

# The Advocate



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## OVER INCARCERATION IN KENTUCKY WASTES TAXPAYERS' MONEY STAND UP NOW FOR THE SAFE, COST-EFFECTIVE, COMMON SENSE ALTERNATIVE



**Jerry Cox**

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Kentucky spends an enormous amount on corrections. This is the result of needless over incarceration. Too much of what the state and county spend is waste. Important progress has been made in safely reducing those costs since 2011 but more reform is needed to eliminate the waste fully. One thing we know for sure is that county and state correctional costs will continue to increase in the next biennium, robbing local and state governments of needed funds, absent additional common sense reform. However, there are common sense ways to reduce the waste safely that can take place in 2016 and they have growing bipartisan support.<sup>1</sup>

### Important Reforms Have Not Been Sufficient

In Kentucky, there have been two forward looking, systematic legislative measures that have brought sound progress to addressing crime more effectively and that have resulted in substantial reductions in the relentless increases in correctional costs.

**HB 463** Passage of HB 463<sup>2</sup> in 2011 was the product of a two year Task Force on the Penal Code and Controlled Substances Act<sup>3</sup> that spurned rhetoric and focused on an analysis of evidence, facts, and truths. This Task Force was chaired by Representative John Tilley and Senator Tom Jensen. Two significant facts drove its creation:

1. While the crime rate was declining "the state's prison population has jumped more than 260 percent since 1985, from about 5,700 inmates to more than 20,700 in 2010, according to the Department of Corrections. At year-end 2007, 1 of every 92 adults in Kentucky was incarcerated, compared with 1 of every 100 adults nationally."<sup>4</sup>
2. During the past 2 decades, the Commonwealth's spending for the increased incarceration has grown dramatically. In FY 1990, general fund corrections spending in Kentucky totaled \$140 million. In FY 2010, that amount was \$440 million, an increase of 214 percent.<sup>5</sup>

**SB 200** Enactment of SB 200<sup>6</sup> in 2014 was the result of a two year Task Force on the Unified Juvenile Code.<sup>7</sup> It was chaired by Senator Whitney Westerfield and Representative John Tilley. It was created to adopt measures for juveniles that would provide more effective outcomes and address unnecessary costs. For instance, "The Department of Juvenile Justice (DJJ) spends more than half of its \$102 million annual budget on secure and nonsecure residential facilities that cost an average of \$87,000 per bed per year. In addition, the Department for Community Based Services (DCBS) spent an estimated \$6 million in fiscal year 2012 for out-of-home placement of status offenders."<sup>8</sup> Additionally, "Lower-level offenses make up a significant share of the juvenile justice system. Misdemeanants and violators make up the majority (ranging from 55 percent to 87 percent) of youth in of each type of out-of-home placement."<sup>9</sup>

### IN THIS EDITION OF THE ADVOCATE:

**OVER INCARCERATION IN KENTUCKY  
WASTES TAXPAYERS' MONEY:  
STAND UP NOW FOR THE SAFE,  
COST-EFFECTIVE, COMMONSENSE  
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**DIVERSE COALITION TO DRIVE  
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Costly divergent trends continue:

Our continuing bucket loads of waste

Despite these major policy advances, Kentucky taxpayers continue to suffer expensive conflicting trends between incarceration costs and crime rates. While these opposing trends have been mitigated by HB 463 and SB 200 reforms, bucket loads of waste remain primarily because the degraded penal code remains unaddressed,<sup>10</sup> and because too many in the criminal justice system disagree with these reform measures and choose to exercise their discretion in a way that does not advance the intent of the reforms. Three striking examples are judges who disagree with pretrial release for low and moderate risk arrestees, the Parole Board that refuses to release low risk inmates eligible for parole, and prosecutors who refuse to use deferred prosecution.

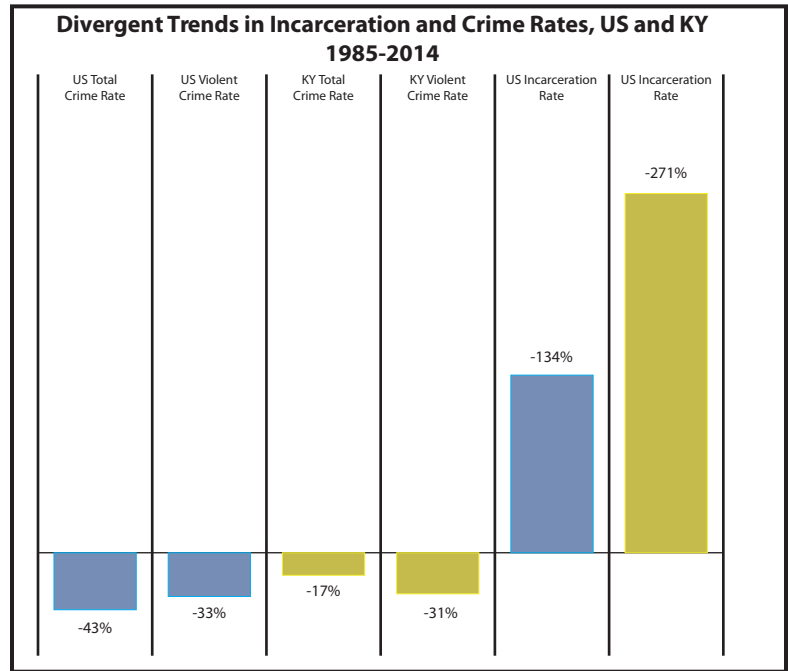
One example indicates the degree of waste. The Parole Board is making decisions not to parole inmates against the results of its own evidence-based, validated risk assessments. Many low risk inmates are not granted parole.

Since the beginning of FY 2013, over 2,000 low risk inmates have been denied parole, an average of 694 per year.<sup>11</sup> If each of these inmates spent one additional year in custody as a result of that decision, and many have spent much more, the total cost to the taxpayers of these decisions would be between 36,851,400 and 46,424,436.<sup>12</sup> That is an average annual cost of between \$12,283,800 and \$15,474,812 per year.

The Parole Board is either ignoring the evidence-based low risk rating of offenders that it has decided not to parole or is arbitrarily substituting its decision on what should have been a harsher sentence by the trial court. Neither is appropriate to the extent they are being done.

Kentucky criminal justice facts are straightforward. The divergence is stark:

- Since 1975 the Kentucky corrections population has skyrocketed, from 3,216<sup>13</sup> to 21,459<sup>14</sup> in 2014, an incarceration rate increase of 95 per 100,000 to 486 per every 100,000 inhabitants.
- In that same period, the state corrections costs have increased from slightly over \$11 million in 1974<sup>15</sup> to \$499,067,400 budgeted for FY 2016.<sup>16</sup>
- The Kentucky crime rate is falling, down 17% since 1985.
- The Kentucky violent crime rate is down, 31% since 1985.
- Kentucky’s crime rate and violent crime rate are both below the national average.



The reduced crime rates have resulted in a dramatic decrease in criminal cases in Kentucky. Since Calendar Year 2007, cases have declined by 42,040 from 254,285 to 212,245:

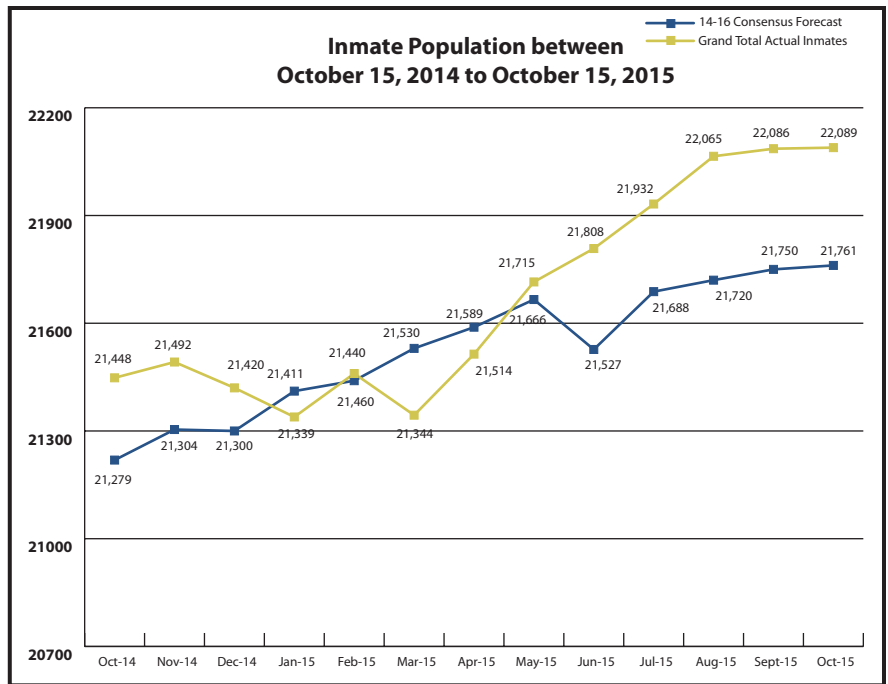
	CIRCUIT CASES	DISTRICT CASES	COMBINED
CY2007	31,699	222,586	254,285
CY2008	31,643	216,029	247,672
CY2009	32,024	206,040	238,064
CY2010	32,155	199,666	231,821
CY2011	31,369	194,346	225,715
CY2012	32,519	193,780	226,299
CY2013	32,081	184,280	216,361
CY2014	32,067	180,178	212,245 <sup>17</sup>

Many believe that the drop in the crime rate is chiefly caused by the massive increase in incarceration and the decrease in release. “The reality is far more complex.... [A]bout 25% of the decline in violent crime can be attributed to increased incarceration. While one-quarter of the crime drop is not insubstantial, we then know that most of the decline in crime — three quarters — was due to factors other than incarceration.”<sup>18</sup>

1. For a broad national perspective, see articles written by Norman L. Reimer, NACDL Executive Director as follows: “Inside NACDL” columns in *The Champion* magazine: ‘Without Intent’—NACDL Makes the Case for Reasonable Lawmaking, May 2010 at 9; *When It Comes to Overcriminalization, Prosecutorial Discretion Is for the Birds*, September/October 2012 at 9; *A Lamentable Example of Overcriminalization: HIV Criminalization*, December 2013 at 7; *Whether Fish or Fowl—Prosecutorial Overreach Is a Poisonous Aspect of Overcriminalization*, September 2014 at 7; *Overcriminalization and the Trial Penalty: Gaining Traction One Case—and One Justice—at a Time*, January/February 2015 at 9; and *Changing the Rules of the House: A Tangible Step to Stem the Tide of Overcriminalization*, March 2015 at 9.

2. HB 463 (2011) - J. Tilley, G. Stumbo, R. Adkins, T. Burch, L. Clark, J. Crenshaw, R. Damron, M. King, A. Simpson, T. Thompson, B. Yonts, AN ACT relating to the criminal justice system, making an appropriation therefor, and declaring an emergency is found at: <http://www.lrc.ky.gov/record/11rs/HB463.htm> It passed the House 96-1 and the Senate 38-0.

The facts call for a less expensive response to crime in the context of declining crime rates. “During the last 30 years of incarceration growth, we have learned a great deal about the financial and social costs and limited effectiveness of incarceration on crime rates. While incarceration is one factor affecting crime rates, its impact is more modest than many proponents suggest, and is increasingly subject to diminishing returns. Increasing incarceration while ignoring more effective approaches will impose a heavy burden upon courts, corrections and communities, while providing a marginal impact on crime. Policymakers should assess these dynamics and adopt balanced crime control policies that provide appropriate resources and support for programming, treatment, and community support.”<sup>19</sup>

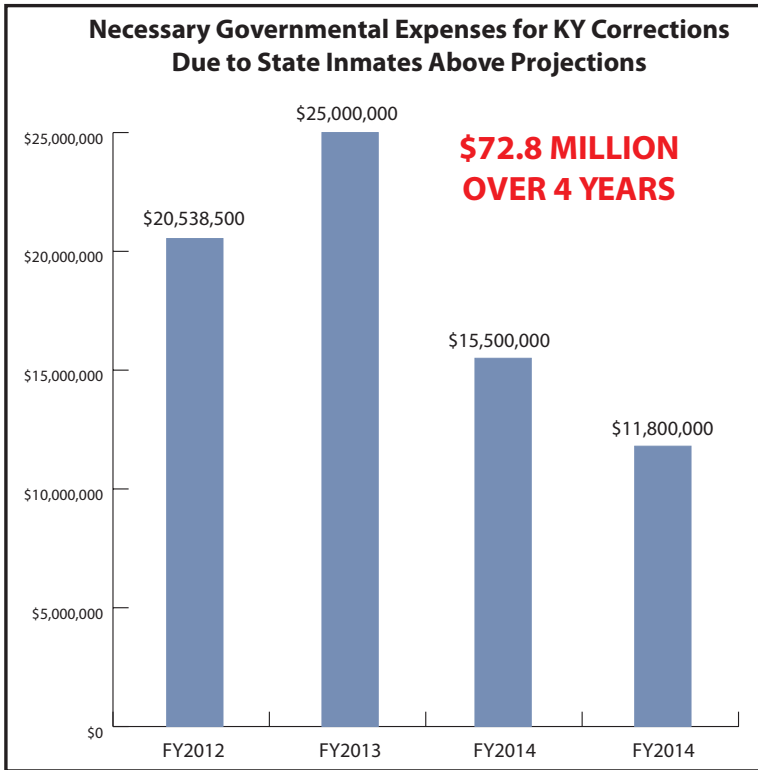


### State Prison Costs Increases are Unsustainable; State Needs Help in 2016

The Kentucky prison population continues to be above the projection. In October 2015, the population has risen to 22,089. This is 328 above the upwardly adjusted projected and has steadily been increasing since March 2015.

And the end of the year “necessary government expense” amounts for corrections continue to be substantial. From fiscal years 2012-2015, \$72.8 million has been spent for the “necessary governmental expense” for inmates above the projected numbers.<sup>20</sup>

- The Task Force on the Penal Code and Controlled Substances Act was created by 2010 House Concurrent Resolution 250, found at: <http://www.lrc.ky.gov/record/10rs/HC250.htm> to study and report on recommended changes to the Kentucky Penal Code and the Controlled Substances Act. It was chaired by Representative John Tilley and Senator Tom Jensen. Its members were Secretary J. Michael Brown, Justice and Public Safety Cabinet, Chief Justice John D. Minton, Jr., Kentucky Supreme Court’ Tom Handy, former Commonwealth’s Attorney, J. Guthrie True, former public advocate, Judge/executive Tommy Turner, Larue County. It was assisted by the Public Safety Performance Project at the Pew Center on the States and its partners, JFA and CJJ.
- Report of the Task Force on the Penal Code and Controlled Substances Act (January 2011) at 1; found at: <http://www.lrc.ky.gov/lrcpubs/rm506.pdf>
- Id.* at 4.
- SB 200 (2014) - W. Westerfield, AN ACT relating to the juvenile justice system and making an appropriation therefor is found at: <http://www.lrc.ky.gov/record/14rs/SB200.htm> It passed the Senate 30-8 and the House 84-15.
- The Task Force on the Unified Juvenile Code was created in the 2012 Regular Session by House Concurrent Resolution 129 to review and research the juvenile justice system and to make recommendations for changes to the Unified Juvenile Code. In 2013, the General Assembly adopted Senate Concurrent Resolution 35, which directed the task force to continue its review of the Unified Juvenile Code and provide recommendations for juvenile justice reforms. Its members were: Harry Berry, Hardin County Judge/Executive, Hasan Davis, Commissioner, Department of Juvenile Justice Glenda Edwards, Trial Division Director, Department of Public Advocacy Steve Gold, Henderson County Attorney Teresa James, Commissioner, Department of Community Based Services Judge Lisa Jones, District Court Judge, Daviess County Bo Matthews, Superintendent, Barren County Schools Justice Mary Noble, Deputy Chief Justice, Kentucky Supreme Court Pam Priddy, NECCO Executive Dr. John Sivley, Clinical Director, Children’s Services, Lifeskills.
- Report Of The 2013 Task Force On The Unified Juvenile Code (December 19, 2013) at 1. Found at: <http://www.lrc.ky.gov/lrcpubs/rm514.pdf>
- Id.*
- For a reflective discussion of the history of the degradation of Kentucky’s 1974 model code, see Ernie Lewis and Dan Goyette, “The Kentucky Penal Code: Forty Years of Unresolved Tension and Conflict Between Sentencing Philosophies,” *The Advocate* (October 2014). Found at: <http://dpa.ky.gov/NR/rdonlyres/8908105A-1833-4AA4-8394-3823A46BCA3E/0/AdvocateOctober101614FINALWITHNAMESINTITLEReduced.pdf> “We are at a point where most states are very much in need of recodification and of a long-term strategy for avoiding future degradation, but no state has yet done it. Perhaps Kentucky can provide the model.” Paul H. Robinson, “The Rise and Fall and Resurrection of American Criminal Codes,” 53 U. Louisville L. Rev 173, 188 (2015).
- Kentucky Parole Board Reports. Found at: <http://justice.ky.gov/Pages/Reports.aspx?div=ParoleBoard>
- At an annual incarceration cost of between \$17,700 and \$22,298, see Kentucky Department of Corrections 2015 Cost to incarcerate a state prisoner per year. Found at: <http://corrections.ky.gov/about/Documents/Research%20and%20Statistics/Annual%20Reports/Cost%20to%20Incarcerate%202015.pdf>
- Robert G. Lawson, “Difficult Times in Kentucky Corrections – Aftershocks of a ‘Tough on Crime’ Philosophy,” 93 Ky.L.J. 305, 323 (2004-2005).
- As of July 15, 2014. Data supplied to the Department of Public Advocacy by Jonathan Hall, Kentucky Department of Corrections on November 12, 2014.
- Lawson, *supra* note 13.
- HB 235 (2014) Free Conference Committee Report, p. 84. Found at: <http://www.lrc.ky.gov/record/14RS/HB235.htm>
- KY Administrative Office of the Courts data.
- Ryan S. King, Marc Mauer, *Incarceration and Crime: A Complex Relationship* (2005) at 3, 4.
- Id.* at 8.



according to statewide data.<sup>21</sup> That is costing Lexington taxpayers unnecessarily.

### Common Sense, Cost Saving Reforms Await Enactment

In 2015 Rep. Brent Yonts, Vice Chair, House Judiciary Chair House State Government Committee, filed 5 bills that would safely reduce county and state incarceration costs:

- **HB 305** - Reduce low level misdemeanors to violations with pre-payable fines, saving jail, prosecution, and defense expenses;
- **HB 286** - Permit local jailers to grant limited service credits against an inmate’s sentence for good behavior and educational achievement, saving jail costs and encouraging good behavior, and also mandate alternative sentencing for flagrant non-support instead of imprisonment, saving prison costs and better enabling delinquent parents to work to support their children;
- **HB 285** - Require parole after a fixed period for nonviolent offenders serving a Class D sentence and release for misdemeanants who have good behavior, saving county and state incarceration costs;
- **HB 284** - Adopt a “clear and convincing” standard for pretrial release decisions and require findings specific to the defendant, guaranteeing that defendants who are low-risk and entitled to release are not needlessly held in jail at county expense; and
- **HB 304** - Modify the persistent felony offender statute, saving prison costs by reserving the highest sentences for violent offenders and career criminals.

Drop In Crime Rate and Cases Has Not Helped Counties and State Realize All Projected Savings Counties and the state are seeing fewer criminal cases. For instance, in Fayette county, total criminal cases fell by 3,450 from 2006 – 2014:

FAYETTE COUNTY		
	2006	2014
Circuit Court Criminal Cases Opened	2,062	1,664
Circuit Court Felony Cases Opened	4,460	3,285
Circuit Court Misdemeanor Cases Opened	14,098	10,648
	2008	2014
DUI Cases Opened in District Court	2,879	1,620

Other proposals<sup>22</sup> would likewise bring safe and substantial cost reductions. Recommendations of the 2008 KY Criminal Justice Council, which had broad representation from prosecutors, police, corrections and defenders, included:

- Repeal 10-year parole eligibility requirement for PFO, First-Degree;
- Eliminate use of prior felonies that have not resulted in imprisonment from PFO;
- Eliminate PFO 2d.<sup>23</sup>

However, too many counties have not seen corresponding decreases in their jail populations primarily because too many low and moderate risk pretrial clients remain incarcerated despite the reform measures in HB 463. For instance, in Fayette County, the pretrial release rate ranks 120 out of 120 counties

In FY14, the Commonwealth spent \$65,388,822 to incarcerate 2,967 individuals serving PFO-enhanced sentences for non-violent offenses. The average sentence of these individuals is more than 20 years. By the end of their sentence, the total cost will be more than \$1.3 billion to house these non-violent offenders.

In calling for reform in 2016, County Judge-Executive Tommy Turner said, “Yet, we still find that many counties still have

20. FY 2012, \$20,538,500; FY 13, \$25,000,000; FY 14, \$15,500,000; FY 15, \$11,800,000.  
 21. Kentucky Administrative Office of the Courts data shows that from January 1, 2014 – December 31, 2014, Fayette County’s pretrial release rate was 44.46%, 120th in the state. During the same period, Metcalfe County’s release rate was 90.17%. Jefferson County’s was 66.40%. From June 1, 2014 – May 31, 2015 Fayette County’s release rate was 42.95%, 120th in the state. During the same period, Metcalfe County’s was 88.46% and Jefferson County’s was 65.53%.  
 22. See also, Ed Monahan, “10 Commonsense ways to reduce waste in Kentucky’s criminal justice system: Lasting and Unrealized Benefits of HB 463,” *The Advocate* (March 2014). Found at: <http://dpa.ky.gov/NR/rdonlyres/24D2AFDA-4F6F-427F-A641-4E2A9F0F55A8/0/AdvocateMarch2014Part2FINALFULLPAGEREDUCED.pdf>  
 23. KY Criminal Justice Council, Criminal Justice Reform (December 2008), p. 21. Found at: <http://justice.ky.gov/Documents/Statistical%20Analysis/2008%20CJC%20Report.pdf>



too many low and moderate risk accused persons in their jails. Additional reform in pretrial release will reduce this unnecessary waste of precious tax dollars. Additional reform is needed to reduce low level misdemeanors to violations and low level felonies to misdemeanors.”<sup>24</sup>

## Growing Support Across Ideologies and Professions

Increasingly, leaders across the spectrum agree that the best way forward is a cooperative effort to base criminal justice policy on what works, not what costs the most. In fact, safely reducing waste in corrections was the primary topic at the Joint Interim Judiciary Committee meeting in June 2015.

## Jails Cost Counties a Lot; Counties Need Help in 2016

At that joint session, Tommy Turner provided the county perspective on corrections reform from his many leadership roles, 30 years as LaRue County Judge/Executive, past president of the KY County Judge/Executive Association, currently serving as its legislative chair, past president of KACo, and member of the Task Force on the Penal Code and Controlled Substances Act that issued a report in 2011, most of which became law as HB 463. Turner made three significant points to legislators.

He expressed appreciation to “our legislature for its past leadership in bringing common sense reforms in HB 463, that has saved the state and counties significant dollars and has done so while protecting our public safety.”<sup>25</sup>

Judge Executive Turner identified why this is such an important issue for every Kentucky county, “county jail costs, in nearly every county in Kentucky, is the most significant drain in county tax dollars. In some cases the cost of county jail operations exceed the cost of all other county operations combined. In my county of LaRue, 60% of the total real property tax dollars turned over to county government by our Sheriff must go to operate the jail.”<sup>26</sup>

Because of the massive cost of corrections to counties, he said, “any measure taken by the legislature that can help curb the burden of county jail costs is significant for my county and many others.”<sup>27</sup>

## KY Chamber Asks to Keep Going with Efforts to be Smart on Crime

At the same Judiciary Committee hearing, Ashli Watts, Director of Public Affairs, Kentucky Chamber of Commerce, testified for the Chamber. “To realize the full savings intended in House Bill 463 and the need to fund programs that reduce recidivism, we

recommend continuing to work toward full implementation of the 2011 sentencing reform legislation to control the growth in corrections costs. We also encourage legislators to carefully consider efforts which would increase penalties resulting in higher corrections costs.”

Ms. Watts noted that the Chamber has been working with legislators, the Department of Public Advocacy, local governments and other stakeholders to encourage the General Assembly to continue reviewing the Kentucky Penal Code with the goal of creating more alternatives to incarceration for low-level, non-violent crimes and focus on jail time for more serious offenses.

While some may think criminal justice reform is not the bailiwick of the Chamber, Ms. Watts said, “Our involvement started in 2009 with the release of our ‘Leaky Bucket’ report<sup>28</sup> which showed that Kentucky’s corrections budget was growing much faster than total state government spending. It documented that from 2000 to 2009, Kentucky’s total General Fund spending increased by 33%, compared to a 44% increase in spending on corrections. With the business community contributing approximately 44% of all state tax revenue, we found this unsustainable and figured there had to be a smarter way to tackle crime.”

She noted that “Every dollar spent on prisons is less money for other state programs that have a more positive effect, including education,” and the shocking reality of spending \$19,000 per year to incarcerate a person compared to spending \$9,200 a year on a public school student and \$7,000 to send the student to college.”

In a 2003 article “Three Strikes And You’re Broke,” Cal Thomas reflected what people are thinking, “After two decades of being ‘tough on crime’ by ‘locking them up and throwing away the key’ - to recall two of the effective political slogans of the past - the bill has come due. ....What are taxpayers getting for their money? They get a false sense of security, as if putting current criminals behind bars insures there won’t be future criminals. If locking up everyone now committing crimes would eliminate crime, I’d be all for it, but new criminals are born, or made, every day. Something is wrong with the system....We do retribution well. We should be focusing on restitution.”<sup>29</sup>

Increasingly, law enforcement and prosecutors support reform in recognition of the fact that more people incarcerated for longer does not equal public safety. Over 130 chiefs of police, sheriffs and prosecutors have formed a coalition, Law Enforcement Leaders to Reduce Crime and Incarceration.

“The law enforcement leaders now say reducing incarceration will improve public safety because people who need treatment

24. Remarks at the Interim Joint Committee on Judiciary, Meeting No. 1, Monday June 15, 2015, Patterson Ballroom, Hyatt Regency Hotel, Lexington KY.

25. *Id.*

26. *Id.*

27. *Id.*

28. The Leaky Bucket (February 2010) found at: <http://www.kychamber.com/sites/default/files/LeakyBucketWhitePaper.pdf> See also, *The Leaky Bucket: Where we stand five years later* ( July 2014) found at: [http://www.kychamber.com/sites/default/files/Leaky%20Bucket%205%20Years%20Later\\_0.pdf](http://www.kychamber.com/sites/default/files/Leaky%20Bucket%205%20Years%20Later_0.pdf)

29. Cal Thomas, “Three Strikes and You’re Broke,” *Jewish World Review*, Nov. 13, 2003.

for drug and alcohol problems or mental health issues will be more likely to improve and reintegrate into society if they receive consistent care, something relatively few jails or prisons offer.” William J Bratton, the New York City police commissioner, said that New York State and city law enforcement agencies “were well ahead of the curve in understanding that you can’t arrest your way out of the problem.”<sup>30</sup>

Ronal Serpas, co-chair of the group with 35 years in law enforcement, said “Our experience has been, and in some ways it’s counterintuitive, that you really can reduce crime and incarceration at the same time. Our officers are spending all day long on arrest reports and at lockups dropping off prisoners — it’s for low-level offenders who pose no threat to the community, are posing very little to no threat for recidivism, and overwhelmingly are just folks who have mental health or drug addiction problems that there’s no place else for them to go.” Serpas said “he’s come to believe that the justice system should conserve resources to handle the most serious and violent offenders. In too many cases that doesn’t happen now.”<sup>31</sup>

Law Enforcement Leaders to Reduce Crime and Incarceration unites more than 130 current and former police chiefs, federal and state chief prosecutors, and attorneys general from all 50 states to urge for a reduction in both crime and incarceration. With this group, law enforcement joins the emerging movement calling for an end to unnecessary, widespread incarceration.<sup>32</sup> They issued a Statement of Principles and call for four major reforms. “Police departments and prosecutorial offices must adjust policies within our offices that over-rely on arrests and incarceration. However, as law enforcement, we are obligated to enforce the law. Therefore, there is also a need for urgent change to our laws that over-criminalize and over-punish. Within the overarching goal of reducing incarceration while reducing crime, we advocate for four specific changes.

1. Increasing Alternatives to Arrest and Prosecution, Especially Mental Health and Drug Treatment
2. Restoring Balance to Criminal Laws, Including Reclassifying Crimes Where Appropriate
3. Reforming Mandatory Minimums
4. Strengthening Community-Law Enforcement Ties.”<sup>33</sup>

In response to the “pivotal moment” prosecutors have created an Institute for Innovative Prosecution. “Prosecutors are uniquely situated in our legal system” to drive common sense reform according to Manhattan District Attorney Cyrus Vance. “Beyond the oath of zealous representation, prosecutors take a separate oath to do justice. Their ‘client’ is not an individual, or even a person. It is fairness.” The national prosecution

think tank “will help prosecutors become better advocates for youth, and for the mentally ill. We will work to expand pre-trial diversion programs -- because too many young men of color are still needlessly detained -- and inmate re-entry programs -- because it makes no sense to send someone to prison without a plan for them to succeed when they get out. We’ll work to grow treatment and alternative dispositions for mentally ill defendants -- because nobody benefits when “frequent flyers” cycle through our jails and our justice system at large. And we’ll provide state and local prosecutors with the tools and strategies they need to fight cybercrime -- because our nation’s most pervasive criminal threat requires an all-hands-on-deck approach.”<sup>34</sup>

### Conclusion: Leaders Need To Stand up Now

We know that arresting more people and incarcerating them longer is not a formula for safer communities. It is a recipe for much higher costs to taxpayers.

Manhattan prosecutor Vance is quite right, “This is a pivotal moment for criminal justice in America. For the first time in recent memory, issues like police tactics, racial disparities, and unnecessary incarceration are at the forefront of a robust national debate. An unlikely consensus has formed across the ideological spectrum -- and across the practice of criminal law -- challenging basic fundamentals about our justice policies and institutions, and demanding that the next generation of criminal justice thought leaders please stand up.”<sup>35</sup>

On behalf of the Chamber, Ashli Watts champions the growing number “working toward commonsense solutions that will move the Commonwealth forward and give people the opportunity to be productive citizens, while saving scarce state dollars needed in other critical areas.”<sup>36</sup>

A remarkable shift is taking place. Liberals and conservatives disagree on so many issues yet increasingly there is common ground amongst ideologies and political forces on the need to reduce wasteful correctional costs because of wasteful government over incarceration. Grover Norquist and Newt Gingrich, along with Van Jones, addressed a PEW national convention with each calling for reduction of wasteful spending that does not produce the outcomes promised. It is no longer good enough to say we have arrested more and imprisoned more for longer.<sup>37</sup>

Over incarceration wastes taxpayers’ money. There is a safe, common sense alternative. For the sake of taxpayers, let’s choose the safer, less costly way in 2016. Judicial, prosecutorial, criminal defense and legislative leaders must stand up now.

30. Timothy Williams, Police Leaders Join Call to Cut Prison Rosters, New York Times, October 20, 2015.

31. Carrie Johnson, More Than 100 Police Chiefs And Prosecutors Unite To Cut Prison Population, NPR October 21, 2015.

32. Law Enforcement Leaders to Reduce Crime and Incarceration <http://lawenforcementleaders.org/>

33. [http://lawenforcementleaders.org/wp-content/uploads/2015/10/Statement\\_of\\_Principles.pdf](http://lawenforcementleaders.org/wp-content/uploads/2015/10/Statement_of_Principles.pdf)

34. Cyrus R. Vance, Jr. is the Manhattan District Attorney. Jeremy Travis is the President of John Jay College of Criminal Justice of the City University of New York, Prosecutors Are Uniquely Positioned to Drive Criminal Justice Reform, Huffington Post Op-Ed, October 20, 2015.

35. Id.

## DIVERSE COALITION TO DRIVE COMMON SENSE CRIMINAL JUSTICE REFORM IN THE COMMONWEALTH:

### REFORMS WILL SAVE TAX DOLLARS, HELP ECONOMY AND MAKE COMMUNITIES SAFER

Well-established Kentucky business, economic, faith-based and civil rights organizations announced Wednesday that they have formed a coalition – called Kentucky Smart on Crime – to advocate common sense criminal justice reforms in the Commonwealth.

The coalition consists of the Kentucky Chamber of Commerce, ACLU of Kentucky, Catholic Conference of Kentucky, Kentucky Council of Churches, Bluegrass Institute for Public Policy Solutions, Kentucky Center for Economic Policy and Kentucky Association of Criminal Defense Lawyers.

“To see groups that are often on opposing sides in public policy matters come together to support this common cause is a testament to the significance and urgency criminal justice reform has taken in this country,” Kentucky Smart on Crime spokesman Russell Coleman said.

Coleman has an extensive background in law enforcement and prosecution, serving under two Attorneys General and working as an FBI special agent. He was temporarily assigned to the National Joint Terrorism Task Force and volunteered for a 2007 assignment in support of Operation Iraqi Freedom.

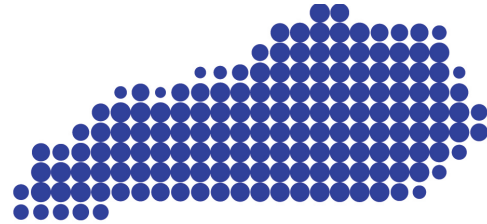
The new coalition will focus much of its efforts during the 2016 General Assembly on policies that facilitate reentry into society after individuals who have been incarcerated have served their time and paid all restitution and associated costs.

“Removing government-imposed barriers to reentry saves tax dollars, helps our economy and keeps our communities safer,” Coleman said. “When these individuals can’t get jobs or reintegrate into their communities, they very often return to crime, return to harming victims, return to prison and become a burden on taxpayers.”

The coalition is expected to support legislative reform that would allow individuals to seek to have certain Class D felonies expunged after a period of time. Almost 100,000 Kentuckians could benefit from such legislation.

“We strongly support efforts on the felony expungement issue because Kentucky employers need access to the tens of thousands of low-level, non-violent offenders who have turned their lives around,” Kentucky Chamber President and CEO Dave Adkisson said. “We look forward to working with other groups to craft a bill we can all support.”

Progressive organizations like the ACLU of Kentucky, which has been instrumental in forming the coalition, have worked for years to advance simple, straightforward reforms that better align the criminal justice system with American values of fairness and justice, ACLU-KY Program Director Kate Miller said.



# KENTUCKY SMART on crime

“Felony records erect unnecessary barriers to housing, education, employment and civic participation, which are all essentials for stability, and stability is an important step toward stronger, safer communities across the Commonwealth,” she said.

For decades, the Catholic bishops of the United States, along with many other voices in the faith-based community, have been calling for a justice system that emphasizes not only punishment but also restoration and rehabilitation, Catholic Conference of Kentucky Executive Director Jason Hall said.

“When someone has committed a non-violent crime and served his or her time, it is entirely counterproductive to saddle that individual with a permanent inability to find a good job and prevent them from being fully restored to the community,” he said.

Kentucky’s two prominent think tanks both joined the coalition. Both groups – the Bluegrass Institute for Public Policy Solutions and Kentucky Center for Economic Policy – support efforts that help former low-level offenders find jobs and become productive citizens.

“Our coalition’s efforts will save taxpayer dollars, remove obstacles for individuals who need and deserve that help, open up new workforce opportunities for businesses and support policymakers who want to do the right thing,” Jim Waters, president of the free-market think tank Bluegrass Institute, said. “It’s good policy and good politics combining to make a real difference.”

To learn more about the coalition: [www.kysmartoncrime.com](http://www.kysmartoncrime.com)

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36. Remarks at the Interim Joint Committee on Judiciary, Meeting No. 1, Monday June 15, 2015, Patterson Ballroom, Hyatt Regency Hotel, Lexington KY.

37. On November 17-19, 2014, policy makers, experts, and other key decision makers from more than 30 states met to discuss the past, present, and future of the Justice Reinvestment Initiative. The event was co-hosted by The Pew Charitable Trusts, the U.S. Department of Justice’s Bureau of Justice Assistance, and the Council of State Governments’ Justice Center. PEW has posted video of its plenary and keynote sessions online at: <http://www.pewtrusts.org/en/research-and-analysis/collections/2014/11/justice-reinvestment-national-summit-sustaining-success-maintaining-momentum>



## Department of Public Advocacy

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### HIGHLIGHTED IN THIS MONTH'S ADVOCATE



Kentucky Smart on Crime Coalition announces its formation to work on safely reducing corrections costs.