

# Kentucky: A Data-Driven Effort to Protect Public Safety and Control Corrections Spending

Over the past decade, Kentucky has had one of the fastest growing prison populations in the nation. Despite a decline during the past three years, the Commonwealth's inmate population is 45 percent larger than it was at the start of the decade, compared with 13 percent growth for the U.S. state prison system as a whole.<sup>1</sup>

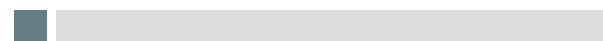
Looking back over a longer period, the state's prison population has jumped more than 260 percent since 1985, from about 5,700 inmates to more than 20,700 this year.<sup>2</sup> At year-end 2007, one of every 92 adults in Kentucky was behind bars, compared with one of every 100 adults nationally.<sup>3</sup>

This high rate of prison expansion is not due to an increase in crime. Kentucky's serious crime rate has been well below that of the nation and other southern states since the 1960s, and the current crime rate is about what it was in 1974.<sup>4</sup> Nevertheless, the Commonwealth's imprisonment rate went from well below to slightly above the national average between 1985 and 2009.<sup>5</sup>

Today, both men and women are more likely to be behind bars. In fact, Kentucky now has the 6th highest incarceration rate for females.<sup>6</sup>

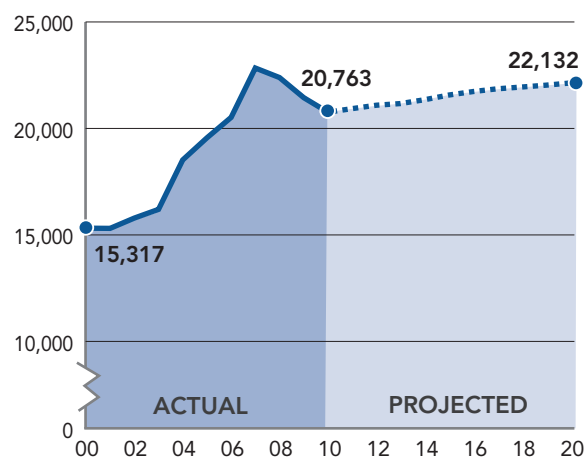
## Rising Costs, Low Public Safety Return

During the past two decades, the Commonwealth's spending for this increased incarceration has grown dramatically. In FY 1989, general fund corrections spending in Kentucky totaled \$117 million. In FY 2009, the bill was estimated at \$513 million, an increase of 338 percent.<sup>7</sup> Nationally, state general fund spending on corrections rose 272 percent during that 20-year period, from \$12.9 billion to an estimated \$48 billion.<sup>8</sup>



## Prison Population Growth

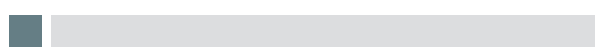
Kentucky's prison population is projected to grow by nearly 1,400 inmates during the next 10 years at an estimated cost of at least \$161 million in operations and construction.



SOURCE: Projections were calculated by JFA Institute, 2010.

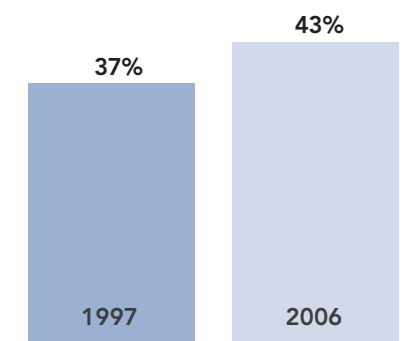
In Kentucky, average state spending per prisoner rose about 10 percent between FY 2005 and FY 2009, and it currently costs about \$19,000 per year to house each inmate.<sup>9</sup> Meanwhile, resources to reduce recidivism and hold offenders accountable in the community are scarce. Spending for offenders on probation and parole between FY 2005 and FY 2009 dropped from \$3.26 per day to \$2.64 per day.<sup>10</sup>

Greater spending on prisons has not translated into a better return for public safety. The state's recidivism rate—the number of offenders who return to prison within three years of release—has actually increased slightly in the past several years, from 37 percent for offenders released in 1997 to 43 percent for those released in 2006.<sup>11</sup> In addition, while the state's crime rate has declined 6 percent over the past 10 years, that drop is only one-third the size of the 19 percent drop nationwide, ranking Kentucky 47th among all states in the percentage change in its crime rate during that period.<sup>12</sup>



### Recidivism on the Rise

The percentage of offenders who returned to prison within 3 years of release has increased over the past decade.



SOURCE: Kentucky Department of Corrections

With the state prison system already at full capacity and local jails holding more than one-third of state-responsible inmates (significantly higher than the 6 percent average for all states),<sup>13</sup> policy makers in Kentucky are considering data-driven alternatives that will contain prison growth and corrections spending while protecting public safety.

## What Is Driving the Prison Growth?

Although deeper analyses must be conducted, a preliminary inquiry indicates several leading causes of Kentucky's prison growth:

- **Increase in Arrests and Court Cases.**

While reported crime has remained basically flat between 2001 and 2009, adult arrest rates increased 32 percent during that time. This was driven by a 70 percent increase in arrests for drug offenses, a 22 percent increase in arrests for Part 1 offenses and an increase of 33 percent for Part 2 offenses.<sup>14</sup> Meanwhile, the number of criminal cases filed in Kentucky's Circuit Courts rose from 25,591 in 2002 to 32,026 in 2008.<sup>15</sup>

- **High Percentage of Offenders Being Sentenced to Prison.** Kentucky chooses to sentence offenders to prison as opposed to probation or another alternative sentence at a much higher rate than most other states. In 2009, Circuit and District Courts sentenced 57 percent of all convicted felony offenders to prison, which is quite high compared with other jurisdictions.<sup>16</sup> The federal Bureau of

Justice Statistics reports that in 2006, 41 percent of all felony convictions resulted in a sentence to state prison.<sup>17</sup>

- **Technical Parole Violators.** Offenders on parole who are sent back to prison and who do not have a new felony conviction have nearly doubled as a percentage of prison admissions. Such parole violations accounted for 10.2 percent of total prison admissions in FY 1998, yet rose to 19.5 percent of all admissions in FY 2010. Admissions by parole violators who have a new felony conviction accounted for just 2.2 percent of total admissions in FY 2010, up from 1.8 percent of total admissions in FY 1998.<sup>18</sup>
- **Drug Offenders.** Between 2000 and 2009, the percentage of all admissions who were drug offenders rose from 30 percent to 38 percent. In addition, 25 percent of current prison inmates are being held for drug offenses.<sup>19</sup>

## The Cost of Doing Nothing

Despite these longer-term trends, Kentucky's prison population has declined now for three years in a row. A significant reason for this drop has been an increase in the parole grant rate. Parole officials indicate the grant rate has risen as a result of the use of a validated risk assessment tool. As a result of using this tool, the parole board began granting release at a higher rate

to lower-risk offenders who committed less severe offenses. However, even with the current level of parole, prison growth is expected to resume in Kentucky if no changes are made to the state's criminal justice system. If current policies remain, independent researchers and the Department of Corrections project the prison population will increase by nearly 1,400 inmates during the next 10 years.<sup>20</sup>

“ Even with [a] significant increase in spending, Kentucky has not seen an associated increase in public safety. The state's recidivism rate...has not improved at all.”

—Chief Justice John D. Minton Jr., Kentucky Supreme Court, August 11, 2010

If the state does not act to contain this growth, policy makers will have to significantly increase Kentucky's current spending on corrections. According to new projections, by 2020, the state would have to spend at least \$161 million more on corrections to cover this growth. This includes an additional \$120 million in cumulative operational costs for the Kentucky Department of Corrections, and \$41 million for construction of an additional 800 prison beds. These additional beds would still leave the state

nearly 600 beds short, requiring officials to find beds within existing facilities.<sup>21</sup> In addition, if the prison construction is financed through bonds, debt service would nearly triple the cost.<sup>22</sup>

## Gearing Up for Action

Seeking new ways to protect public safety while controlling the growth of prison costs, the state in 2010 established a bipartisan, inter-branch Task Force on the Penal Code and Controlled Substances Act. This group will guide a detailed analysis of Kentucky's sentencing and corrections data; solicit additional input from a wide range of stakeholders; use that information to develop tailored policy options, including proposals that would reinvest a portion of any savings from averted prison spending into evidence-based strategies to strengthen mandatory supervision programs and reduce recidivism; and facilitate the construction of a package of legislative and administrative reforms. The Task Force consists of chairs of the Senate and House Judiciary Committees, the secretary of the Justice and Public Safety Cabinet, the chief justice of the Kentucky Supreme Court, a former commonwealth attorney, a former public advocate and a county judge-executive.

To support the Task Force, Governor Steve Beshear, Chief Justice John Minton Jr., Senate President David Williams, House Speaker Greg Stumbo and other leaders

from the Kentucky General Assembly requested technical assistance from the Public Safety Performance Project of the Pew Center on the States. Pew and its partners have provided assistance to a dozen states, analyzing state data to identify what is driving prison growth and developing research-based, fiscally sound policy options to protect public safety and strengthen offender accountability while containing corrections costs. Pew is partnering in Kentucky with two well-respected criminal justice consulting organizations, the Crime and Justice Institute and the JFA Institute, and will provide assistance to the state through the 2011 legislative session.

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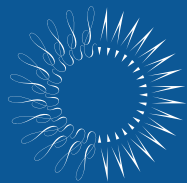
Launched in 2006, the Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable and control corrections costs.

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](http://www.pewcenteronthestates.org)

## Endnotes

- 1 “Prisoners in Year End 2009—Advanced Counts,” *Bureau of Justice Statistics Bulletin* (June 2010).
- 2 Data from Kentucky Department of Corrections.
- 3 Pew Center on the States, *One in 31: The Long Reach of American Corrections* (Washington, DC: The Pew Charitable Trusts, March 2009); [http://www.pewcenteronthestates.org/uploadedFiles/PSPP\\_1in31\\_report\\_FINAL\\_WEB\\_3-26-09.pdf](http://www.pewcenteronthestates.org/uploadedFiles/PSPP_1in31_report_FINAL_WEB_3-26-09.pdf). See also ‘Kentucky State Fact Sheet’ [http://www.pewcenteronthestates.org/uploadedFiles/wwwpewcenteronthestatesorg/Fact\\_Sheets/PSPP\\_1in31\\_factsheet\\_KY.pdf](http://www.pewcenteronthestates.org/uploadedFiles/wwwpewcenteronthestatesorg/Fact_Sheets/PSPP_1in31_factsheet_KY.pdf).
- 4 Kentucky state data from <http://disastercenter.com>.
- 5 The incarceration rate in 1985 was 133 per 100,000 residents compared with a U.S. rate of 187 per 100,000 residents. See *Sourcebook of Criminal Justice Statistics Online*, Table 6.29.2008, <http://www.albany.edu/sourcebook/pdf/t6292008.pdf>. By 2009 Kentucky’s incarceration rate was 484 per 100,000 residents compared with a U.S. rate of 447 per 100,000 residents. See *Prison Inmates at Midyear 2009—Statistical Tables*, Bureau of Justice Statistics, (U.S. Department of Justice, June 2010).
- 6 “Prisoners in 2008,” *Bureau of Justice Statistics Bulletin* (U.S. Department of Justice, December 2009).
- 7 National Association of State Budget Officers, “State Expenditure Report” series. <http://www.nasbo.org/Publications/StateExpenditureReport/tabid/79/Default.aspx>.
- 8 Analysis based on National Association of State Budget Officers, “State Expenditure Report” <http://www.nasbo.org/Publications/StateExpenditureReport/tabid/79/Default.aspx>. Budget figures throughout this brief are not adjusted for inflation.
- 9 Kentucky Department of Corrections. Average per prisoner spending was calculated using the data from Department of Corrections “Cost to Incarcerate by Type of Institution” and includes an average of maximum security, medium security state and private, and minimum security state and private facilities.
- 10 Sourcebook of Criminal Justice Statistics in the Commonwealth (2008). Kentucky Department of Corrections. Available online at: <http://justice.ky.gov/NR/rdonlyres/15878C81-10EF-443A-B3C3-FD386219B5A1/239379/KYSourcebook2008FINAL.pdf>.
- 11 Data from Kentucky Department of Corrections.
- 12 Uniform Crime Reports, Crime in the United States, Federal Bureau of Investigation.
- 13 “Prisoners in 2008,” Bureau of Justice Statistics Bulletin, U.S. Department of Justice, December 2009.
- 14 Data from Kentucky State Police. Part I offenses include murder and nonnegligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft and arson. Part II offenses include the additional 21 crimes tracked by the FBI’s Uniform Crime Reports, including drug offense violations. Per Kentucky State Police accounting practices, these figures refer to charges, not individual arrests.
- 15 Data from Administrative Office of the Courts.
- 16 Administrative Office of the Courts, *Special Report Prepared September 1, 2010 of CY 2009 and CY 2008 Circuit Court Case Dispositions*.
- 17 Bureau of Justice Statistics, “Felony Sentences in State Courts, 2006,” December 30, 2009, <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=2152>.
- 18 Data from Kentucky Department of Corrections.
- 19 Ibid.
- 20 Kentucky Department of Corrections Ten-Year Prison Population Projections 2010–2020,” JFA Institute, August 2010.
- 21 Data from Kentucky Department of Corrections.
- 22 Data from Kentucky Legislative Research Commission, Office of Budget Review. Calculation assumes 6 percent interest on a 20-year bond on the \$41 million expansion, which would result in an annual debt service of approximately \$3.6 million per year, or a total of \$72 million over the life of the bond.



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