42	2.41%	90	1.11%	117%
Montana	39	44	2.28%	125	0.80%	186%
Nebraska	40	44	2.26%	87	1.15%	97%
Virginia	41	46	2.19%	108	0.92%	137%
Vermont	42	46	2.16%	73	1.37%	58%
Nevada	43	48	2.07%	66	1.52%	36%
New York	44	53	1.89%	93	1.08%	75%
Kansas	45	53	1.88%	87	1.15%	63%
Iowa	46	54	1.85%	132	0.76%	144%
North Dakota	47	63	1.58%	234	0.43%	270%
Utah	48	64	1.57%	83	1.21%	30%
West Virginia	49	68	1.48%	226	0.44%	233%
Maine	50	81	1.23%	167	0.60%	106%
New Hampshire	51	88	1.14%	184	0.54%	109%

Calculations based on data from the U.S. Census State Population Estimates, the Bureau of Justice Statistics Correctional Surveys, the U.S. Bureau of Prisons, the Administrative Office of U.S. Courts and the Pew Public Safety Performance Project. See methodology notes for details.
Population changes between 1982 and 2007 result both from changes in the true supervised populations and changes in survey instruments. In particular, the Bureau of Justice Statistics amended the annual probation survey to include probationers under local jurisdiction (i.e. not under state jurisdiction). This change in definition may, for some states, result in an artifically inflated growth figure.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Issue Brief

JANUARY 2010

THE PEW CENTER ON THE STATES

Right-Sizing Prisons:

Business Leaders Make the Case for Corrections Reform

You don't normally see the business community leading efforts to reform state policies on public safety issues, yet in several states around the country business leaders are doing just that. With states facing the worst fiscal crisis in a generation and spending one in every 15 state discretionary dollars on corrections,[1] business leaders are adding their voices to calls for more cost-effective ways to protect public safety and hold offenders accountable, while also providing the education and infrastructure they need for a thriving economy.

Pew's Public Safety Performance Project recently spoke with business leaders from five states who have been at the forefront of these efforts. They discussed why and how they are working with policy makers to develop strategies that can yield less crime at a lower cost.

LEADERS

KENTUCKY

Dave Adkisson, President & CEO, *Kentucky Chamber of Commerce*

Chairman of the Board, *American Chamber of Commerce Executives*

FLORIDA

Barney T. Bishop III, President and Chief Executive Officer, *Associated Industries of Florida*

ILLINOIS

Frank H. Beal, Executive Director, *Chicago Metropolis 2020*

Board member, *Business and Professional People for the Public Interest*

MICHIGAN

James R. Holcomb, Vice President for Business Advocacy and Associate General Counsel, *Michigan Chamber of Commerce*

OREGON

Erin Hubert, Vice President and General Manager, *Dimensional Radio*

Board Chair, *Oregon Crime Commission*

Q Business organizations traditionally have not been involved in sentencing and corrections issues. How did you get involved and why are these issues important to the business community?

A BISHOP: I got involved in this issue about two-and-a-half years ago when I began talking with other business leaders about whether we were spending our corrections dollars effectively. We found that even after the economy tanked the Florida Department of Corrections requested to build three new private prisons at a cost of $300 million to build and $81 million a year to operate. The Governor was talking about bonding it, so instead of $300 million, you're talking about $1 billion by the time you pay off the bonds.

In this Brief:

3. What policy changes are you advancing?
4. How are you advancing reform?
5. What challenges have you encountered?

We don't have an income tax in Florida, so the business community is going to be the ones that pay for this investment. To the extent that we change the way that we're doing business, spend less money with a better outcome, that's in the business community's interest.

In addition to the extraordinary costs, the business community knows this is an important issue because we're going to need these kids and adults coming out of the juvenile justice system and adult prison system in order to create a thriving economy in this state.

HOLCOMB: Michigan faces severe economic challenges and the Michigan Chamber strongly believes that meaningful reforms impacting the size and scope of state government are necessary to revitalize our great state. There is little doubt that the Michigan Department of Corrections stands out as a state department which is ripe for reform. Spending on corrections has exploded and now accounts for approximately 20 percent of the total General Fund/General Purpose dollars expended. In fact, Michigan is now one of only five states that spend more on corrections than it does on higher education.

This has made it essential for the business community to become involved in the corrections policy debate because every dollar spent on incarceration is a dollar that is unavailable for tax relief or other economic revitalization efforts. Job providers have a vested interest in making sure that Michigan's expensive correctional system is cost effective and efficiently run.

ADKISSON: In Kentucky, we conducted a major analysis of our state budget and found that certain areas of the budget were growing faster than the overall budget and faster than the growth of our state's economy. The corrections budget was one of those areas that had experienced significant growth in the past decade—growth that is unsustainable as state budgets continue to tighten up.

> "We were alarmed that money was being siphoned off from education and channeled into the growing cost of corrections, and we knew we needed to address this issue."
>
> — Dave Adkisson

We also found that the growth in corrections was taking money that would have otherwise been spent on public education. Because public education is the business community's top priority for state investments, we were alarmed that money was being siphoned off from education and channeled into the growing cost of corrections, and we knew we needed to address this issue.

HUBERT: I primarily got involved in these issues through a board on which I serve called the Citizens Crime Commission, a coalition of local business leaders who focus on public safety issues in Portland, Oregon. At the time

the commission was formed, there was a fear that our city had become too lax with sentencing issues and crime rates were quickly on the rise. Society's level of faith in the public safety system is in direct correlation to a healthy, vibrant, and economically sound city, which is the reason for interest from the business community.

A BEAL: An organization such as Chicago Metropolis 2020 could choose a million issues to address, but this is one where we felt that we could make a significant contribution. The voices for reform have been quite limited and we thought that we could bring a new voice on the fiscal and economic side of the issue that wasn't being articulated effectively.

We got involved for two reasons. The first is a purely fiscal argument—that government is spending too much money without seeing a good return on that investment. The second reason is that if you're incarcerating people, you are incarcerating part of our workforce instead of educating them, and you're taking away too many people from a productive economy. In the current system, we're wasting human capital that could be put to productive uses. Improving the system will improve our economy and in the long run improve our financial situation because they end up paying taxes rather than costing taxpayers money.

Q What specific policy changes are you and other business leaders in your state advancing?

A HOLCOMB: At the Michigan Chamber, we are well aware that we are not experts in all aspects of corrections policy; however, we do champion the interests of our members and work aggressively to ensure that their tax dollars are not being wasted. We know there are no silver bullets. We are dedicated to participating for the long haul in this battle because it will take numerous systemic modifications to improve Michigan's correctional system and stabilize needed funding.

The Michigan Chamber of Commerce Board of Directors adopted a formal policy to support comprehensive corrections reform based on the following principles: reduction of crime rates and recidivism; appropriated dollars should be spent in the most effective and efficient manner possible and all cost saving options must be considered; annual costs must be brought into line with national and regional averages; and policy and programmatic changes should be data-driven and based on results.

THE RISING COST OF STATE CORRECTIONS

Between 1987 and 2008, total state general fund expenditures on corrections rose 349 percent.

SOURCE: National Association of State Budget Officers, "State Expenditure Report" series. Inflation-adjusted figures are based on a reanalysis of data in this series.

NOTE: These figures represent state general funds. They do not include federal or local government corrections expenditures and typically do not include state funding from other sources.

A BEAL: We have advanced several policy changes, including creating the Illinois Department of Juvenile Justice and creating an incentive system, called Redeploy Illinois, to keep juveniles out of state detention—an idea we borrowed from Ohio. Right now it's cheap for a county to send a kid to the state corrections system because that ends up being a state cost. So we changed the incentive so that if juveniles are dealt with in their home community, then we give some state resources back to the county to provide services for that juvenile as opposed to sending him off to prison. This is now expanding state-wide because the evidence has overwhelmingly shown that it reduces costs and creates better results.

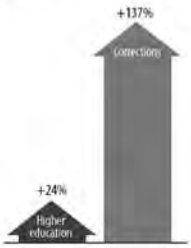
We were also very active in creating a drug prison that is showing dramatic results in reducing recidivism. We completely rewrote the Illinois Criminal Code to be more rehabilitative than punitive, which is now being considered by the General Assembly. And, we worked to pass the Crime Reduction Act of 2009, based on a framework created by Pew, which transfers the successful juvenile model of fiscal incentives to the adult system and creates a unified information system so that we have accurate information about what offenders' risks and needs are so we can make sure to target resources effectively and they have a better chance of turning their lives around.

A HUBERT: We have a number of policy changes that have come through the Crime Commission or through the Portland Business Alliance (formerly the Chamber of Commerce), including lobbying successfully for a juvenile drug court in Multnomah County. We also published a children's report after a year-long study on precursors that are most often found to lead to a life of crime. The study recommended a continuum of programs for at risk youth that research has shown to greatly reduce their likelihood of becoming juvenile offenders. This led to $6 million being set aside to support the recommended youth programs.

A BISHOP: In 2008, we created the Coalition for Smart Justice to help advance reforms, which focused on two things initially. First, we wanted to put more dollars on the front end of the system in diverting people. If we can divert some of the people on the front end that don't really need to be going to prison but need mental health, substance abuse, or other services, we could save money and produce better results. Unlike several decades ago, we actually know now what works, and if we implement programs that the research proves are effective, we can spend fewer dollars to get

OF BOOKS AND BARS

Between 1987 and 2008, the amount states spent on corrections more than doubled while the increase in higher education spending has been moderate.



SOURCE: National Association of State Budget Officers, "State Expenditure Report" (inflation-adjusted figures are based on a reanalysis of data in this series)

a better result. The people that we ought to be putting into prison are those that are the most dangerous to society. For those that are not a danger and their crime is not significant, we ought to divert them and address the issues that they have.

Second, we are looking to implement Senate Bill 2000, which created the Correctional Policy Advisory Council. We're hopeful that in this next legislative session, we will be able to work with the legislature and the governor's office to get this council up and running in order to make recommendations on further improvements that could be made in the system.

Q How are you and your colleagues attempting to move your state toward reforms?

A ADKISSON: We have documented the cost issues from an independent perspective that is not "soft on crime" or "tough on crime." We are approaching the issues from a financial perspective and pointing out that we simply can't afford to lock up every offender. In order to get this message across, we have provided testimony to our legislative committees, appeared in statewide television forums and traveled the state to share our message with local chambers and civic clubs. We've offered to partner with our legislators to make common-sense changes to our policies to ensure public safety and save millions being spent on corrections.

A HUBERT: We work as a bipartisan organization with no agenda other than to improve outcomes around public safety. Our efforts focus on finding an area in the public safety spectrum that is having challenges, or is politically log jammed, undertake research to study the issue, find the proven outcomes, and then try to intercede with our findings.

A BISHOP: One thing we recently did was host a justice summit in Tampa. We had 280 people from across the state. We brought liberals, conservatives, Democrats, Republicans, legislators, judges, business people, people from think tanks and private providers together to talk about how we can move the system forward.

A HOLCOMB: We are doing it the old fashioned way: building coalitions, face-to-face visits with legislators and the executive branch, grassroots education, activation of our membership and aggressive outreach to the media and general public to foster public support for change. As a member of the business community, it has been very gratifying because several organizations have joined together to amplify our voices and to provide policy makers with clear direction regarding what job providers expect from them in terms of public policy.

Q What political or other challenges have you encountered and how have you sought to address them?

A BEAL: Any time you want to change the status quo, you're going to get resistance from those who have a stake in the status quo. In addition, there is the prevailing fear of being thought to be soft on crime and the notion that you're coddling criminals. But we argue that we're being smart on crime, not soft on crime. There is no debate that hardened criminals should be removed from society. But the bulk of the population are not dangerous offenders, which results in a wasteful, dysfunctional, socially destructive system and it's time to change it because it's hurting our

economy, our fiscal status as a state, and those people in the system.

As we addressed each of the policy reforms, we faced a number of specific hurdles, but we made sure to create a thoughtful process that would overcome them and lead to success. For example, in our rewrite of the criminal code, some legislators perceived the rewrite as being potentially soft on crime. But we made sure to get agreement from key stakeholders such as the prosecutors, defense attorneys, police, legislators and social workers. They worked together for three years and in the end became spokespeople for the reforms.

A ADKISSON: No one wants to be labeled "soft on crime," so political leaders are naturally cautious about making changes to current criminal laws. In Kentucky, the business community has offered to partner with lawmakers to support them in making common-sense changes.

A BISHOP: The biggest challenge is the fiscal circumstances of the state of Florida and of the country as a whole. We're going to continue to see further revenue reductions, which is going to make spending decisions even more important in the future. We believe that the business community coming to the forefront to help lead the charge changes the equation enough that legislators will listen. When you get down to it, it's all about dollars and cents. We don't have a lot of dollars, so we have to use our brains to do things in a better way if we want to get the correct outcomes.

> "We believe that the business community coming to the forefront to help lead the charge changes the equation enough that legislators will listen."
>
> —Barney Bishop

A HOLCOMB: The biggest challenge to date is to convince legislators to undertake these politically charged issues and to really delve deeply into what fundamental change would look like. There are many talented policy makers working on corrections reform in Michigan and we are pleased to see some good leadership; however, many of those not integrally involved in the issue view it as too much of a hot potato and prefer to pursue temporary band-aids instead of the radical surgery that is required for true success.

One of our most effective tactics thus far is the unity with which the business community is speaking. When the majority of the job providers in the state are on the same page, they are a powerful advocacy group and we have seen in this instance that progress has been made due to our efforts. It is no longer "if" real change will occur, but rather "when" it will happen.

A HUBERT: Another key challenge is when new administrations come in with new agendas and ideas. In addition, sometimes, problems are so layered and complex, like Oregon's foster care system, that it can be overwhelming to even find a place to start. We usually try to bring all parties

in to speak to us on a subject, hear all points of view, and bring opposing points of view together to resolve inherent discrepancies The bottom line is that sustaining long-term change and success can be difficult given budgetary pressures and newly elected politicians and changing agendas.

At the end of the day, our biggest asset as business leaders is we don't have a political stake in the game. Our only interest is to improve public safety in our community for a healthier and more vibrant city.

Launched in 2006, The Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable, and control corrections costs.

MORE ON LEADERS

Dave Adkisson

President & CEO, *the Kentucky Chamber of Commerce*

Chairman of the Board, *American Chamber of Commerce Executives*

PREVIOUS EXPERIENCE:

President, *Birmingham, Alabama, Chamber of Commerce*

President, *Owensboro, Kentucky, Chamber of Commerce*

Mayor, *Owensboro, KY*

Chairman, *Kentucky Advocates for Higher Education*

Co-founder, *Leadership Kentucky*

Chairman, *Kentucky Center for Public Issues*

Frank H. Beal

Executive Director, *Chicago Metropolis 2020*

Board member, *Business and Professional People for the Public Interest*

PREVIOUS EXPERIENCE:

President and chief executive officer, *Ryerson/West, a metals distribution company owned by Inland Steel Industries.*

Director, *the Illinois Department of Energy and Natural Resources*

Special assistant for energy and environmental affairs, *Governor James Thompson*

Erin Hubert

Vice President and General Manager, *Entercom Radio*

Board Chair, *Citizens Crime Commission*

PREVIOUS EXPERIENCE:

Executive Vice President and Chief Operating Officer, *Portland Trail Blazers*

Board President, *Oregon Partnership*

Member, *Governor's Mental and Health Policy Commission*

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Executive Director, *Florida Democratic Party*

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Board of Directors, *Gubernatorial Fellows Program*

James R. Holcomb

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PREVIOUS EXPERIENCE:

Chief of Staff, *Representative Craig Dellache during his tenure as Speaker of the House and Minority Leader*

Majority Legal Counsel, *Michigan House of Representatives*

Director of Policy, *Michigan House of Representatives*

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