

**Statement By  
Representative Robert C. "Bobby" Scott  
Chairman, Subcommittee on Crime,  
Terrorism and Homeland Security**

**Hearing on the "Criminal Justice Reinvestment Act of 2009" and  
the "Honest Opportunity Probation with Enforcement Initiative Act  
of 2009"**

**May 11, 2010 at 4:00 p.m. Rayburn 2141**

Welcome to today's Crime Subcommittee hearing on the HR 4080, the "Criminal Justice Reinvestment Act of 2009" and HR 4055, the "Honest Opportunity with Probation (HOPE) Act of 2009." Both of these bills, introduced by Representative Schiff, 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 projections are that it will only continue to grow. The same is true of the prison population in this country. While state spending and incarceration rates have dramatically increased over the past two decades, recidivism remains high. Of the approximately 700,000 individuals released from prison in 2008, it is estimated that half will be re-incarcerated within three years and even more will be re-

arrested. There is also an unacceptably high recidivism rate among jail populations. For example, of the 12.1 million jail admissions between July 1, 2004 and June 30, 2005, 71% 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 public safety. [REFERENCE CHART HERE]

State and county policymakers have recently begun exploring new strategies for addressing the corrections crisis that is fiscally crippling their budgets. Several states and counties have turned to “criminal justice reinvestment” projects to help them find solutions to both the incarceration and corrections crisis, without compromising public safety. “Criminal justice reinvestment” involves redirecting corrections monies into policies that keep people safer, while slowing the growth of the 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 HR 4080 and HR 4055 address the country’s incarceration crisis by focusing on crime policies that work.

At this hearing we will consider both HR 4080 and HR 4055, two 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 preventing recidivism and helping people overcome their substance abuse problems.

HR 4080, the “Criminal Justice Reinvestment Act of 2009,” creates new “Public Safety Performance Grants” for state and local governments to implement justice reinvestment strategies. The bill create two phases of funding: Phase 1 grants are for the analysis of criminal justice data, the evaluation of criminal justice policies, and the cost-effectiveness of their current spending on corrections, as well as the development of evidence-based policy options that can increase public safety and improve the accountability of offenders. 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 simply do not have the funds to dedicate to research that is needed to develop policies that directly target the problems they are having. This grant program will help them do that, so that the policies that are formulated are based in research and evidence about what works.

Phase 2 grants are 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 also support the reinvestment of averted prison or jail costs into programs that enhance public safety by strengthening the criminal justice system, because criminal justice reinvestment means reinvesting savings in much needed services, such as drug treatment and re-entry assistance, to the high-risk communities and individuals from which the jail and prison populations are drawn. The bill authorizes \$35 million for each of fiscal years 2010-2014 and requires the Attorney General to report to Congress yearly on the implementation and performance of the policies, thereby ensuring accountability for the grants.

One example of a 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 2008, more than 7.3 million people were under correctional supervision, including 70 percent who were supervised in the community on probation or parole and 30 percent who were held in the custody of prisons or jails. This means that 1 in 45 people are on community supervision, with the majority on probation (nearly 4.3 million, or 84%), an increase of nearly 300 percent since 1980. The 4.3 million probationers represent an increase from 3.8 million in 2000, which accounts for over 80% of the growth in the correctional population between 2000 and 2009. Also noteworthy is the fact that the number of probationers who have drug problems is on the rise. Approximately 3 in 10 probationers were drug offenders in 2008, up from about a quarter in 2000.

What this tells us is that more people are on probation than ever before and that they have significant needs. Six years ago, Judge Alm from Hawaii First Circuit Court did something about it. In 2004, Judge

Alm launched a pilot program 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 the offender and their probation officer, and substance abuse treatment services if appropriate. HOPE Probation represented a stark change from the way probation violations were typically handled by the probation office.

Inspired by the success of Hawaii's HOPE project, HR 4055, the "Honest Opportunity Probation with Enforcement Act of 2009," would create a comprehensive grant demonstration program 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 the conditions of probation.

Twenty-five (\$25) million dollars is authorized for up to 20 pilot sites. Stringent grantee requirements will ensure that the pilots are designed and evaluated in an appropriate manner. The key facets of each pilot program include the use of regular drug-testing, responding to

violations of probation rules with immediate arrest and swift and certain modification of the 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, calculate the amount of cost savings resulting from the reduced incarceration rates achieved through the program, and determine how much can be reinvested into more policies that work.

Criminal justice reinvestment can take on different forms and it won't look the same in every state or county, because it should be tailored to meet the needs of each. Today we will hear about different justice reinvestment initiatives in several states and counties, each unique, and some still in the early stages. The successes that have already been achieved, however, demonstrate 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 during today's hearing.

Now it is my pleasure to recognize my colleague, the Honorable Ted Poe, who is substituting for Ranking Member Gohmert today.

Without objection, in view of the time constraints under which we are operating today, all Members are asked to include any opening statements in the record at this point.

#### WITNESS INTRODUCTIONS

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

On the first panel, we will have one witness, my colleague, Representative Adam Schiff, from California's 29<sup>th</sup> District, who introduced both HR 4080 and HR 4055. Rep. Schiff serves on 3 committees. In addition to serving on the Judiciary Committee, he serves on the House Appropriations Committee, and three subcommittees thereof, and the House Permanent Select Committee on Intelligence. As a former federal prosecutor, Congressman Schiff has



particular expertise when it comes to his service on this Subcommittee as well as on the Judiciary Committee.

On the second panel, we will have five witnesses. The first witness is 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, the Georgia Governor's Commission on Certainty in Sentencing, the Lieutenant Governor of Maryland, and the U.S. Senate Judiciary Committee. Mr. Gelb 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.

Our second witness today is Chief Justice John T. Broderick of the New Hampshire Supreme Court. Chief Justice Broderick has held his current position since 2004. He serves as the chair of the leadership group of the justice reinvestment initiative in New Hampshire. Prior to his service on the bench, Justice Broderick was in private practice and has 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 to the Texas Legislature in November of 1992 and now in his ninth term, Representative Madden serves on various committees, including as Vice Chair of the House Committee on Corrections, which he chaired from 2005 to 2009, and the Judiciary and Civil Jurisprudence Committee. Representative Madden graduated from West Point, spent six years in the Army, and holds a Masters from the University of Texas at Dallas.

Our next witness is Dr. 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, Dr. La Vigne served for eight years as a senior research associate at the Institute. She holds a Bachelor's Degree from Smith College, a Master's Degree from the University of Texas-Austin, and a Ph.D. from the School of Criminal Justice at Rutgers.

Our final witness is Judge Steven Alm, of Hawaii's First Circuit Court. Judge Alm was sworn in as a First Circuit judge in 2001 and, as I noted in my remarks, formed the HOPE program in 2004. Prior to his judicial appointment, Judge Alm served as the United States Attorney for the District of Hawaii from November 1994 until April 2001. Judge Alm received his law degree from the University of the Pacific and his Master's Degree in Education from the University of Oregon.

Rep. Schiff, please begin.

Thank you, Mr. Schiff.

Mr. Gelb, are you ready to begin?

Thank you.

Chief Justice Broderick, you may begin.

Thank you, Mr. Chief Justice.

Mr. Madden, you may begin.

Thank you.

Dr. La Vigne, are you ready to begin?

Thank you, Dr. La Vigne.

Judge Alm, you may begin.

Thank you, Judge.

### QUESTIONING of WITNESSES

Thank you to all of the witnesses. We will now proceed under the five-minute rule with questions. I will begin by recognizing myself for five minutes.

[After you have concluded] I would now recognize my colleague Mr.

Poe for five minutes.

Proceed depending on order of arrival.

[When all questioning is concluded]

Thank you.

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

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

Without objection, the committee stands adjourned.