



JUSTICE & PUBLIC SAFETY CABINET

CRIMINAL JUSTICE COUNCIL

2012

HB463
IMPLEMENTATION
REPORT

OCTOBER 1, 2012

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EXECUTIVE SUMMARY

The Public Safety and Offender Accountability Act (HB 463 of the 2011 Regular Session) requires that the Criminal Justice Council present a report on the implementation of the Act's provisions within the various elements of the criminal justice system and make recommendations that will further advance the policies within that Act.

Council members or their designee in attendance at the August 20, 2012 meeting include Secretary J. Michael Brown, Chair, Secretary of Justice and Public Safety Cabinet; on behalf of AG Jack Conway, Mitchel Denham; on behalf of Sen. Tom Jensen, Senator Katie Stine; on behalf of John Tilley, Tim Havrilek; Laurie Dudgeon, AOC Executive Director; on behalf of the President of the KY Association of Criminal Defense Lawyers President, William (Bill) Johnson; on behalf of Commissioner Rodney Brewer, Kentucky State Police, Lieutenant Colonel Brad Bates; Commissioner John Bizzack, Department of Criminal Justice Training; Commissioner LaDonna Thompson, Department of Corrections; Commissioner Hasan Davis, Department of Juvenile Justice; the Public Advocate, Ed Monahan; and a representative of the Commonwealth's Attorney Association, Chris Cohron, 8th Judicial Circuit.

Justice and Public Safety Cabinet Secretary J. Michael Brown serves as the chair of the Criminal Justice Council. His office determined that for this 2012 report each member of the Penal Code and Substance Abuse Task Force would select stakeholder(s) to present on the status of implementation and ongoing recommendations.

Chief Justice Minton chose Laurie Dudgeon, the Executive Director of the Administrative Office of the Courts (AOC). Judge Executive Tommy Turner selected KACo President and Garrard County Judge Executive John Wilson. Guthrie True invited Damon Preston, the current Deputy Public Advocate and Larry Simon, a criminal defense attorney. Tom Handy selected Chris Cohron, Commonwealth's Attorney for the 8th Judicial Circuit and Jackie Steele, Commonwealth's Attorney for the 27th Judicial Circuit. Secretary Brown asked LaDonna Thompson, Commissioner for the Department of Corrections (DOC); Larry Chandler, Chairman of the Parole Board; and Brad Bates, LTC with the Kentucky State Police to be the final three presenters.

HB 463 was the culmination of several years of work. SJR 12 from the 2009 Regular Session created a Subcommittee on the Penal Code and Controlled Substance Act. The subcommittee's research and report led to HCR 250 of the 2010 Regular Session, which created the Penal Code and Controlled Substances Task Force co-chaired by Senator Tom Jensen and Representative John Tilley, chairs of their bodies' respective Judiciary Committees. Other members of the Task Force were Chief Justice John Minton, Secretary J. Michael Brown, LaRue County Judge Executive Tommy Turner, former Public Advocate Guthrie True, and former Commonwealth's Attorney, Tom Handy. The Task Force's main objective was to "seek new ways to protect public safety while controlling the growth of prison costs." The Task Force partnered with the Public Safety Performance Project of the Pew Center on the States, the Crime and Justice Institute, and the JFA Institute.

The impetus for such an undertaking was obvious: By early 2008, Kentucky had earned the dubious distinction of leading the country in the growth rate of its state inmate population, which had exploded by 260 percent over the preceding three decades. Recidivism rates were high, community-based sentencing options and resources were lacking, particularly for substance abuse issues, and a high percentage of offenders were being sentenced to prison. The Task Force developed 10 recommendations it outlined in a January 2011 report to the General Assembly.

HB 463 earned strong bipartisan support as it passed the Senate unanimously with only one nonconcurring vote in the House. The bill included provisions that allowed for deferred prosecution and expanded pretrial release; required evidence-based practices to be used by DOC in treatment and intervention programs; created the mandatory reentry supervision (MRS) program; began to define the difference in trafficking and peddling of controlled substances; and changed the associated penalties.

HB 463 called for staggered effective dates that allow time to educate judges, prosecutors, defense attorneys, AOC and DOC staff, law enforcement officers, and other stakeholders throughout the Commonwealth. It also gave stakeholders time to implement the many aspects of the statute in a controlled and intentional process.

The majority of provisions under the new law went into effect in June 2011. A second major component, MRS, went into effect January 1, 2012

While it is still very early in the implementation stage, HB 463 has already experienced some successes, including but not limited to:

- 2322 offenders released under MRS, which is 264 offenders more than projected from January 2012-June 2012.
- An 14% recidivism rate for MRS releases.
- 629 additional Substance Abuse Program (SAP) beds across the Commonwealth with more becoming available all the time.
- Enhanced emphasis on reentry programs. The Department of Corrections and the Administrative Office of the Courts are partnering together on “SMART,” an acronym for “Supervision, Monitoring, Accountability, Responsibility and Treatment.” The program is based on the HOPE (Hawaii Opportunity Probation Enforcement) Model which has been successful in reducing probation revocation rates. Currently six Kentucky jurisdictions are involved: Pike; Jefferson; Green/Taylor/Marion/Washington; Shelby/Anderson/Spencer; Lincoln/Pulaski/Rockcastle and Allen/Simpson.
- PORTAL - The “PORTAL to Success” program provides basic life skills programming for parolees, shock probationers and select probationers upon release from incarceration or upon being placed on supervised probation. These offenders are under the jurisdiction of the Kentucky Division of Probation and Parole.
- Fewer defendants arrested. AOC’s Pretrial Services reports 12,249 fewer defendants arrested with 22,130 less cases between June 2011 and June 2012 compared to the previous year. The pretrial release rate increased by 5%, while the appearance rate remained the same, 89%. The public safety rate increased from 90% to 92%.

While initial reports are encouraging, there is still a lot of work to be done. It is too early to tell what the full fiscal impact of HB 463 will be and the Criminal Justice Council hopes to be able to report even more success rates in the future. Recommendations are included in each individual stakeholders report attached. These are the recommendations of the stakeholders and their opinions alone.

KACO/ JUDGE EXECUTIVE REPORT

Judge John Wilson, the current KACo President and Garrard County Judge Executive presented on their behalf

Judge Wilson noted the following key points:

- The use of bail and bond credits as well as per-day credit for non-payment of fines has allowed for a quicker turnaround time for county inmate populations
- The bill codified prior budget bills which said those sentenced to more than five years but who had less than five years remaining to be served were allowed to complete that remaining time in a county jail.
- The capping of medical costs at the Medicaid rate as well as lowering the threshold at which catastrophic payment by the state is triggered has saved counties collectively and numbers are still coming in on those amounts.
- The simplification of the determination of indigency, and the revamped process of documenting medically necessary procedures have both saved counties time.
- Increase in the usage of home incarceration and electronic monitoring will certainly help in the areas of technical violations of probation and parole. This is much more sensible than re-arrests at the county's expense for offenses as minor as missing curfew.
- According to the Administrative Office of the Courts, public safety rates – the percentage of those not charged with a new crime while on pretrial release – have increased since the law went into effect last summer.
- At the same time, the total number of cases – both felonies and misdemeanors – went down by more than 23,000 when compared to the year prior to HB 463's enactment. That includes 17,000 fewer arrests, which is especially noteworthy since we bear the full cost of incarceration before sentencing.
- Some local jails are earning more from the state when it comes to housing state prisoners. The numbers of state inmates housed in our jails have gone up from about 7,700 in June 2011 to almost 8,300 this past June, with most of that increase coming this year. That figure includes the state's Class D program, which has added almost 400 prisoners since last summer.
- In this new two-year budget, county governments will begin reaping some of the savings that had been projected when HB 463 was passed. Counties will get almost \$9 million in additional funding through the Local Corrections Assistance Fund, to help with costs associated with the housing, care and transportation of prisoners.

Recommendations:

- Continued training for judges and other officials to see the Act fully implemented.
- Re-evaluate the citation versus arrest provision as it is difficult for law enforcement to enforce.

COMMONWEALTH'S ATTORNEYS

Chris Cohron of the 8th Judicial Circuit that includes Warren County and Jackie Steele of the 27th Judicial Circuit that includes Laurel and Knox counties presented on behalf of the Commonwealth's Attorneys.

The Commonwealth's Attorneys shared the following information:

- There is a concern from judges about the current pretrial release evaluation assessment. It does not take into consideration the current charges against the accused.
- Need to continue to define the difference between trafficking of drugs versus peddling of scheduled drugs.

Recommendations:

- There are issues with \$100 per day jail credit provisions with jurisdictions not wanting to pay transport costs. Jurisdictions will allow the \$100 per day jail credit to run out to avoid bearing the costs of transporting, incarcerating and any potential medical costs.
- Change the pretrial release evaluation assessment form to include the current charges in some way. (Note: Laurie Dudgeon stated that AOC is currently reviewing the assessment tool.)
- Create a third felony classification for individuals with 50% parole eligibility for things such as child pornography possession, DUI 4's, and certain other offenses.
- Institute a limit on a total amount of scheduled drugs sold regardless of schedule and subject to the maximum penalty for the highest schedule sold within a set period of time.
- Recommend an additional statute in regard to felony offenses of KRS 218A on trafficking, specifically that any dosage units in excess of 20 within a 90-day period would subject the person to the higher penalty range included under statute.

**ASSOCIATION OF CRIMINAL DEFENSE LAWYERS & DEPARTMENT OF PUBLIC
ADVOCACY**

Larry Simon, on behalf of the Kentucky Association of Criminal Defense Lawyers, and Damon Preston, Deputy Public Advocate represented the criminal defense perspective.

Mr. Simon and Mr. Preston shared the following information:

- In early August 2012, DPA conducted a survey of 54 trial attorneys from around the state to gauge opinions of the success of HB 463 in achieving its stated goals. Here are the highlights of that survey:
 - *Positive Reviews*
 - 98% reported that HB 463 had been successful in at least one change.
 - 50% said Lower Sentences for Drug Possession had been a success in reducing incarceration with only 8% believing it had failed.

- The threshold amounts to distinguish peddlers from traffickers was seen by 32% as a success in reducing incarceration, with only 6% responding that it had failed in that goal.
 - *Mixed Reviews*
 - 54% listed Increased Pretrial Release as a success, with 30% saying it was the single biggest success of HB 463. On the other hand, 40% said that the promise of Increased Pretrial Release had failed in their area.
 - *Negative Reviews*
 - Deferred Prosecution was viewed as a success by only 22% while 38% believe it had failed to accomplish its intended purpose. Over half the responders said a prosecutor in their area would not approve any cases for Deferred Prosecution.
 - Only 35% responded that granting of probation was more likely in circuit court now than prior to HB 463. Even less, 20%, said that probation was revoked less now than before HB 463, despite the new revocation standard in KRS 439.3106.
- Since HB 463 went into effect in June 2011, both release rates and safety rates went up with no decrease in appearance rates.
- More than 2,000 inmates have been released with supervision rather than spending another 6 months in prison before unsupervised release. Among those released, only 20% have failed to comply with the terms of supervision. If those currently on active supervision are excluded, almost 2/3 (63%) have successfully completed supervision.
- Some judges and prosecutors are unaware that KRS Chapter 439 requires the Department of Corrections to develop graduated sanctions for technical violations of probation. Motions to revoke probation based upon technical violations are filed by some prosecutors without the opportunity for graduated sanctions to be considered by the probation officer and the supervised defendant.
- Although compliance with the directive that peace officers are required to issue citations for misdemeanors (if there are reasonable grounds to believe the person will appear in Court), some law enforcement agencies try to avoid this directive by charging some defendants with additional or more serious offenses (i.e. Disorderly Conduct; Menacing; Trafficking instead of Possession, etc.)

Recommendations:

- Expand DPA’s Social Worker Program to assist courts in addressing the needs of offenders.
- Establish a legal standard requiring clear and convincing evidence for pretrial release decisions.
- Create a new classification for “Gross Misdemeanors.”
- Amend violent offender and PFO statutes to ensure Kentucky’s heaviest punishments are used to protect public safety.
 - Proposed adjustments to Kentucky’s Persistent Felony Offender (PFO) law (KRS 532.080):
 1. Make PFO a discretionary, rather than mandatory, finding by a jury at sentencing.
 2. Eliminate PFO enhancements for non-violent felonies.
 3. Repeal 10-year parole eligibility requirement for PFO, First-Degree.

4. Prohibit all double enhancements by eliminating PFO for all offenses already enhanced by a prior conviction.
 5. Establish “trigger” offenses that are required for PFO to apply.
 6. Limit PFO application to those who have not had a substantial break in criminal activity.
 7. Eliminate use of prior felonies that have not resulted in imprisonment from PFO.
- Proposed adjustments to Kentucky violent offender law (KRS 439.3401)
 1. Reinstate 50% parole eligibility for violent offenders, as originally passed in 1986 and maintained until 1998 when Congress conditioned federal funds on passage of 85% parole eligibility. (No federal funds would now be lost by reverting to the prior law.)
 2. Limit the category of violent offenders to those convicted of:
 1. Murder
 2. First-Degree Rape
 3. First-Degree Sodomy
 4. First-Degree Robbery with a Firearm
 5. First-Degree Burglary with a Firearm
 6. First-Degree Assault
 - Amend Kentucky’s parole statute to include a presumption of parole for eligible low-risk offenders.
 - Establish a method for felony expungement.
 - Begin the process of reviewing entire penal code to ensure consistency and reduce penalties where it can be done without endangering public safety.
 - Reclassify minor misdemeanor offenses to violations or civil infractions.

DEPARTMENT OF CORRECTIONS

La Donna Thompson, Commissioner of the Department of Corrections presented.

Commissioner Thompson reported:

- As of September 26, 2012, 2,933 offenders have been released on MRS with a recidivism rate of 14%.

- Information in the chart below includes statistics through July 2012:

| TOTAL RELEASES | | |
|----------------|------|--------------|
| MONTH | YEAR | COUNT |
| January | 2012 | 957 |
| February | 2012 | 233 |
| March | 2012 | 388 |
| April | 2012 | 72 |
| May | 2012 | 248 |
| June | 2012 | 428 |
| July | 2012 | 72 |
| TOTAL | | 2,398 |

| PERCENTAGE BY FELONY CLASS | | |
|----------------------------|-------------|----------------|
| HIGH FELONY | COUNT | PERCENTAGE |
| CLASS B | 108 | 4.50% |
| CLASS C | 664 | 27.69% |
| CLASS D | 1626 | 67.81% |
| TOTAL | 2398 | 100.00% |

| PERCENTAGE BY LOCATION TYPE | | |
|-----------------------------|--------------|----------------|
| LOCATION_TYPE | COUNT | PERCENTAGE |
| Jail | 1229 | 51.25% |
| Institution | 682 | 28.44% |
| Home Incarceration | 464 | 19.35% |
| HWH/CSC | 23 | 0.96% |
| TOTAL | 2,398 | 100.00% |

- One original fear from the Jailers was that the number of state inmates housed in jails would decrease. Due to a larger pool of Class D inmates in the program and the closing of one state facility (Frankfort Career Development Center) and the ending of one private prison contract (Otter Creek Correctional Center), the number of state inmates in local jails has actually increased.

Number of state inmates in local jails by month, 2011 to 2012 comparison:

| Month | 2011 | 2012 | Difference |
|----------|-------|-------|------------|
| January | 6,637 | 7,513 | +876 |
| February | 6,797 | 7,632 | +835 |
| March | 6,953 | 7,731 | +778 |
| April | 7,119 | 7,901 | +782 |
| May | 7,389 | 8,244 | +855 |
| June | 7,705 | 8,271 | +566 |
| July | 7,662 | 8,421 | +579 |

- DOC has implemented the use of a validated risk and needs assessment tool
 - “Level of Service/Case Management Inventory” LS/CMI
 - Since June 2011, more than 1,000 staff have been trained
 - More than 28,000 assessments completed since HB 463

- Under HB 463, all new programs must be evidence-based and address the criminogenic needs of an offender as defined by DOC's needs and risk assessment.
- Since implementation of HB 463 in July 2011, 629 additional SAP beds have been added which brings DOC's total to 3,661 beds.
- The Division of Probation and Parole has added 118 staff members during the past year to meet the demand of the larger supervised population.
- The supervised population as of August 2012 breakdown:

41,878 TOTAL

- 26,113 - Probation and Diversion from Court
- 10,262 - Parole from Prison
- 1,732 - Misdemeanant
- 1,114 - Mandatory Reentry Supervision
- 5 - Post Incarceration Supervision
- 454 - Sex Offender-Post Incarceration
- 2,198 - Interstate Compact Cases

- The average caseload for each probation and parole officer averages 86.02 cases per officer (as of August 2012).
- Intake into DOC has been lower than forecast:

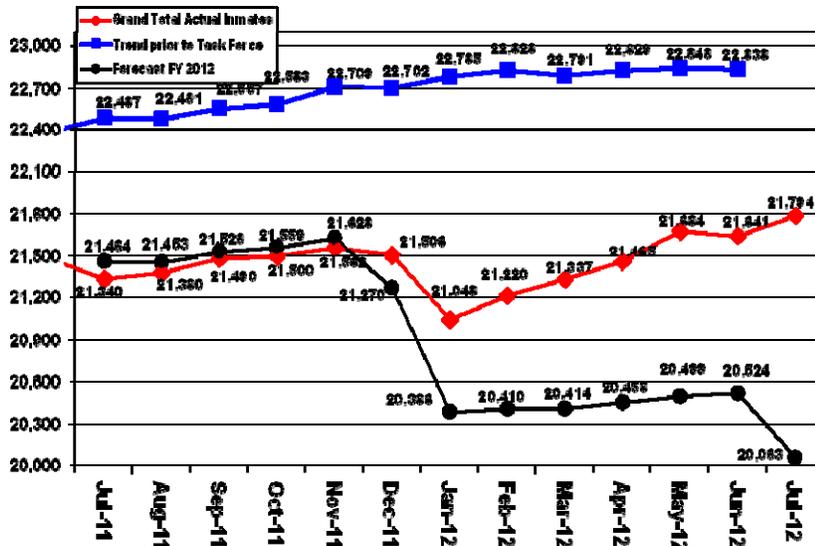
| | Actual Admissions | Cumulative Admissions | Forecasted Admissions | Cumulative Forecast | Monthly DIZ | FY vs. Forecast |
|--------|-------------------|-----------------------|-----------------------|---------------------|-------------|-----------------|
| Jul-11 | 1,139 | 1,139 | 1,240 | 1,240 | -101 | |
| Aug-11 | 1,355 | 2,494 | 1,241 | 2,481 | 114 | |
| Sep-11 | 1,192 | 3,686 | 1,182 | 3,663 | 10 | |
| Oct-11 | 1,167 | 4,853 | 1,179 | 4,842 | -12 | |
| Nov-11 | 1,095 | 5,948 | 1,224 | 6,063 | -129 | |
| Dec-11 | 1,109 | 7,057 | 1,241 | 7,307 | -132 | |
| Jan-12 | 1,298 | 8,355 | 1,252 | 8,559 | -46 | |
| Feb-12 | 1,262 | 9,617 | 1,258 | 9,817 | 4 | |
| Mar-12 | 1,428 | 11,045 | 1,239 | 11,056 | 189 | |
| Apr-12 | 1,279 | 12,324 | 1,233 | 12,289 | -46 | |
| May-12 | 1,254 | 13,578 | 1,228 | 13,517 | 26 | |
| Jun-12 | 1,050 | 14,628 | 1,227 | 14,744 | -177 | -116 |

- MRS releases have been greater than forecast:

Mandatory Release Supervision - Actual vs. Forecast - FY12

| | Actual MRS Releases | Cumulative MRS Releases | Forecasted MRS Releases | Cumulative Forecast | Monthly DIZ | FY vs Forecast |
|--------|---------------------|-------------------------|-------------------------|---------------------|-------------|----------------|
| Jan-12 | 937 | 937 | 1136 | 1136 | -179 | |
| Feb-12 | 231 | 1168 | 179 | 1306 | 61 | |
| Mar-12 | 387 | 1575 | 304 | 1510 | 183 | |
| Apr-12 | 72 | 1647 | 191 | 1701 | -119 | |
| May-12 | 248 | 1895 | 177 | 1878 | 71 | |
| Jun-12 | 437 | 2332 | 179 | 2057 | 248 | 265 |

- Parole rates have been lower than forecast which leaves DOC with a larger than forecasted felon population. It is still lower than forecasted without HB 463, however:



- DOC has created or modified more than 40 polices as it works toward full implementation of HB 463.
- 5 new regulations have been created and 3 older regulations are currently being amended to comply with HB 463.

Recommendations:

- Continue adding resources for staff, additional training, SAP beds, and other program requirements.
- Amend KRS 439.3406(1) for MRS to six months prior to the projected completion date of an inmate's sentence instead of six months prior to the inmate's minimum expiration of sentence.
- Amend KRS 439.340 to provide for parole of certain nonviolent, nonsexual offenders allowing certain low risk offenders to move from prison to community supervision once they have met specific criteria. Evidence suggests that the longer low-risk offenders are incarcerated, the more likely they are to recidivate.

ADMINISTRATIVE OFFICE OF THE COURTS

Laurie Dudgeon, Executive Director of the Kentucky Administrative Office of the Courts presented.

Ms. Dudgeon shared the following information:

- The number of defendants being referred to the Monitored Conditional Release Program run by AOC's Pretrial Services Department is up by almost 3,000.
- The number of marijuana arrests has decreased by over 12,000.
- The pretrial release rate has increased by 5% and the public safety rate has increased from 90% to 92%, which indicates that defendants who were out on pretrial release are committing fewer crimes than they were prior to HB 463.
- AOC received almost \$120,000 in a community corrections grant for the SMART program (Supervision, Monitoring, Accountability, Responsibility and Treatment), most of which will go toward drug testing for supervision of higher risk population. This is not drug court but

a more intense supervision by the probation officers and there will be some violent offenders in the program

- The decline of individuals in drug court since 2010 is perhaps due to referrals decreasing with the additional alternatives for sentencing. Also, the sentence in some cases may be shorter than what the length of time would be to participate in drug court.

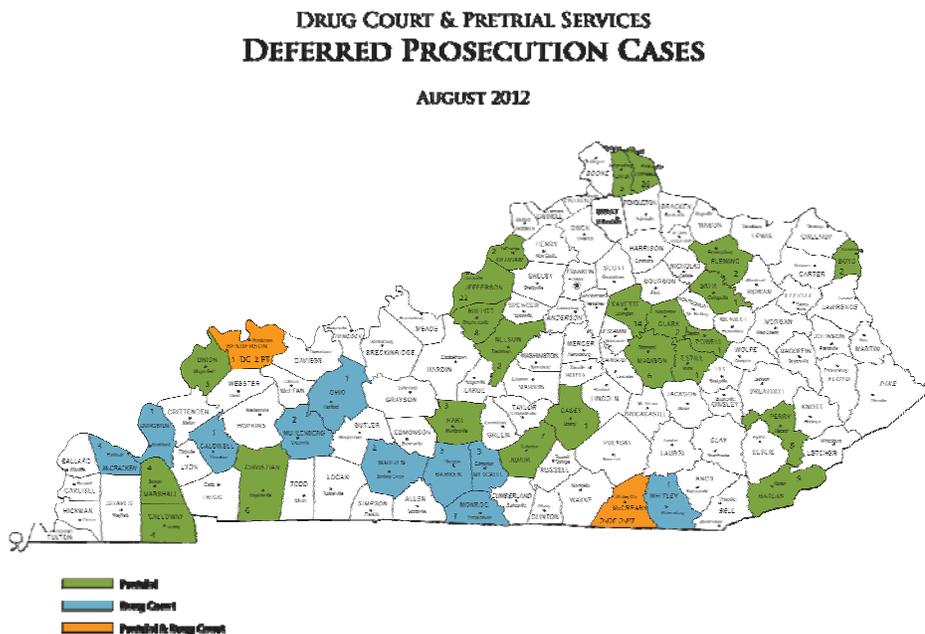
**PRETRIAL SERVICES HB 463 DATA:
June 8, 2010 – June 7, 2011 vs. June 8, 2011 – June 7, 2012**

| Measurement | Post-HB 463 | Pre-HB 463 | Increase/Decrease |
|---|--------------------|-------------------|--------------------------|
| RELEASE RATES | | | |
| Defendants obtaining release | 70%; 172,558 | 65%; 174,563 | ↑5% |
| Nonfinancial releases | 66% | 51% | ↑15% |
| Low risk | 85% | 77% | ↑8% |
| Moderate risk | 68% | 60% | ↑8% |
| High risk | 53% | 50% | ↑3% |
| PUBLIC SAFETY RATES | | | |
| Overall** | 92% | 90% | ↑2% |
| Low risk | 94% | 93% | ↑1% |
| Moderate risk | 90% | 88% | ↑2% |
| High risk | 85% | 81% | ↑4% |
| APPEARANCE RATES | | | |
| Overall | 89% | 89% | No Change |
| Low risk | 92% | 93% | ↓1% |
| Moderate risk | 87% | 86% | ↑1% |
| High risk | 85% | 80% | ↑5% |
| PRETRIAL SUPERVISION (MCR) | | | |
| Number referred for MCR | 10,389 | 7,590 | 2,799 |
| MCR caseload | 3,372 on 6-8-12 | 2,403 on 6-7-11 | 969 |
| Average Length on MCR | 90 Days | 112 Days | 22 Days |
| Compliance rate | 86% | 87% | ↓1% |
| Low risk defendants | 43% | 49% | ↓6% |
| Defendant Contacts | 166,220 | 131,766 | 34,454 |
| PRETRIAL JAIL POPULATION | | | |
| In custody awaiting trial | 2% on 8-13-12 | Less than 1% | |
| Unable to make bail/case disposed | 28% | 34% | ↓6% |
| Detention Rate* | 9% | 10% | ↓1% |
| DEFENDANTS | | | |
| Total defendants arrested | 180,304 | 197,553 | 17,249 |
| Total cases | 244,881 | 267,011 | 22,130 |
| Case disposed within 48 hours of arrest | 76% | 72% | ↑4% |
| Cases that are misd. and/or | 70% | 73% | ↓3% |

| | | | |
|---|---------|---------|---------|
| viol. | | | |
| Defendants with substance abuse or mental health issues | 63% | 58% | ↑5% |
| Average Length on PT release | 77 Days | 96 Days | 19 Days |

Data from Administrative Office of the Courts, Division of Pretrial Services PRIM case management system
 *Detention Rate is the percentage of defendants who were held in jail awaiting disposition, unable to make bail for more than 48 hours
 **Public Safety Rate is the percentage of defendants who have not been charged with a new crime while on pretrial release

- Counties where deferred prosecution is currently being utilized:



Recommendations:

- The last budget bill had language giving AOC 22 new pretrial officers. The operations budget had decreased so in an effort to meet the language in the budget bill, the agency moved part time staff to full time. AOC is still understaffed at only 63% capacity and salaries are significantly less than probation and parole. Combined with an increase in supervision caseloads (2,974) and increase in defendant contacts (34,454) as well as high turnover due to inadequate compensation, there is a need for additional resources to alleviate this problem.
- Continued review of the risk assessment tool.
- Continued education of judges, prosecutors, and defense attorneys throughout the state as to the new requirements

PAROLE BOARD

Larry Chandler, chairman of the Parole Board presented.

Chairman Chandler shared the following information:

- HB 463 and MRS increased the parole board workload by almost 500 cases for the first two months of implementation and almost 300 cases for the following 8 months.
- In 2003, the parole board adopted a risk assessment tool developed by James Austin.
- The historical parole rate since 2003 is 43%.
- HB 463 modified the discretion of the parole board limiting the board to a maximum of 24 month deferments for non-violent, Class D crimes and a maximum of 60 months for violent or sexual offenses.
- The parole board uses a risk assessment with 5 dynamic components and 4 static components. The board is paroling within that risk assessment even though the parole rate is higher now.
- Parole board hears 1,500-1,600 cases per month.

| Month | # of Hearings | Parole | Deferred | Serve Out |
|--------------|---------------|-----------|-----------|-----------|
| January-2011 | 1375 | 54% | 29% | 17% |
| February | 1334 | 53% | 28% | 19% |
| March | 1578 | 49% | 29% | 22% |
| April | 1523 | 56% | 25% | 19% |
| May | 1478 | 51% | 26% | 23% |
| June | 2119 | 57% | 27% | 16% |
| July | 2199 | 58% | 25% | 18% |
| August | 1642 | 54% | 27% | 19% |
| September | 1617 | 51% | 30% | 19% |
| October | 1706 | 50% | 28% | 22% |
| November | 1427 | 41% | 37% | 22% |
| December | 1563 | 39% | 38% | 23% |
| Jan.-May | Avg. 1457 | June-Oct. | Avg. 1857 | +22% |

- Risk Level and Recidivism Rates:

| Risk Level | Number | % | Recid. Rate |
|------------------------|--------|-------|-------------|
| Level 1 (0-6 pts.) | 1748 | 10.3% | 15.5% |
| Level II (7-9 pts.) | 5186 | 30.7% | 32.9% |
| Level III (10-12 pts.) | 3449 | 20.4% | 44.8% |
| Level IV (13+pts.) | 582 | 3.4% | 62.9% |

- Length of Incarceration and Recidivism:

| Length of Incarceration | Number | % | Recidivism |
|-------------------------|--------|------|------------|
| Under two years | 4246 | 55.5 | 35.9 |
| 2.0-2.9 years | 821 | 10.7 | 33.5 |
| 3.0-3.9 years | 574 | 7.5 | 33.4 |
| 4.0-4.9 years | 331 | 4.3 | 35.6 |
| 5.0-5.9 years | 247 | 3.2 | 30.0 |
| 6.0-6.9 years | 183 | 2.4 | 32.8 |
| 7.0-9.9 years | 285 | 3.7 | 33.3 |
| 10.0-19.9 years | 328 | 4.3 | 37.8 |
| 20 plus years | 82 | 1.1 | 35.4 |

- Historical parole rates since the adoption of the risk assessments:

| FY | Parole | Deferred | Serve Out |
|------|--------|----------|-----------|
| 2003 | 41% | 33% | 26% |
| 2004 | 34% | 30% | 36% |
| 2005 | 42% | 37% | 28% |
| 2006 | 43% | 37% | 20% |

| | | | |
|---------|-----|-----|-----|
| 2007 | 41% | 37% | 22% |
| 2008 | 39% | 35% | 25% |
| 2009 | 42% | 33% | 25% |
| 2010 | 53% | 28% | 19% |
| 2011 | 51% | 29% | 20% |
| Average | 43% | 30% | 25% |

Recommendations:

- Extend the term of the Kentucky Parole Board members to 6 year terms to allow more time for training. Five of the seven states surrounding Kentucky have 6 year term limits. Terms are currently four year terms.

STATE POLICE

LTC Brad Bates presented.

LTC Bates shared the following information:

- HB 463 was well received by officers in the field who received extensive training on the changes to arrest provisions with the exception of some inconsistencies.
- Inconsistencies sometimes prevent an officer from making an arrest. An example is when someone is caught stealing copper from someone's air conditioner right outside their home and the value is less than \$500, the trooper cannot arrest. This is frustrating to the officer and the victim.
- Law enforcement cannot arrest for criminal trespass 3rd but can arrest for criminal trespass 1st or 2nd.

Recommendations:

- Draft legislation that will fix some of the inconsistencies.

CONCLUSION

HB 463 has had some early success. The Criminal Justice Council and the stakeholders involved are dedicated to seeing the Act fully implemented over the next several years. The discussions for next steps and continued improvements will be ongoing.