

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

**Hearing on  
Justice Reinvestment**

**April 1, 2009**

**Commerce, Justice, Science, and Related Agencies  
Appropriations Subcommittee  
U.S. House of Representatives**

Chairman Mollohan, Ranking Member Wolf, and Members of the Subcommittee, I am pleased to be with you today to discuss how Texas employed a "justice reinvestment" strategy and worked across party lines to reduce recidivism, increase public safety, and help Texas taxpayers get a better return on their investment in the criminal justice system.

Texas has some of the most punitive criminal justice laws in the nation. During the 1980s and 1990s, the Texas legislature enacted tough, new criminal laws which increased the incarceration rate in Texas. Texas became 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.

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

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

In the face of this crisis, the legislature pulled together and worked across party lines to implement a justice reinvestment strategy. Little did we know at the time that we were at the front of a "Justice Reinvestment" movement that has now spread from state to state. The strategy is based on a data-driven reexamination of each part of the corrections system, and a careful cost-benefit analysis of corrections expenditures.

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

Working closely with my Democratic counterpart in the Texas Senate, Senator John Whitmire, Chair of the Senate Criminal Justice Committee, we requested intensive technical assistance from the Council of State Governments Justice Center (“Justice Center”). The Justice Center is a national nonprofit organization that serves federal, state, and local governments from all three branches by providing practical, nonpartisan, and evidence-based advice to increase public safety and strengthen communities.

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.

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 the new policies and programs, appreciable declines have been recorded in the number of revocations to prison and the growth in the prison population.

- 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.

I appreciate the opportunity to inform the Subcommittee of the need for additional resources to expand the justice reinvestment strategy so that every state, and even the federal system, can reexamine criminal

justice policies in a fair and objective way in order to improve public safety and reduce correctional costs. Our programs have made Texas a shining example of what can be done to make our citizens safer and what can be done to make our systems smarter. We are in the process of sharply turning the ship, so that we continue focusing on the serious, violent offenders while providing treatment needs to those who will return to our communities. We are offering these individuals a real chance to return to society as productive citizens -- creating safer communities.

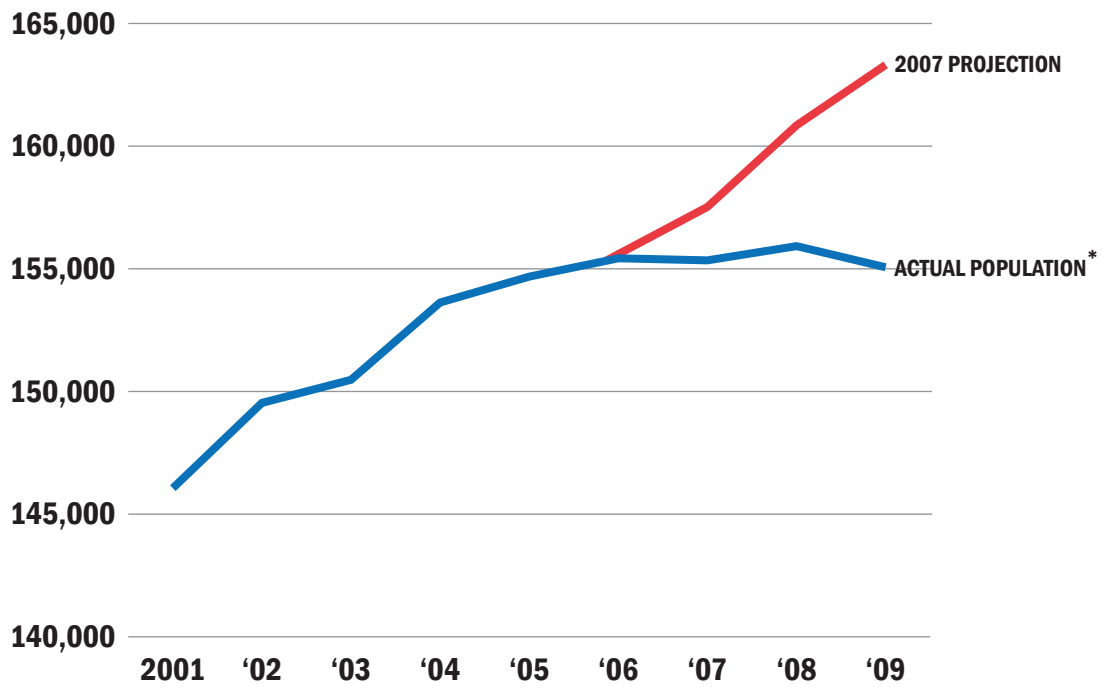
The need for federal support in the states is high and I urge the Subcommittee to consider expanding this program to assist states to reduce correctional costs and improve public safety. It is easy to see that we are at a critical turning point in criminal justice policies – one that will hopefully result 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. The federal government has a leadership role to play in this process, and I urge you to do so.

I would like to thank Chairman Mollohan, Ranking Member Wolf, and the Members of the Subcommittee for allowing me this opportunity to share what we have done in the Lone Star State. Ten years from now, I expect that we will look back and realize that these policies marked the most significant redirection in Texas' criminal justice policy history and that we have been all the safer for them.

# TEXAS



## TEXAS PROJECTED PRISON POPULATION

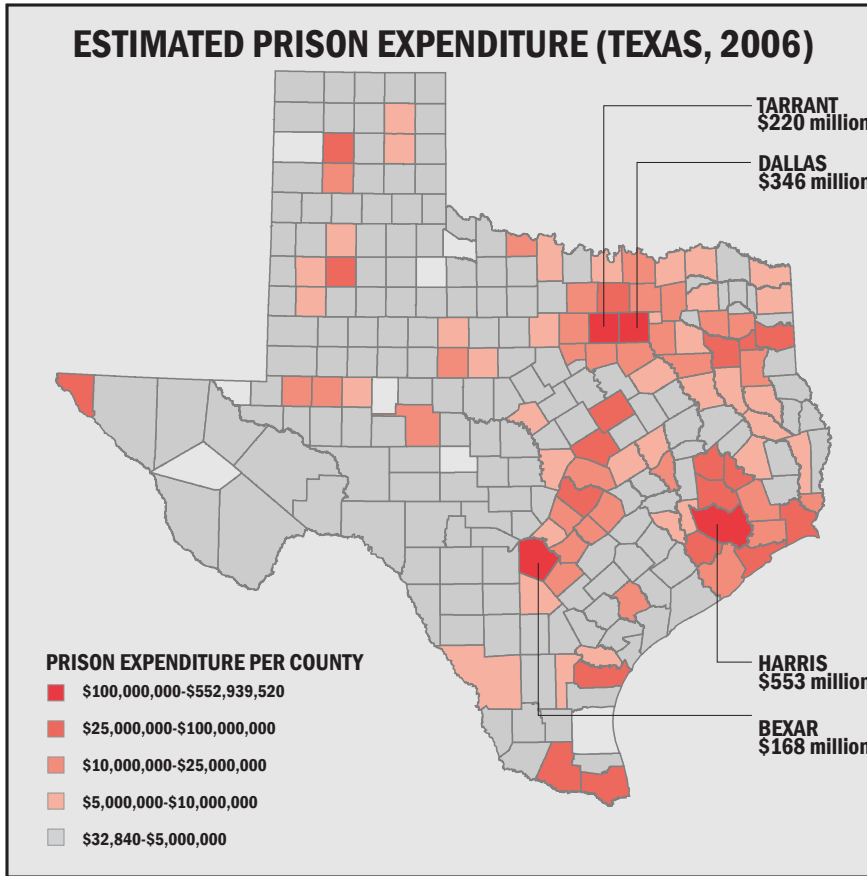


\*PROJECTED TDCJ POPULATION FOR DECEMBER 2009 FROM THE MOST RECENT PROJECTION (JANUARY 2009, LBB)

**PAROLE REVOCATIONS TO PRISON:  
DOWN 25% FROM 2006**

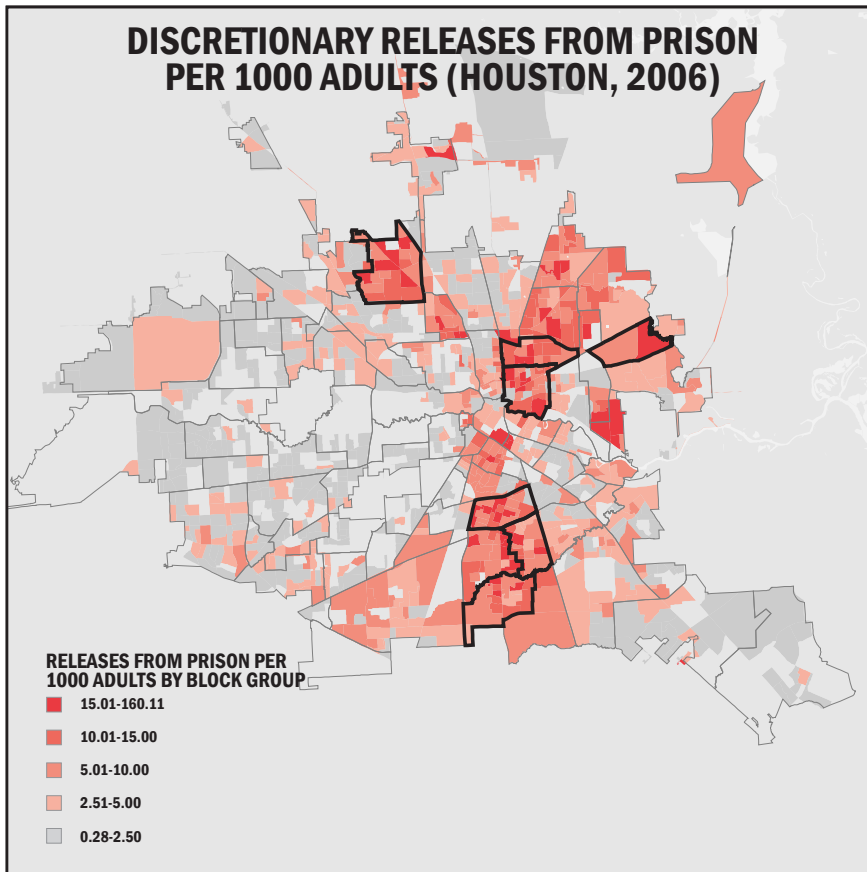
**PROBATION REVOCATIONS TO PRISON:  
DOWN 4% FROM 2006**

## ESTIMATED PRISON EXPENDITURE (TEXAS, 2006)



*The four highest reentry population counties in Texas account for over \$1 billion a year in incarceration costs.*

## DISCRETIONARY RELEASES FROM PRISON PER 1000 ADULTS (HOUSTON, 2006)



*Seven neighborhoods account for 25% of Houston's returning prison population but only 5% of its total population.*