

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5143

To establish the National Criminal Justice Commission.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2010

Mr. DELAHUNT (for himself, Mr. ISSA, Ms. FUDGE, Mr. ROONEY, Mr. SCOTT of Virginia, and Ms. RICHARDSON) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To establish the National Criminal Justice Commission.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Criminal Jus-  
5       tice Commission Act of 2010”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

8               (1) it is in the interest of the Nation to estab-  
9       lish a commission to undertake a comprehensive re-  
10       view of the criminal justice system;

1           (2) there has not been a comprehensive study  
2 since the President’s Commission on Law Enforce-  
3 ment and Administration and Justice was estab-  
4 lished in 1965;

5           (3) that commission, in a span of 18 months,  
6 produced a comprehensive report entitled “The  
7 Challenge of Crime in a Free Society”, which con-  
8 tained 200 specific recommendations on all aspects  
9 of the criminal justice system involving Federal,  
10 State, tribal, and local governments, civic organiza-  
11 tions, religious institutions, business groups, and in-  
12 dividual citizens; and

13           (4) developments over the intervening 45 years  
14 require once again that Federal, State, tribal, and  
15 local governments, civic organizations, religious in-  
16 stitutions, business groups, and individual citizens  
17 come together to review evidence and consider how  
18 to improve the criminal justice system.

19 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

20           There is established a commission to be known as the  
21 “National Criminal Justice Commission” (referred to in  
22 this Act as the “Commission”).

23 **SEC. 4. PURPOSE OF THE COMMISSION.**

24           The Commission shall undertake a comprehensive re-  
25 view of the criminal justice system, encompassing current

1 Federal, State, local, and tribal criminal justice policies  
2 and practices, and make reform recommendations for the  
3 President, Congress, State, local, and tribal governments.

4 **SEC. 5. REVIEW AND RECOMMENDATIONS.**

5 (a) GENERAL REVIEW.—The Commission shall un-  
6 dertake a comprehensive review of all areas of the criminal  
7 justice system, including Federal, State, local, and tribal  
8 governments' criminal justice costs, practices, and policies.

9 (b) FINDINGS AND RECOMMENDATIONS.—After con-  
10 ducting a review of the United States criminal justice sys-  
11 tem as required by section 5(a), the Commission shall  
12 make findings regarding such review and recommenda-  
13 tions for changes in oversight, policies, practices, and laws  
14 designed to prevent, deter, and reduce crime and violence,  
15 reduce recidivism, improve cost-effectiveness, and ensure  
16 the interests of justice at every step of the criminal justice  
17 system.

18 (c) PRIOR COMMISSIONS.—The Commission shall  
19 take into consideration the work of prior relevant commis-  
20 sions in conducting its review.

21 (d) STATE AND LOCAL GOVERNMENT.—In making  
22 its recommendations, the Commission should consider the  
23 financial and human resources of State and local govern-  
24 ments. Recommendations shall not infringe on the legiti-

1 mate rights of the States to determine their own criminal  
2 laws or the enforcement of such laws.

3 (e) PUBLIC HEARINGS.—The Commission shall con-  
4 duct public hearings in various locations around the  
5 United States.

6 (f) CONSULTATION WITH GOVERNMENT AND NON-  
7 GOVERNMENT REPRESENTATIVES.—

8 (1) IN GENERAL.—The Commission shall—

9 (A) closely consult with Federal, State,  
10 local, and tribal government and nongovern-  
11 mental leaders, including State, local, and tribal  
12 law enforcement officials, legislators, public  
13 health officials, judges, court administrators,  
14 prosecutors, defense counsel, victims' rights or-  
15 ganizations, probation and parole officials,  
16 criminal justice planners, criminologists, civil  
17 rights and liberties organizations, formerly in-  
18 carcerated individuals, professional organiza-  
19 tions, and corrections officials; and

20 (B) include in the final report required by  
21 subsection (g) summaries of the input and rec-  
22 ommendations of these leaders.

23 (2) UNITED STATES SENTENCING COMMIS-  
24 SION.—To the extent the review and recommenda-  
25 tions required by this section relate to sentencing

1 policies and practices for the Federal criminal jus-  
2 tice system, the Commission shall conduct such re-  
3 view and make such recommendations in consulta-  
4 tion with the United States Sentencing Commission.

5 (g) REPORT.—

6 (1) REPORT.—Not later than 18 months after  
7 the formation of the Commission, the Commission  
8 shall prepare and submit a final report that contains  
9 a detailed statement of findings, conclusions, and  
10 recommendations of the Commission to Congress,  
11 the President, State, local, and tribal governments.

12 (2) GOAL OF UNANIMITY.—It is the sense of  
13 the Congress that, given the national importance of  
14 the matters before the Commission, the Commission  
15 should work toward unanimously supported findings  
16 and recommendations.

17 (3) PUBLIC AVAILABILITY.—The report sub-  
18 mitted under this subsection shall be made available  
19 to the public.

20 (4) VOTES ON RECOMMENDATIONS IN RE-  
21 PORT.—Consistent with paragraph (2), the Commis-  
22 sion shall state the vote total for each recommenda-  
23 tion contained in its report to Congress.

1 **SEC. 6. MEMBERSHIP.**

2 (a) IN GENERAL.—The Commission shall be com-  
3 posed of 14 members, as follows:

4 (1) One member shall be appointed by the  
5 President, who shall serve as co-chairman of the  
6 Commission.

7 (2) One member shall be appointed by the mi-  
8 nority leader of the Senate, in consultation with the  
9 minority leader of the House of Representatives,  
10 who shall serve as co-chairman of the Commission.

11 (3) Two members appointed by the majority  
12 leader of the Senate, in consultation with the Chair-  
13 man of the Committee on the Judiciary.

14 (4) Two members appointed by the minority  
15 leader of the Senate, in consultation with the rank-  
16 ing member of the Committee on Judiciary.

17 (5) Two members appointed by the Speaker of  
18 the House of Representatives, in consultation with  
19 the Chairman of the Committee on Judiciary.

20 (6) Two members appointed by the minority  
21 leader of the House of Representatives, in consulta-  
22 tion with the ranking member of the Committee on  
23 Judiciary.

24 (7) Two members, who shall be State and local  
25 representatives, shall be appointed by the President  
26 in agreement with the minority leader of the Senate

1 and the minority leader of the House of Representa-  
2 tives.

3 (8) Two members, who shall be State and local  
4 representatives, shall be appointed by the President  
5 in agreement with the majority leader of the Senate  
6 and the Speaker of the House of Representatives.

7 (b) MEMBERSHIP.—

8 (1) QUALIFICATIONS.—The individuals ap-  
9 pointed from private life as members of the Commis-  
10 sion shall be individuals with distinguished reputa-  
11 tions for integrity and nonpartisanship who are na-  
12 tionally recognized for expertise, knowledge, or expe-  
13 rience in such relevant areas as—

14 (A) law enforcement;

15 (B) criminal justice;

16 (C) national security;

17 (D) prison and jail administration;

18 (E) prisoner reentry;

19 (F) public health, including physical and  
20 sexual victimization, drug addiction and mental  
21 health;

22 (G) victims' rights;

23 (H) civil liberties;

24 (I) court administration;

25 (J) social services; and

1 (K) State, local, and tribal government.

2 (2) DISQUALIFICATION.—An individual shall  
3 not be appointed as a member of the Commission if  
4 such individual possesses any personal financial in-  
5 terest in the discharge of any of the duties of the  
6 Commission.

7 (3) TERMS.—Members shall be appointed for  
8 the life of the Commission.

9 (c) APPOINTMENT; INITIAL MEETING.—

10 (1) APPOINTMENT.—Members of the Commis-  
11 sion shall be appointed not later than 45 days after  
12 the date of the enactment of this Act.

13 (2) INITIAL MEETING.—The Commission shall  
14 hold its initial meeting on the date that is 60 days  
15 after the date of the enactment of this Act. If not  
16 all Commission members are selected by that date,  
17 the Commission shall hold its initial meeting within  
18 15 days of the appointment of all Commission mem-  
19 bers.

20 (3) ETHICS.—At the initial meeting of the  
21 Commission, the Commission shall draft appropriate  
22 ethics guidelines for commissioners and staff, includ-  
23 ing guidelines relating to conflict of interest and fi-  
24 nancial disclosure. The Commission shall consult  
25 with the Senate and House Committees on the Judi-



1       ciary while drafting the guidelines and furnish the  
2       Committees with a copy of the completed guidelines.

3       (d) MEETINGS; QUORUM; VACANCIES.—

4             (1) MEETINGS.—The Commission shall meet at  
5       the call of the co-chairs or a majority of its mem-  
6       bers.

7             (2) QUORUM.—Seven members of the Commis-  
8       sion, including at least 2 members chosen by either  
9       the Senate majority leader, Speaker of the House, or  
10      Senate majority leader and Speaker of the House in  
11      agreement with the President and 2 members chosen  
12      by either the Senate minority leader, House minority  
13      leader, or Senate minority leader and House minor-  
14      ity leader in agreement with the President, shall  
15      constitute a quorum for purposes of conducting busi-  
16      ness, except that 2 members of the Commission shall  
17      constitute a quorum for purposes of receiving testi-  
18      mony.

19            (3) VACANCIES.—Any vacancy in the Commis-  
20      sion shall not affect its powers, but shall be filled in  
21      the same manner in which the original appointment  
22      was made. If vacancies in the Commission occur on  
23      any day after 45 days after the date of the enact-  
24      ment of this Act, a quorum shall consist of a major-  
25      ity of the members of the Commission as of such

1 day, so long as at least 1 Commission member cho-  
2 sen by a member of each party, Republican and  
3 Democratic, is present.

4 (e) ACTIONS OF COMMISSION.—

5 (1) IN GENERAL.—The Commission—

6 (A) shall act by resolution agreed to by a  
7 majority of the members of the Commission  
8 voting and present; and

9 (B) may establish panels composed of less  
10 than the full membership of the Commission for  
11 purposes of carrying out the duties of the Com-  
12 mission under this title—

13 (i) which shall be subject to the review  
14 and control of the Commission; and

15 (ii) any findings and determinations  
16 made by such a panel shall not be consid-  
17 ered the findings and determinations of the  
18 Commission unless approved by the Com-  
19 mission.

20 (2) DELEGATION.—Any member, agent, or staff  
21 of the Commission may, if authorized by the co-  
22 chairs of the Commission, take any action which the  
23 Commission is authorized to take pursuant to this  
24 Act.

1 **SEC. 7. ADMINISTRATION.**

2 (a) STAFF.—

3 (1) EXECUTIVE DIRECTOR.—The Commission  
4 shall have a staff headed by an Executive Director.  
5 The Executive Director shall be paid at a rate estab-  
6 lished for the Certified Plan pay level for the Senior  
7 Executive Service under section 5382 of title 5,  
8 United States Code.

9 (2) APPOINTMENT AND COMPENSATION.—The  
10 co-chairs of the Commission shall designate and fix  
11 the compensation of the Executive Director and, in  
12 accordance with rules agreed upon by the Commis-  
13 sion, may appoint and fix the compensation of such  
14 other personnel as may be necessary to enable the  
15 Commission to carry out its functions, without re-  
16 gard to the provisions of title 5, United States Code,  
17 governing appointments in the competitive service,  
18 and without regard to the provisions of chapter 51  
19 and subchapter III of chapter 53 of such title relat-  
20 ing to classification and General Schedule pay rates,  
21 except that no rate of pay fixed under this sub-  
22 section may exceed the equivalent of that payable for  
23 a position at level V of the Executive Schedule under  
24 section 5316 of title 5, United States Code.

25 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

1           (A) IN GENERAL.—The executive director  
2           and any personnel of the Commission who are  
3           employees shall be employees under section  
4           2105 of title 5, United States Code, for pur-  
5           poses of chapters 63, 81, 83, 84, 85, 87, 89,  
6           and 90 of that title.

7           (B) MEMBERS OF COMMISSION.—Subpara-  
8           graph (A) shall not be construed to apply to  
9           members of the Commission.

10          (4) THE COMPENSATION OF COMMISSIONERS.—  
11          Each member of the Commission may be com-  
12          pensated at not to exceed the daily equivalent of the  
13          annual rate of basic pay in effect for a position at  
14          level V of the Executive Schedule under section 5315  
15          of title 5, United States Code, for each day during  
16          which that member is engaged in the actual per-  
17          formance of the duties of the Commission. All mem-  
18          bers of the Commission who are officers or employ-  
19          ees of the United States, State, or local government  
20          shall serve without compensation in addition to that  
21          received for their services as officers or employees.

22          (5) TRAVEL EXPENSES.—While away from  
23          their homes or regular places of business in the per-  
24          formance of services for the Commission, members  
25          of the Commission shall be allowed travel expenses,

1 including per diem in lieu of subsistence, in the  
2 same manner as persons employed intermittently in  
3 the Government service are allowed expenses under  
4 section 5703(b) of title 5, United States Code.

5 (b) EXPERTS AND CONSULTANTS.—With the ap-  
6 proval of the Commission, the Executive Director may  
7 procure temporary and intermittent services under section  
8 3109(b) of title 5, United States Code.

9 (c) DETAIL OF GOVERNMENT EMPLOYEES.—Upon  
10 the request of the Commission, the head of any Federal  
11 agency may detail, without reimbursement, any of the per-  
12 sonnel of such agency to the Commission to assist in car-  
13 rying out the duties of the Commission. Any such detail  
14 shall not interrupt or otherwise affect the civil service sta-  
15 tus or privileges of the Federal employee.

16 (d) OTHER RESOURCES.—The Commission shall  
17 have reasonable access to materials, resources, statistical  
18 data, and other information such Commission determines  
19 to be necessary to carry out its duties from the Library  
20 of Congress, the Department of Justice, the Office of Na-  
21 tional Drug Control Policy, the Department of State, and  
22 other agencies of the executive and legislative branches of  
23 the Federal Government. The co-chairs of the Commission  
24 shall make requests for such access in writing when nec-  
25 essary.

1           (e) VOLUNTEER SERVICES.—Notwithstanding the  
2 provisions of section 1342 of title 31, United States Code,  
3 the Commission is authorized to accept and utilize the  
4 services of volunteers serving without compensation. The  
5 Commission may reimburse such volunteers for local travel  
6 and office supplies, and for other travel expenses, includ-  
7 ing per diem in lieu of subsistence, as authorized by sec-  
8 tion 5703 of title 5, United States Code. A person pro-  
9 viding volunteer services to the Commission shall be con-  
10 sidered an employee of the Federal Government in per-  
11 formance of those services for the purposes of chapter 81  
12 of title 5 of the United States Code, relating to compensa-  
13 tion for work-related injuries, chapter 171 of title 28 of  
14 the United States Code, relating to tort claims, and chap-  
15 ter 11 of title 18 of the United States Code, relating to  
16 conflicts of interest.

17           (f) OBTAINING OFFICIAL DATA.—The Commission  
18 may secure directly from any agency of the United States  
19 information necessary to enable it to carry out this Act.  
20 Upon the request of the co-chairs of the Commission, the  
21 head of that department or agency shall furnish that infor-  
22 mation to the Commission. The Commission shall not have  
23 access to sensitive information regarding ongoing inves-  
24 tigations.

1 (g) **MAILS.**—The Commission may use the United  
2 States mails in the same manner and under the same con-  
3 ditions as other departments and agencies of the United  
4 States.

5 (h) **ADMINISTRATIVE REPORTING.**—The Commission  
6 shall issue bi-annual status reports to Congress regarding  
7 the use of resources, salaries, and all expenditures of ap-  
8 propriated funds.

9 (i) **CONTRACTS.**—The Commission is authorized to  
10 enter into contracts with Federal and State agencies, pri-  
11 vate firms, institutions, and individuals for the conduct of  
12 activities necessary to the discharge of its duties and re-  
13 sponsibilities. A contract, lease or other legal agreement  
14 entered into by the Commission may not extend beyond  
15 the date of the termination of the Commission.

16 (j) **GIFTS.**—Subject to existing law, the Commission  
17 may accept, use, and dispose of gifts or donations of serv-  
18 ices or property.

19 (k) **ADMINISTRATIVE ASSISTANCE.**—The Adminis-  
20 trator of General Services shall provide to the Commis-  
21 sion, on a reimbursable basis, the administrative support  
22 services necessary for the Commission to carry out its re-  
23 sponsibilities under this Act. These administrative services  
24 may include human resource management, budget, leas-  
25 ing, accounting, and payroll services.

1 (l) NONAPPLICABILITY OF FACA AND PUBLIC AC-  
2 CESS TO MEETINGS AND MINUTES.—

3 (1) IN GENERAL.—The Federal Advisory Com-  
4 mittee Act (5 U.S.C. App.) shall not apply to the  
5 Commission.

6 (2) MEETINGS AND MINUTES.—

7 (A) MEETINGS.—

8 (i) ADMINISTRATION.—All meetings of  
9 the Commission shall be open to the pub-  
10 lic, except that a meeting or any portion of  
11 it may be closed to the public if it concerns  
12 matters or information described in section  
13 552b(c) of title 5, United States Code. In-  
14 terested persons shall be permitted to ap-  
15 pear at open meetings and present oral or  
16 written statements on the subject matter  
17 of the meeting. The Commission may ad-  
18 minister oaths or affirmations to any per-  
19 son appearing before it.

20 (ii) NOTICE.—All open meetings of  
21 the Commission shall be preceded by time-  
22 ly public notice in the Federal Register of  
23 the time, place, and subject of the meeting.

24 (B) MINUTES AND PUBLIC AVAIL-  
25 ABILITY.—Minutes of each open meeting shall



1 be kept and shall contain a record of the people  
2 present, a description of the discussion that oc-  
3 curred, and copies of all statements filed. The  
4 minutes and records of all open meetings and  
5 other documents that were made available to or  
6 prepared for the Commission shall be available  
7 for public inspection and copying at a single lo-  
8 cation in the offices of the Commission.

9 (m) ARCHIVING.—Not later than the date of termi-  
10 nation of the Commission, all records and papers of the  
11 Commission shall be delivered to the Archivist of the  
12 United States for deposit in the National Archives.

13 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

14 (a) IN GENERAL.—There are authorized to be appro-  
15 priated for fiscal years 2011 and 2012 such sums are as  
16 necessary to carry out the purposes of this Act, not to  
17 exceed \$7,000,000 per year for each fiscal year, and not  
18 more than \$14,000,000 total. None of the funds appro-  
19 priated under this Act may be utilized for international  
20 travel.

21 (b) AVAILABILITY.—Any sums appropriated under  
22 the subsection (a) shall remain available, without fiscal  
23 year limitation, until expended.

1 **SEC. 9. SUNSET.**

2       The Commission shall terminate 60 days after it sub-  
3 mits its report to Congress.

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