



Cost of Incarcerating Adult Felons

Research Report No. 373

Prepared by

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Cost of Incarcerating Adult Felons

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Research Report No. 373

Legislative Research Commission

Frankfort, Kentucky
lrc.ky.gov

Adopted December 10, 2009

Paid for with state funds. Available in alternate form by request.

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Performance-based Budgeting: Concepts and Examples, Report 302, 2001

Impact Plus, Report 300, 2001

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Foreword

At its January 2009 meeting, the Program Review and Investigations Committee directed staff to conduct a study of the cost of incarcerating adult felons and to evaluate the cost efficiency of the correctional system. The objectives of the study were to

- describe the Kentucky correctional system and its funding and expenditures and compare it to that of other states and
- compare methods used by Kentucky to methods used by other states to offset the cost of incarceration and make prisons more self-sustaining.

Program Review staff thank officials of the Department of Corrections for providing information for this report, particularly Commissioner LaDonna Thompson, Mark Robinson, Hilarye Dailey, and Tammy Morgan. Program Review staff also want to thank officials of the Kentucky Jailers' Association, the Kentucky Department of Education, and the Finance and Administration Cabinet.

Among Legislative Research Commission colleagues, Program Review staff thank the staff of the LRC Library, Office of Legislative Economic Analysis, Office of Budget Review, and Office of Constituent Services.

Robert Sherman
Director

Legislative Research Commission
Frankfort, Kentucky
December 10, 2009

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Summary

At its January 2009 meeting, the Program Review and Investigations Committee directed staff to conduct a study of the cost of incarcerating adult felons and to evaluate cost efficiency of the system of incarceration. Incarceration of adult felons is the responsibility of the Department of Corrections within the Justice and Public Safety Cabinet. The department houses state inmates in 13 state prisons, 3 contracted prisons, local jails, and contracted halfway houses. The department also supervises persons released to home incarceration and probation and parole in the community.

On average in fiscal year 2009, Kentucky had 22,553 inmates in state custody. In the 10-year period from FY 2000 to FY 2009, the average number of inmates increased by nearly 49 percent, annual cost increased by more than 53 percent, and the number of persons on probation and parole supervision doubled. The large inmate population is due in part to an increasing number of offenses defined as felonies and longer sentences for persons defined as persistent felony offenders. A contributing factor is the recidivism rate. Within 3 years, 42 percent of persons released from state custody will be reincarcerated.

Cost Efficiency and Cost Effectiveness

Incarceration is not always cost efficient or cost effective. National studies have shown that the financial cost of incarcerating nonviolent offenders is greater than the cost of alternatives. As of June 30, 2009, nearly 42 percent of Kentucky's inmates had been convicted of nonviolent property and drug crimes. Program Review staff estimate that the cost to incarcerate the 9,430 inmates convicted of such crimes was \$136.2 million in FY 2009. It is unknown how many of these inmates would be candidates for community supervision. As an upper limit of the potential savings of an alternative to incarceration, if all could have been supervised in the community by the department's probation and parole officers, a conservative estimate is that the cost would have been \$14.5 million. This includes almost \$5.5 million to hire, train, and equip new officers in the first year but does not include additional supervisors and administrative cost.

Recommendation 1.1

The General Assembly may wish to consider reducing the penalties for nonviolent offenses and amending KRS 532.080 to apply the persistent felony offender sentences only to those convicted of violent offenses.

Many people would benefit from alternatives to criminal proceedings. The US Department of Justice has estimated that 61 percent of inmates in state prisons and 44 percent of inmates in local jails have mental health problems. About 74 percent of state inmates and 76 percent of local jail inmates who had mental health problems met criteria for substance dependence or abuse. National research shows that participants in drug and mental health courts have lower recidivism rates than persons who receive treatment as usual.

Recommendation 1.2

The General Assembly may wish to consider providing funding to expand the use of drug and mental health courts.

Cost of Corrections

Although Kentucky's corrections cost is high, it compared favorably to the costs in nine other states with similar numbers of inmates in FY 2007, the last year for which cost information was available for all the states. Kentucky spent 2.4 percent of its budget that year on corrections, second lowest among the 10 states. The national average was 3.4 percent.

The table below indicates for FY 2009, for each type of correctional facility that houses state inmates, the number of facilities, number of state inmates, percentage of state inmates, cost to the department, and percentage of total cost.

**Type of Facility, Average Number and Percentage of Inmates, and Total Cost
Fiscal Year 2009**

Type of Facility	Facilities	Average # of State Inmates	% of State Inmates	Cost to Department	% of Total Cost
State prison	13	12,106	53.6%	\$245,853,282	64.0%
Contracted prison	3	1,234	5.5	20,576,868	5.3
Local and regional jail	76	7,613	33.8	100,751,274	26.2
Contracted halfway house	20	1,348	6.0	16,039,920	4.2
Home incarceration	N/A	252	1.1	1,115,238	0.3
Total	112	22,553	100.0%	\$384,336,582	100.0%

Note: The cost column includes amounts paid by the department to medical providers for care of state inmates in contracted prisons and local and regional jails. It does not include local jail allotments, which are general funds provided for general-purpose jail support. Some halfway house contractors have more than one facility housing state inmates.

N/A indicates that persons on home incarceration are not housed in facilities but are monitored electronically.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

State Prisons

In FY 2009, 53.6 percent of state inmates were incarcerated in state prisons. State prisons house the most dangerous and seriously ill inmates in state custody. Sex offenders with sentences of more than 2 years are housed in state prisons. The cost of incarcerating inmates in state prisons was \$245.9 million in FY 2009.

Contracted Prisons

In FY 2009, 5.5 percent of state inmates were housed in three contracted prisons. The cost to the department of contracted prisons is the negotiated rate per day, some inmate medical expenses, and contract monitoring. The cost to the department of contracted prisons in FY 2009 was \$20.6 million.

Contracted prisons are required by statute to provide a level and quality of programs at least equal to those provided by state-operated prisons that house similar types of inmates and at a cost savings to the state of at least 10 percent of the cost of housing inmates in similar prisons and providing similar programs to those types of inmates in state prisons. The statute has been difficult to implement because of a lack of similarity between state and contracted prisons and the inmates they house.

In the past 2 fiscal years, more persons have been released from state custody than have been admitted. However, the need for contracted prison beds became evident with the partial destruction by fire of the state-operated Northpoint Training Center for men in August 2009, which required moving 259 inmates to contracted prisons.

Local Jails

In FY 2009, 33.8 percent of state inmates were housed in local jails. Funding of local jail operations is shared between counties and the state. Statute requires the department to pay each county a monthly allotment for operating expenses. Many persons convicted of Class D and Class C felonies are required by statute to be housed in local jails, and the state is required to pay the county a per diem for each inmate after the person is sentenced. In FY 2009, the department paid \$13.3 million in allotments and \$94.5 million in per diems.

County officials have expressed concern that the housing of inmates before they are sentenced or plead guilty to a felony offense is funded exclusively by the counties, even though the inmates receive credit for time served in jail when sentenced for a felony offense. Whether the inmate serves the remaining sentence in jail or in prison, the state receives the benefit of the reduced number of days it must pay to house the inmate.

Recommendation 2.1

The General Assembly may wish to consider appropriating funds for the Department of Corrections to pay counties per diems for incarcerating persons who serve time in local jails before being convicted of felony offenses.

Statute requires local jails to provide medical, dental, and psychological care for indigent inmates from the jail budget. However, statute also requires the state to reimburse the county for costs more than \$2,000 per inmate when the care is necessary, the inmate is indigent, and the cost does not exceed the maximum payments allowed under the Kentucky Medical Assistance Program. An appropriation for catastrophic medical payments that is not spent in a fiscal year is required to be used to pay, to the extent possible, the portion of each catastrophic claim during the year above \$2,000 that exceeds the Medical Assistance Program rate.

Work by Inmates

Kentucky's requirements for inmate work are inconsistent. Section 253 of the Kentucky Constitution requires incarcerated inmates to work in the prison and allows them to work outside the prison on public works projects. KRS 197.070(1) requires the department to provide

employment for all inmates in prisons and to “exhaust every resource at its command” to provide employment for all prisoners, including state inmates housed in local jails. KRS 196.110(2) requires the department to “encourage the employment of the inmates of the institutions under its control in such ways as will contribute to their physical, mental, and moral improvement and to meeting the cost of their maintenance.” A 1981 judicial consent decree resulting from inmate lawsuits states that an inmate may elect not to work.

The department’s position is that it cannot require inmates to work and that there are not enough jobs to employ all inmates. On June 30, 2009, 64 percent of inmates in state prisons were assigned to some type of work or other program, such as basic education or vocational training.

KRS 197.150 requires the department to pay inmates or their dependents for each day worked outside the prison, with inmates having the greatest family dependency being given preference for outside work assignments. The statute implies that inmate earnings should be used for family support, but no statute or departmental policy requires the department to withhold money from inmate earnings for such support. The department reported no family support deductions from inmate earnings.

KRS 197.047(5) requires the department to specify the amount of compensation an inmate will earn for any governmental services programs outside the correctional facilities but does not require that inmates be paid for work or educational assignments inside the prison. The department pays inmates who work inside correctional facilities and those who participate in program assignments, such as education or vocational training. In FY 2009, inmates in state prisons, local jails, and halfway houses were paid approximately \$2.5 million for all assignments not associated with Kentucky Correctional Industries.

Recommendation 3.1

If it is the intent of the General Assembly that inmates be paid for working or participating in program assignments inside correctional facilities, the General Assembly may wish to consider specifying in statute whether, to what extent, and for what purpose deductions should be made from inmate earnings.

All 50 states operate correctional industries, and most states compensate inmates for working. Kentucky inmates earned \$802,313 from working in correctional industries in FY 2009. Some states withhold a portion of inmate earnings for inmate savings, to reimburse the state for room and board, or to pay court fines and restitution. Kentucky has no such requirement. Nationally, almost \$7 million was deducted from inmate earnings in FY 2008.

Recommendation 3.2

If it is the intent of the General Assembly that inmates working in Kentucky Correctional Industries be paid, the General Assembly may wish to consider specifying in statute whether, to what extent, and for what purpose deductions should be made from inmate earnings.

Among 10 states with similar numbers of inmates, Kentucky’s net sales in FY 2008 were the second lowest, and Kentucky was the only one of the 10 to report a decrease in net sales from

correctional industries since FY 2008. One reason for the decline in sales could be that state agencies purchase items from private vendors or other state agencies that may be available from Kentucky Correctional Industries.

One possible new industry could be created if prison canteens were operated by Kentucky Correctional Industries rather than being managed by prison wardens. Statute requires the department to maintain a centralized canteen operation that is incorporated and self-supporting for all state and contracted prisons. All profits must exclusively benefit state inmates.

Recommendation 3.3

The Department of Corrections should conduct a cost-benefit analysis to determine the feasibility of operating prison canteens as a correctional industry. If the results of the analysis are favorable, the department should centralize the canteen operations under Kentucky Correctional Industries.

The federal Prison Industry Enhancement Certification Program encourages governments to develop meaningful employment opportunities for inmates by partnering with private industries needing labor. Federal restrictions normally prohibit the sale of inmate-made goods in interstate commerce, but certification through the program exempts such products. Among the requirements to be certified are legislative approval, payment of prevailing wages to inmates, and a guarantee that inmate employment will not result in displacement of private-sector workers. Of the 37 states that are certified, 28 reported that inmates earned \$40.3 million in gross wages in calendar year 2008. More than \$15.5 million was deducted to pay room and board to offset the cost of incarceration; pay restitution to crime victims; pay into crime victim funds; provide financial support to families; and pay local, state, and federal income taxes. More than \$3 million was set aside for inmate savings to be used upon release.

In addition to financial incentives, the program allows inmates to gain employment experience and job skills that will increase the likelihood of obtaining gainful employment upon release from incarceration. A 2007 study showed that participants in the program had lower recidivism rates than inmates who worked in traditional prison industries or other correctional programs.

Kentucky is one of 13 states not certified to participate in the Prison Industry Enhancement Certification Program. Senate Bill 26 in the 2009 Regular Session would have authorized the department to operate the program. The bill did not pass because of concerns that private-sector jobs would be lost. However, one condition of certification is a guarantee that inmate employment will not displace private-sector workers.

Recommendation 3.4

The General Assembly may wish to consider authorizing the Department of Corrections to participate in the federal Prison Industry Enhancement Certification Program.

Sentence Credits

State inmates in Kentucky can earn credits on their sentences for good conduct, educational accomplishment, meritorious service, and work on governmental services projects. The credits are deducted from the maximum expiration date of an inmate's sentence. If the inmate commits an offense or violates institutional rules, the credits may be forfeited or the inmate may be denied the right to earn credits. Sexual offenders can earn sentence credits, but the credits are not applied to their sentences until they complete the Sex Offender Treatment Program.

KRS 197.045(1) allows the department to award up to 10 days of credit for each month served on an inmate's sentence based on good conduct. It requires the department to provide an educational credit of 60 days to an inmate who receives a GED, a 2-year or 4-year college degree, a 2-year or 4-year certification in applied sciences, or a technical education diploma. In the 2008 Regular Session, House Bill 406, the biennium budget, suspended the 60-day educational sentence credit provision through June 30, 2010, and instead required the department to award 90 days of credit. In FY 2009, inmates received 7,234,595 days off their maximum sentence expiration dates.

House Bill 371, which was introduced but did not pass in the 2009 Regular Session, would have expanded the educational sentence credit. The bill proposed to award 90 days of sentence credit to inmates who successfully complete drug treatment programs or other treatment programs that require participation of 6 months or more.

Recommendation 3.5

The General Assembly may wish to consider amending KRS 197.045(1) to award sentence credits to inmates who successfully complete substance abuse programs or other treatment programs that require participation of 6 months or more.

Performance Measures

The financial cost of incarceration should not be the sole measurement of how well a prison system is managed. A system may have relatively low financial costs but be ineffective in ensuring the safety of the public and the inmates and staff inside its prisons.

The department has begun using the Performance Based Measures System developed by the Association of State Correctional Administrators. The system provides standard definitions so that data can be compared among states. However, meaningful performance measures should be developed with stakeholders so that data can be used within the state. Better data on performance could provide critical information to managers of the corrections system and to members of the General Assembly as they make policy decisions about the system and its funding.

Recommendation 4.1

The Department of Corrections should identify meaningful performance indicators, collect the needed data, and develop benchmarks for prisons and the system. The information should be publicly available.

Chapter 1

Overview and Background

This report focuses on the direct cost to the state of incarcerating adult inmates. How information about financial cost is balanced against other factors is a policy decision to be made by the General Assembly.

The direct cost to the state of incarcerating adult inmates in its custody is the primary concern of this report. The report does not focus on financial cost to other entities such as local governments, communities, families, or individuals. The report does not cover the nonfinancial aspects of incarceration, such as its significant effects on families and communities.

There will sometimes be tradeoffs between the cost to state government and potential financial and nonfinancial effects on others. Some of this report's recommendations call for the General Assembly to consider revising laws to potentially reduce cost to the state. This is not meant to imply that state cost should be the only criterion for making decisions about incarceration. How information about financial cost is balanced against other factors is a policy decision to be made by the General Assembly, however.

Conclusions

This report has nine major conclusions.

1. On average in fiscal year 2009, there were 22,553 state inmates. In the 10-year period from FY 2000 to FY 2009, the inmate population increased nearly 49 percent, and the annual cost of the Department of Corrections increased by more than 53 percent to almost \$451 million.
2. The large inmate population is due in part to an increasing number of offenses being defined as felonies and longer sentences for persons defined as persistent felony offenders. A contributing factor is the recidivism rate. Within 3 years of being released from state custody, 42 percent of persons are reincarcerated for committing new felonies or violating conditions of their probation or parole.
3. The state spends millions of dollars annually to incarcerate persons convicted of nonviolent crimes. As of June 2009, Kentucky had 9,430 inmates who had been convicted of nonviolent property and drug offenses. The estimated cost for FY 2009 to incarcerate them was \$136.2 million. It is unknown how many of them would be candidates for community supervision. To illustrate the upper limit of potential savings of an alternative to incarceration, if all 9,430 could have been

supervised in the community, a conservative estimate is that the cost would have been \$14.5 million for the year, more than \$121 million less than their incarceration cost.

4. Many inmates would benefit from alternatives to criminal proceedings. The US Department of Justice has estimated that 61 percent of inmates in state prisons and 44 percent of inmates in local jails have mental health problems. About three-quarters of these inmates also meet criteria for substance dependence or abuse. National research shows that participants in drug and mental health courts have lower recidivism rates than persons who receive treatment as usual.
5. Although Kentucky's incarceration cost is high, it is not out of line with that of other states. The cost of corrections was 2.4 percent of state spending in Kentucky in FY 2007, lower than the percentage of all but one of 9 states with comparable numbers of inmates, and lower than or equal to the percentage of all but 12 states in the nation. The national average was 3.4 percent.
6. The cost of incarceration includes securing inmates and providing necessary services. Many services provided to inmates are mandated. Federal and state constitutions, laws, and court rulings require the department to provide inmates a safe and sanitary environment, physical and mental health care, recreation, and access to religious services and a law library or free legal assistance.
7. Some states require inmates to work to partially offset the cost of their incarceration. Kentucky's requirements for work by inmates are inconsistent. The Kentucky Constitution and one statute require inmates to work. Another statute encourages inmates to work. A judicial consent decree states that inmate work is voluntary. The Department of Corrections' unwritten policy is that inmates cannot be required to work. Even when inmates work and are paid, no statute or policy requires deductions from pay to offset the cost of incarceration.
8. Kentucky's correctional industries are not keeping pace with those in other states. The requirement for Kentucky's correctional industries to be self-supporting can hinder expansion into new industries that are profitable in other states because no start-up funding is available from the state. Net sales in Kentucky in FY 2008 were \$12.1 million; the national average was \$34.9 million. Among states with comparable

numbers of inmates, Kentucky was the only state to report a decrease in net sales over the past decade.

9. The financial cost of incarceration should not be the sole measurement of how well a prison system is managed. A system may have low financial costs but be ineffective in ensuring the safety of the public and the inmates and staff inside its prisons. Better data on performance could provide critical information to managers of Kentucky's corrections system and to members of the General Assembly as they make policy decisions about the system and its funding.

Inmates and Cost

The annual cost of the Department of Corrections increased by 53 percent in the past 10 years to almost \$451 million.

In the 10 years from FY 2000 to FY 2009, the annual cost of the Department of Corrections increased 53.4 percent, from less than \$294 million to almost \$451 million. The cost of corrections has increased as the number of persons incarcerated has increased. Many costs are for requirements of constitutions, statutes, and court rulings. Others result from departmental policy.

Kentucky's system of incarcerating convicted felons includes state prisons, contracted prisons, and local jails.

Kentucky's system of incarcerating convicted felons includes state prisons, contracted prisons, and local jails. The department does not contract to house out-of-state inmates, and it does not contract to house Kentucky inmates in other states.

Kentucky's system of incarceration is a product of a growing inmate population. The population growth results in part from an increasing number of offenses being defined as felonies and increased sentences for persons defined as persistent felony offenders. The recidivism rate also affects the number of inmates. Within 3 years of being released from state custody, 42 percent of people are reincarcerated for committing new felonies or violating conditions of their probation or parole (Morgan. Kentucky. "Recidivism").

In the 1970s and 1980s, state prisons filled up faster than they were built. In 1986, the state signed its first contract for private prison beds. As the inmate population continued to increase, a 1992 law required the state to incarcerate certain inmates in local jails. In 2000, the law was amended to require that more state inmates be incarcerated in jails (Lawson 325-330). In FY 2009, more than one-third of state inmates were housed in jails.

Some statutes result in a person being incarcerated for a nonviolent offense and then released after serving only part of the original sentence because of earning sentence credits and being eligible for parole consideration after a short time.

At the other end of the spectrum, the persistent felony offender statute causes some nonviolent offenders to spend many years in prison for committing relatively minor offenses before being eligible for parole consideration.

At the beginning of FY 2009, the department had 20,799 inmates in prisons and local jails. During the year, 14,162 persons were admitted to state custody and 15,804 were released. At the end of FY 2009, 20,561 persons were in these facilities. Other persons in state custody were in halfway houses or on home incarceration.

Over the past 10 years, nearly 125,000 persons were admitted to state custody, including 72 percent for conviction of a felony offense and 26 percent for technical violation of a condition of probation or parole.

The average number of inmates per year increased by 48.8 percent, from 15,164 in FY 2000 to 22,553 in FY 2009. From FY 2000 to FY 2009, 124,832 persons were admitted to state custody: 72 percent for conviction of a felony offense; 26 percent for technical violation of a condition of probation or parole; and 2 percent for other reasons, such as violation of a condition of home incarceration. Total admissions increased 65 percent. Admissions of persons convicted of Class D felonies increased 79 percent, and admissions of persons convicted of Class C felonies increased 83 percent.¹

Of the department's \$3.6 billion total cost over this period, more than \$3 billion was for incarceration.

In the 10-year period from FY 2000 to FY 2009, the department's total cost was approximately \$3.6 billion, of which \$3.1 billion was for incarceration. Community supervision cost \$374 million. Administrative cost, which makes up the rest of the total, was just under \$77 million and included departmental oversight, budgeting and accounting, information technology, and the Kentucky Corrections Commission.

Cost Efficiency and Cost Effectiveness

Incarceration is not always cost efficient or effective. Correctional cost efficiency is defined as applying available resources economically to accomplish goals. Correctional cost effectiveness is defined as whether the cost to incarcerate someone outweighs the cost to society of an alternative.

Incarceration is not always a cost-efficient or cost-effective method of dealing with lawbreakers. Correctional cost efficiency can be defined as economically applying available resources to accomplish statutory goals and improve public safety (*Greenfield v*). Cost efficiency is using limited resources wisely. For example, a person convicted under KRS 514.030 for stealing property worth at least \$10,000 is guilty of a committing a Class C felony

¹ Felony incarceration sentences are as follows: Class A is 20 to 50 years, Class B is 10 to 20 years, Class C is 5 to 10 years, and Class D is 1 to 5 years.

punishable by incarceration of 5 to 10 years. If that person served 5 years in a local jail at a per diem rate of \$31.34, the incarceration cost to the state for that theft would be \$57,195. In this case, cost efficiency may be a matter of whether the individual could have been incarcerated less expensively.

Cost effectiveness can be defined as whether the cost to incarcerate a person outweighs the cost to society had that person been allowed to remain free in the community, with or without supervision (DiIulio 4). Using the same individual as an example, cost effectiveness is about whether alternatives to incarceration for 5 years, such as a shorter sentence followed by community supervision, could have accomplished societal goals of reducing crime and achieving justice at a lower cost.

Staff at the Washington State Institute for Public Policy conducted a multivariate statistical analysis of the relationship between incarceration and crime. Incarceration can decrease crime by removing offenders from society and by deterring others from committing crimes. Incarceration does result in a lower crime rate and, therefore, reduced cost to the criminal justice system as a whole but is an expensive way of dealing with offenders. To determine the cost and benefits of sentencing an offender to prison, the cost of incarceration was compared to the benefits gained from incarceration. Researchers found that incarcerating violent offenders was cost beneficial, but incarcerating property and drug offenders cost more than it saved society (Aos 7).

The nearly 16,000 inmates released from state custody in FY 2009 had been convicted of more than 40,000 felony offenses. Thirty-two percent of the convictions were for violations of Kentucky's controlled substances statute; 18 percent of convictions were for theft and related offenses.

In FY 2009, 15,804 inmates were released from state custody in Kentucky. They had been convicted of 40,626 felony offenses. The number of convictions exceeds the number of inmates because many inmates were convicted of more than one offense. Table 1.1 summarizes the number of convictions by KRS chapter.

Almost 13,000 convictions (32 percent) were for violations of KRS Chapter 218A, Kentucky's controlled substances statute. The next highest category was convictions for theft and related offenses at 18 percent. These percentages were consistent with the previous 3 fiscal years.

Table 1.1
Convictions of Released Inmates by KRS Chapter
Fiscal Year 2009

KRS Chapter	Convictions	Percent
218A Controlled substances	12,938	32%
514 Theft and related offenses	7,172	18
511 Burglary and related offenses	3,827	9
516 Forgery and related offenses	3,232	8
520 Escape and other offenses relating to custody	2,592	6
530 Family offenses	2,197	5
508 Assault and related offenses	2,048	5
189A Driving under the influence	1,099	3
515 Robbery	1,032	3
524 Interference with judicial administration	750	2
510 Sexual offenses	663	2
527 Offenses relating to firearms and weapons	570	1
512 Criminal damage to property	530	1
434 Offenses against property by fraud	527	1
507 Criminal homicide	256	1
186 Licensing of motor vehicles, operators, and trailers	210	1
Other statute chapters	983	2
Total	40,626	100%

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

The estimated cost to incarcerate 9,430 inmates convicted of nonviolent property and drug offenses was \$136.2 million in FY 2009, more than 35 percent of total incarceration cost for the year.

On June 30, 2009, Kentucky had 9,430 inmates who had been convicted of nonviolent property and drug offenses. These inmates represented almost 42 percent of the total felon population on that date. The cost to incarcerate these inmates is estimated at \$136.2 million for FY 2009, more than 35 percent of total incarceration costs of \$384 million. The estimate is based on the number of nonviolent property and drug offenders in state prisons, contracted prisons, and local jails and the average daily cost of an inmate in each type of facility.

Not all the 9,430 nonviolent property and drug offenders would be candidates for community supervision; it is unknown how many would be. For illustration, if all could have been supervised in the community, the estimated cost would be \$14.5 million. This would be \$121.7 million less than the cost of incarcerating them.

Not all inmates convicted of nonviolent property or drug offenses would be candidates for community supervision, and it is unknown how many would be. The following paragraphs illustrate the estimated upper limit of potential financial savings of alternatives to incarceration. If all 9,430 nonviolent property and drug offenders could have been supervised by probation and parole officers, a conservative estimate is that the cost would be \$14.5 million. The estimate is based on the number of offenders; the average daily cost of supervision; and the first-year cost to hire,

train, and equip 98 new officers. The estimate does not include the cost of additional supervisors for the new officers or incremental administrative costs.

Supervising nonviolent property and drug offenders in the community is a more cost-effective way to use correctional resources. The difference between the estimated cost of incarceration and the estimated cost of community supervision would be \$121.7 million. In addition, if each person had been placed on community supervision and had paid a monthly supervision fee of \$25, the state general fund would have received \$2.8 million. Again, actual savings would depend on how many of the inmates would be appropriate for community supervision, which is unknown. Details of the calculations are provided in Appendix B.

Sentencing requirements for persistent felons increase the length of an inmate's sentence and the time the inmate must serve before being eligible for parole consideration.

Sentencing requirements for persistent felons increase the length of an inmate's sentence and the time the inmate must serve before being eligible for parole consideration. A person convicted of a felony today who completed a sentence for at least one previous felony conviction within the last 5 years is considered a persistent felony offender. The sentence for the current conviction is increased by applying the requirements in KRS 532.080, depending on the number and types of previous felony convictions for which the person was incarcerated.

- A persistent felony offender in the second degree has one previous felony conviction. The sentence for the current conviction is increased to the next highest degree. For example, a person currently convicted of a nonviolent Class D felony, which carries a sentence of 1 to 5 years, is sentenced for a Class C felony, which carries a sentence of 5 to 10 years. The person is required to serve 20 percent of the sentence before being eligible for parole consideration.
- A persistent felony offender in the first degree has at least two previous felony convictions or one conviction for a sex crime against a minor. The sentence for the current conviction is 10 to 20 years. This person must serve 10 years before being eligible for parole consideration if the current offense is a Class A, B, or C felony.

Recommendation 1.1

Recommendation 1.1

The General Assembly may wish to consider reducing the penalties for nonviolent offenses and amending KRS 532.080 to apply the persistent felony offender sentences only to those convicted of violent offenses.

The US Department of Justice has estimated that 61 percent of inmates in state prisons and 44 percent of inmates in local jails have mental health problems. About 74 percent of state inmates and 76 percent of local jail inmates who had mental health problems met criteria for substance dependence or abuse (US Dept. Bureau of Justice Statistics. Mental 1). In FY 2009, the cost to the department for mental health and substance abuse treatment staff exceeded \$11 million. The cost of medications used to treat psychiatric conditions is included in the medical cost category.

Many people would benefit from alternatives to criminal proceedings, such as drug and mental health courts. Prosecutors and judges have discretion to identify persons who would benefit from receiving substance abuse services, mental health services, and social services under community supervision rather than being tried for and convicted of criminal offenses and being incarcerated.

A 2006 report from the Washington State Institute for Public Policy used statistical analysis to evaluate all evidence-based research on correctional program outcomes. The results indicated that drug courts achieve, on average, a 10.7 percent reduction in the recidivism rates of program participants compared with a treatment-as-usual group (Aos 3). A 2007 study published in the American Journal of Psychiatry showed that, after 18 months of graduating from a mental health court, the risk of a graduate being charged with any new offense was about 34 in 100 compared with about 56 in 100 for a comparable person who received treatment as usual (McNeil 1401).

Recommendation 1.2

Recommendation 1.2

The General Assembly may wish to consider providing funding to expand the use of drug and mental health courts.

Implementing Recommendation 1.2 would increase the need for community supervision officers and increase the need for funding of community substance abuse and mental health providers.

Recent State Actions To Reduce the Number of Inmates

House Bill 406, the biennium budget enacted in 2008, suspended two statutes to allow some inmates to be released early.

HB 406, the biennium budget enacted in 2008, suspended KRS 439.344 and KRS 532.260(1) to allow some inmates to be released earlier than prescribed in these statutes.

KRS 532.260(1) allows incarcerated felons to serve the remainder of their sentences on home incarceration, at the discretion of the commissioner, if they have 90 days or less to serve on their sentences. This provision was suspended until June 30, 2010, to extend the time to 180 days or less to serve. Through June 2009, 1,315 inmates had been released to home incarceration and 188 had been reincarcerated for violating the terms of their home incarceration.

KRS 439.344 was suspended to allow a released inmate's time spent on parole to count as part of his or her sentence except when the person is returned to prison as a parole violator for a new felony conviction, is classified as a violent offender, or is a registered sex offender. This suspension was incorporated into the statute by passage of HB 372 in the 2009 Regular Session. Through June 2009, 2,865 inmates had been released.

HB 406 also suspended part of the parole eligibility provisions in 501 KAR 1:030. Persons convicted of nonviolent Class D felonies with an aggregate sentence of 1 to 5 years are eligible for parole consideration after serving the longer of 15 percent of the sentence or 2 months, rather than 20 percent of the sentence or 4 months required by the regulation. HB 406 expires on June 30, 2010.

Comparison to Other States

As a share of state spending, Kentucky's cost for corrections compares favorably to costs in nine states with similar numbers of inmates.

As a share of state spending, Kentucky's costs compare favorably to those in states with similar numbers of inmates. Table 1.2 shows for Kentucky and nine other states with similar numbers of inmates the percentage of total state spending on corrections and the percentage of state general funds spent on corrections in FY 2007.²

In FY 2007, Kentucky spent 2.4 percent of its total budget on corrections, second lowest among these 10 states. The national average was 3.4 percent.

Kentucky spent 2.4 percent of its total budget on corrections, lower than all these states except Mississippi (2.0 percent). Kentucky's 2.4 percent is lower than or equal to the percentage of all but 12 states in the nation. The national average of total budget spent on

² The number of inmates in each of the nine states is within 5,200 of Kentucky's number. Total spending includes capital costs. FY 2007 is the most recent year for which comparable information was available.

corrections was 3.4 percent. Kentucky spent 5.3 percent of its general fund on corrections, tied with Indiana among comparable states. That national average was 6.7 percent (National Association).

Table 1.2
Corrections Spending and Numbers of Inmates and Prisons
for Kentucky and Nine Comparable States
Fiscal Year 2007

State	% of Total State Spending for Corrections	% of General Funds for Corrections	State Inmates	Public and Contracted Prisons
Mississippi	2.0%	5.8%	21,758	9
Kentucky	2.4	5.3	21,644	16
Oklahoma	2.6	7.7	25,686	17
South Carolina	2.9	6.7	24,093	28
Tennessee	2.9	5.6	26,453	15
Indiana	3.2	5.3	26,833	21
Wisconsin	3.4	7.9	23,766	32
Washington	3.5	5.8	17,438	15
Colorado	3.8	8.5	22,662	29
Maryland	4.4	8.2	23,123	27

Note: Ordering of states is from lowest to highest percentage of total state spending on corrections. The numbers of inmates in the other nine states are within 5,200 of the number in Kentucky.

Source: Prepared by Program Review staff from information obtained from the US Department of Justice and the National Association of State Budget Officers.

Kentucky's state prison population grew 9 percent from December 2005 to June 2007. Nationally, total state inmates increased 4 percent over this period; only four states had larger increases than Kentucky.

Kentucky's state prison population grew 9 percent from December 31, 2005, to June 30, 2007. Nationally, total state inmates increased by 4 percent (US. Dept. Bureau of Justice Statistics. Prison). Among similar states, Kentucky and Indiana tied with the largest increase at 9 percent. Among all 50 states, only Rhode Island, Nevada, New Hampshire, and West Virginia had higher increases in prison population during this period.

The inmate populations, number of prisons, and percentage of state funding for all 50 states are shown in Appendix C. The change in prison population for each state is shown in Appendix D.

Chapter 2

Cost of Corrections

Incarceration

On average in FY 2009, 54 percent of the more than 22,000 inmates housed by the Department of Corrections were in 13 state prisons, 34 percent were in 76 local and regional jails, and 5.5 percent were in 3 contracted prisons. The remainder were in contracted halfway houses or on home incarceration.

On an average day in FY 2009, 54 percent of state inmates were housed in 13 state prisons; 34 percent were in 76 local and regional jails. The remaining inmates were in 3 contracted prisons (5.5 percent); 20 halfway house organizations (6 percent), some of which had more than one facility under contract with the department; or on home incarceration (1.1 percent). Table 2.1 shows the average number of inmates, the percentage of inmates, and cost by type of facility in FY 2009.

Table 2.1
Type of Facility, Average Number and Percentage of Inmates, and Total Cost
Fiscal Year 2009

Type of Facility	Facilities	Average			
		# of Inmates	% of State Inmates	Cost to Department	% of Total Cost
State prison	13	12,106	53.6%	\$245,853,282	64.0%
Contracted prison	3	1,234	5.5	20,576,868	5.3
Local or regional jail	76	7,613	33.8	100,751,274	26.2
Contracted halfway house	20	1,348	6.0	16,039,920	4.2
Home incarceration	N/A	252	1.1	1,115,238	0.3
Total	112	22,553	100.0%	\$384,336,582	100.0%

Note: The cost column includes amounts paid by the department to medical providers for care of state inmates in contracted prisons and local and regional jails. It does not include local jail allotments, which are general funds provided for general-purpose jail support. Some halfway house organizations have more than one facility. N/A indicates that persons on home incarceration are not housed in facilities but are monitored electronically in the community.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

More than 90 percent of incarceration cost for the department in FY 2009 was for state prisons (64.0 percent) and local and regional jails (26.2 percent).

More than 90 percent of incarceration cost in FY 2009 was for state prisons (64.0 percent) and local and regional jails (26.2 percent). The cost to the department differs somewhat from the expenditures by category. For example, the department pays some prescription drug costs and hospital bills for inmates in contracted prisons. The department also incurs the cost of state employees who monitor compliance of the contracted prisons. This is shown in Table 2.1 as a cost of contracted prisons. The actual amount paid to Corrections Corporation of America for the contracted prisons in FY 2009 was \$19,612,710.

Similarly, the department reimburses medical providers for treating jail inmates for any amount more than \$2,000 per inmate and pays the full cost of the medical network that coordinates services for all inmates in local jails. This is shown in Table 2.1 as a cost of local jails. The department also incurs the cost of state employees who monitor compliance of the jails with the requirements of the Kentucky Jail Standards Commission.

Not shown in the cost of local jails is the more than \$13 million paid to counties for jail operating expenses in FY 2009. This cost, known as the local jail allotment, is not a cost of incarcerating state inmates but is paid through the department's budget.

In FY 2009, the department housed an average of 13,340 inmates in state and contracted prisons, including 3 at the Kentucky Correctional Psychiatric Center. Table 2.2 shows each prison and its security level, average number of Kentucky inmates, and average daily cost of incarceration to the department in FY 2009.

Table 2.2
Average Number of Kentucky Inmates and Daily Cost Per State Prison
Fiscal Year 2009

Type of Prison/ Security Level	Prison	Average # of Inmates	Average Daily Cost
State: Minimum	Bell County Forestry Camp	294	\$39.16
	Blackburn Correctional Complex	554	58.23
	Frankfort Career Development Center	200	46.34
State: Medium	Eastern Kentucky Correctional Complex	1,698	43.84
	Green River Correctional Complex	962	48.87
	Kentucky Correctional Institution for Women*	635	77.96
	Kentucky State Reformatory	1,937	71.62
	Little Sandy Correctional Complex	1,000	47.53
	Luther Lockett Correctional Complex	1,084	50.57
	Northpoint Training Center	1,236	45.74
	Roederer Correctional Complex	969	56.90
	Western Kentucky Correctional Complex	675	56.75
State: Maximum	Kentucky State Penitentiary	859	68.13
Contracted: Medium	Lee Adjustment Center	63	58.04
	Marion Adjustment Center	740	40.02
	Otter Creek Correctional Center (female)	431	53.60

*The Kentucky Correctional Institution for Women is classified as medium but has all levels.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

State Prisons

State prisons house the most dangerous and seriously ill inmates in state custody.

In FY 2009, 53.6 percent of state inmates were incarcerated in state prisons, which house the most dangerous and seriously ill inmates in state custody. Sex offenders with sentences of 2 or more years are housed in state prisons. Maximum-security inmates require more extensive and expensive security; men are housed only at the Kentucky State Penitentiary, and women are housed only at the Kentucky Correctional Institution for Women. Inmates with serious physical or mental illness are housed in specialized treatment units; men are housed at the Kentucky State Reformatory, and women are housed at the Kentucky Correctional Institution for Women. The Correctional Institution for Women also houses all pregnant inmates who otherwise might serve their sentences in a contracted prison or a local jail.

Physical Health Care

Medical care for inmates in state prisons in FY 2009 cost more than \$51 million. Medical costs are likely to increase as the inmate population ages.

The department's cost of medical care for inmates in prisons in FY 2009 was \$51,358,977. More than 22 percent of the cost was attributable to five categories of treatment. The top five medical treatments and their costs for the first 10 months of FY 2009 are shown in Table 2.3.

Table 2.3
Five Highest Cost Categories of
Medical Treatment for Inmates in Prisons
July 2008 to April 2009

Category	Cost to Department
Diseases of the circulatory system	\$3,425,995
Neoplasms (tumors and other growths)	1,813,761
Injury and poisoning	1,664,331
Diseases of the digestive system	1,418,187
Diseases of the respiratory system	879,182
Total	\$9,201,456

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

A major factor in medical costs is hospitalization of inmates. In FY 2009, four inmates cost the department more than \$1.1 million in hospital costs.

The department's medical costs are likely to increase as the inmate population ages. In FY 2009, 2,222 admissions (15.7 percent) were aged 45 and older (Morgan. Kentucky. "Admits"). On

July 8, 2009, 5,853 inmates were aged 45 and older. Elderly inmates are the fastest growing group of inmates in most states. One reason for the aging inmate population is tougher sentencing laws passed by states during the late 1980s and early 1990s (Council 1, 4).

Some inmates are disabled and are housed in specialized treatment units that function as nursing facilities. The \$70 per day cost of housing these inmates at the Kentucky State Reformatory exceeds the \$65 per day cost for an inmate at the Kentucky State Penitentiary, the maximum security prison. The pharmaceutical cost at the State Reformatory is \$200,000 a month (Council 14).

KRS 439.3405(1) permits the Parole Board to release any inmate on parole who has a

documented terminal medical condition likely to result in death within one (1) year or severe chronic lung disease, end-stage heart disease, severe neuro-muscular disease such as multiple sclerosis; or has severely limited mobility due to paralysis as a result of stroke, disease, or trauma; or is dependent on external life support systems and would not pose a threat to society if paroled.

If the inmates were granted parole, they could apply for disability benefits and potentially receive treatment paid by the Medicare and Medicaid programs. The cost to the state would decrease because it would consist only of the Medicaid state match and parole supervision rather than the full cost of treatment, housing, and security in prison. The department has explored options for inmates who might be released by the Parole Board under KRS 439.3405(1) but has found no facility willing to accept felons and has been unable to obtain a certificate of need from the Cabinet for Health and Family Services to operate a nursing facility for these persons.

Mental Health Care

Nationally, more persons with mental illness are in correctional facilities than in mental institutions. The department provides treatment for inmates with serious mental illness, substance abuse programs, sex offender treatment programs, and other psychological services in state prisons.

Nationally, more persons with mental illness are housed in correctional facilities than in mental hospitals and institutions (Council 6). The department provides treatment for inmates with serious mental illness, substance abuse programs, sex offender treatment programs, and other psychological services in state prisons.

Costs to the department for mental health care in state prisons in FY 2009 included

- \$1.76 million for substance abuse treatment,
- \$1.40 million for treatment of sex offenders, and
- \$3.03 million for treatment for severe and persistent mental illness.

The department provides a Narcotics Anonymous/Alcoholics Anonymous 12-step program in all prisons to inmates who choose to participate. The department also offers a formal Substance Abuse Program to inmates who have been determined to have an addiction to drugs and/or alcohol. This program is provided at three state prisons for men—Roederer Correctional Complex, Luther Lockett Correctional Complex, and Green River Correctional Complex—and at the Kentucky Correctional Institution for Women. The cost to the department for substance abuse treatment in state prisons was \$1,756,859 in FY 2009.

Kentucky's sex offender population in state prisons on June 30, 2009, was 2,645. The department offers a Sex Offender Treatment Program for inmates who have been convicted of sex crimes, as required by KRS 197.400. The program is offered in four men's prisons—Kentucky State Reformatory, Luther Lockett Correctional Complex, Kentucky State Penitentiary, and Western Kentucky Correctional Complex—and at the Kentucky Correctional Institution for Women. The cost to the department in FY 2009 was \$1,400,208.

The department provides treatment for men with severe and persistent mental illness in the Kentucky State Reformatory and for women in the Kentucky Correctional Institution for Women. Inmates with less severe mental illness are housed in all state prisons except the Bell County Forestry Camp. In FY 2009, the cost to the department for treating these inmates in state prisons was \$3,026,159. This cost consists of staff only. The cost of prescriptions for the inmates is included in the medical category.

Work Programs

Inmates have voluntary work opportunities inside and outside the prison complex. The department paid \$3.36 million to inmates housed in state prisons for work in FY 2009, including work in Kentucky Correctional Industries.

Inmates have work opportunities inside the prison complex, such as making furniture for Kentucky Correctional Industries; working on prison farms; and in food, landscaping, laundry, and sanitation services. Inmates who qualify can work outside the confines of the prison in the governmental services program. This program provides state agencies and counties, cities, and other political subdivisions with a supplemental work force. In FY 2009, the department paid \$3,358,140 to inmates housed in state prisons for work, including work in Kentucky Correctional Industries.

The department's position is that inmate work is voluntary. Each state prison establishes a total number of inmate job assignments within prescribed categories, such as 4-hour and 8-hour jobs and academic programs. An inmate is not classified to a job assignment

until a vacancy exists. Inmates are given information on the jobs that are available. If the inmate expresses an interest in the job and is chosen, the inmate is classified into that job (Thompson, Kentucky. "More").

Contracted Prisons

In FY 2009, 5.5 percent of state inmates were housed in Marion Adjustment Center and Lee Adjustment Center for men and Otter Creek Correctional Center for women. The three prisons are operated under contract with Corrections Corporation of America. Table 2.4 summarizes information on each contract as of September 15, 2009.

Table 2.4
Summary of Contracts for Prison Beds as of September 15, 2009

	Marion Adjustment Center	Lee Adjustment Center	Otter Creek Correctional Center
Contract expiration date	6/30/10 (1-year extension)	5/12/07 (New contract being negotiated)	6/30/10 (1-year extension)
Number of beds contracted to Kentucky	826	50	476
Average number of inmates from other states	0	565	0
Community service details	2	1	2
Average number of Kentucky inmates on work service details	11	4	5
Average number of Kentucky inmates with work assignments	760	19	255
Average number of Kentucky inmates with educational assignments	133	18	118
Average number of Kentucky inmates in substance abuse program	253	1	56

Note: Some inmates have a combination of work, educational, and/or substance abuse program assignments. The substance abuse program is the Narcotics Anonymous/Alcoholics Anonymous 12-step program. Work service details include, for example, picking up litter on roadsides. The Lee Adjustment Center is negotiating for 250 beds contracted to Kentucky; its out-of-state inmates are from Vermont. The Otter Creek Correctional Complex previously had 110 inmates from Hawaii.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

The contracted Lee Adjustment Center houses inmates from Vermont to fill the beds not contracted for by the department. Kentucky receives no revenue and incurs no cost from the contractor's housing of out-of-state inmates.

In FY 2009, the total cost to the department for contracted prisons was \$20.6 million.

The cost to the department of contracted prisons is the negotiated contract rate per day, some costs of inmate medical care paid by the department, and contract monitoring costs. In FY 2009, the total cost was \$20,576,868, of which \$105,362 was for monitoring.

KRS 197.510 provides the terms under which the state may contract with a private provider to operate and manage an adult correctional facility. KRS 197.510(1) requires the contracted prison to adhere to standards of the American Correctional Association but does not require actual accreditation. Section 30 of the contract requires the contracted prisons to achieve accreditation and to remain compliant with 100 percent of all applicable mandatory standards and a minimum of 95 percent of all applicable nonmandatory standards.

State law requires contracted prisons to provide a level and quality of programs at least equal to those provided by state-operated prisons that house similar types of inmates and at a cost that provides the state with a savings of at least 10 percent.

KRS 197.510(13) requires contracted prisons to provide a level and quality of programs at least equal to those provided by state-operated prisons that house similar types of inmates and at a cost that provides the state with a savings of at least 10 percent of the cost of housing inmates in similar prisons and providing similar programs to those types of inmates in state prisons.

KRS 197.510(19) requires the contracted prisons to provide services and programs to the extent set forth in the contract including but not limited to health and medical services, vocational training and educational programs, and drug and alcohol counseling.

In contract negotiations, the department has defined the contracted Marion Adjustment Center as similar to the state-operated Western Kentucky Correctional Complex for men, the contracted Lee Adjustment Center as similar to the state-operated Little Sandy Correctional Complex for men, and the contracted Otter Creek Correctional Center as similar to the state-operated Kentucky Correctional Institution for Women. All six prisons are classified as medium security, meaning that they can house medium- and minimum-custody inmates, although the Correctional Institution for Women also houses maximum-custody inmates. Table 2.5 shows the state and contracted prisons that are compared and the average number of inmates in FY 2009.

Table 2.5
Average Numbers of Inmates in State Prisons and
Contracted Prisons Defined as Similar to Them
Fiscal Year 2009

State Prison	Inmates	Contracted Prison	Contracted Beds
Western Kentucky Correctional Complex	969	Marion Adjustment Center	826
Little Sandy Correctional Complex	1,000	Lee Adjustment Center	50*
Kentucky Correctional Institution for Women	635	Otter Creek Correctional Center	476

*The department is negotiating a new contract for 250 beds.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

The contracts require the state to guarantee minimum inmate population levels at the contracted prisons. For example, in FY 2009, the contract guaranteed an inmate population for Otter Creek at 90 percent of the number of contracted beds, or 429 inmates. The department is required to pay for empty beds below the guaranteed level. Thus, if both a state prison and a contracted prison have an open bed and the contracted prison is below the contractual population limit, an inmate will be housed in the contracted prison, and the state prison will have an unoccupied bed.

The statute has been difficult to implement because state and contracted prisons and the inmates they house are not very similar.

KRS 197.510(13) has been difficult to implement because of a lack of actual similarity between state and contracted prisons and the inmates they house. The contracted Marion Adjustment Center has a similar but lower number of inmates than the Western Kentucky Correctional Complex. The Marion Adjustment Center houses 590 minimum-security inmates and 239 medium-security inmates; Western Kentucky houses mainly medium-security inmates. Other state prisons that house large numbers of minimum-security inmates are not similar to the Marion Adjustment Center. For example, the Frankfort Career Development Center houses 200 inmates, and the Bell County Forestry Camp houses 300.

The contracted Lee Adjustment Center has far fewer inmates than the Little Sandy Correctional Complex. The major similarity is that both prisons are relatively new.

The contracted Otter Creek Correctional Center has fewer inmates than the Kentucky Correctional Institution for Women but is the only other prison for women in Kentucky. The Correctional Institution for Women has extensive medical and mental health

care costs because it houses all female inmates with serious illnesses.

Programming, the other criterion for similarity, is shown in Table 2.6 for the state and contracted prisons.

Table 2.6
Programs Offered in State Prisons and
Contracted Prisons Defined as Similar to Them
Fiscal Year 2009

State Prison	Programs Offered	Contracted Prison	Programs Offered
Western Kentucky Correctional Complex	Work, GED, horticulture, NA/AA, 16-20 hour prerelease program	Marion Adjustment Center	Work, GED, horticulture, construction technology, Microsoft Office, NA/AA, substance abuse program, 1-5 hour prerelease program
Little Sandy Correctional Complex	Work, GED, NA/AA, 11-15 hour prerelease program	Lee Adjustment Center	Work, GED, business, carpentry, culinary arts, horticulture, masonry, Microsoft Office specialist, NA/AA, 16-20 hour prerelease program
Kentucky Correctional Institution for Women	Work, GED, business, carpentry, horticulture, NA/AA, substance abuse program, 1-5 hour prerelease program	Otter Creek Correctional Center	Work, GED, business, carpentry, horticulture, Microsoft Office, NA/AA, substance abuse program, 1-5 hour prerelease program

Note: NA/AA is the Narcotics Anonymous/Alcoholics Anonymous 12-step program.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

All three contracted prisons offer more programming than the comparable state prisons.

All three contracted prisons offer more programming than the comparable state prisons. In particular, the state-operated Little Sandy Correctional Complex and the contracted Lee Adjustment Center have little programming in common except for work, GED, Narcotics Anonymous/Alcoholics Anonymous, and prerelease programs. The Lee Adjustment Center provides a number of vocational training opportunities not offered at Little Sandy.

Although not identified in statute, another potential similarity between state and contracted prisons could be the cost to incarcerate inmates. The cost of contracted prisons includes some costs incurred by the department above the per diem rate paid to the contractor. The department pays hospital and surgery costs of state inmates housed at the Lee Adjustment Center and the Otter Creek Correctional Center after 48 hours and at the Marion Adjustment Center after 72 hours. Similarly, the department pays the cost of prescription drugs for treating inmates infected with human immunodeficiency virus/acquired immune deficiency

syndrome and hepatitis C in the contracted prisons (Haas. Kentucky. “Question”). In the past 3 fiscal years, these medical costs for state inmates in contracted prisons totaled \$543,741.

The medical costs are included in the calculated cost to incarcerate state inmates in contracted prisons. The department specifically identifies certain costs, such as payments to medical providers, to the prison that housed the inmate and allocates the cost of program administration on various bases, such as average number of inmates. Program Review staff reviewed the methods used by the department to calculate the cost per inmate in each prison and determined they were equitable. The per-inmate cost for the state and contracted prisons defined by the department as similar and the per diem rate paid by custody level for contracted prison beds in FY 2009 are shown in Table 2.7.

Table 2.7
Average Cost Per Inmate and Per Diem Rate for State Prisons and Contracted Prisons Defined as Similar to Them
Fiscal Year 2009

State Prison	Average Cost Per Inmate	Contracted Prison	Average Cost Per Inmate	Per Diem Paid to Contractor
Western Kentucky Correctional Complex	\$56.75	Marion Adjustment Center	\$40.02	\$34.54 (minimum security) 43.62 (medium security)
Little Sandy Correctional Complex	47.53	Lee Adjustment Center	58.04	43.62 (minimum and medium security)
Kentucky Correctional Institution for Women	77.96	Otter Creek Correctional Center	53.60	51.17 (minimum and medium security)

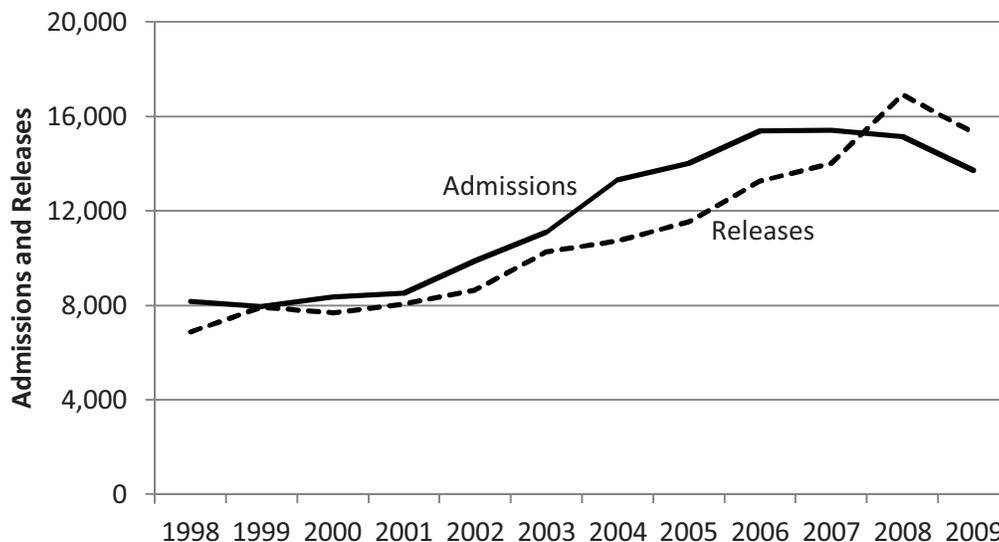
Note: The tentative rate for the new contract for Lee Adjustment Center is \$43.11 for all inmates (Robinson. Kentucky. “Inmate”).

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

The state must continue to contract for inmate beds, at least in the near future. In FY 2009, the state prisons had an operational capacity of 12,156 beds that were considered available every day. The institutional capacity of 12,491 included 335 segregation beds for inmates who require separation from other inmates because of, for example, personal safety of codefendants who have testified against each other. With an average of 13,337 inmates housed in prisons in FY 2009, the department contracted for 1,352 potential prison beds (Robinson. Kentucky. “Number”).

In the past 2 fiscal years, more inmates were released from state custody than were admitted. In FY 2008, 15,149 persons were admitted and 16,921 were released. In FY 2009, 14,162 persons were admitted and 15,804 were released. Figure 2.A shows admissions and releases from FY 1998 to FY 2009.

Figure 2.A
Admissions to and Releases From State Custody
Fiscal Year 1998 to Fiscal Year 2009



Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Even though releases exceed admissions in the past 2 years, the short-term trend should not be relied on to make contracting decisions. The need for contracted prison beds became evident with the partial destruction by fire of the state-operated Northpoint Training Center for men in August 2009, which required that 718 inmates be moved to other prisons. Of the inmates who were moved, 259 were taken to contracted prisons—234 to the Lee Adjustment Center and 25 to the Marion Adjustment Center (Erwin, Kentucky. “Smoking”).

The state should be able to rebuild the Northpoint facility to its former condition under a replacement-cost insurance policy. At the time of this report, no estimate was available of the time needed to complete the rebuilding. Before the fire, the department had sought \$14 million to renovate an unusable portion of the Northpoint Training Center to house 200 to 300 female inmates (Thompson and Robinson). The ability to house female inmates at Northpoint would decrease the department’s dependence on contracted prison beds at Otter Creek Correctional Center.

Local Jails

The cost to the department of state inmates in local jails consists principally of per diem payments for housing but also includes costs not associated with state inmates.

The cost to the department of state inmates in local jails consists principally of the per diem payments for housing but also includes costs not associated with state inmates. The department funds local jail expenses in a number of ways depending on the nature of the costs and statutory requirements. The department also inspects jails for compliance with statutory requirements.

Local Jail Allotment

Funding of local jail operations is shared between counties and the state. One state funding source is a monthly subsidy that is not based on the number of state inmates in jails. The total annual base allotment is \$12.5 million, which is unchanged since FY 1985. Counties received approximately \$800,000 above the base in FY 2009.

Funding of local jail operations is shared between counties and the state. KRS 441.025 requires the fiscal court of each county to provide for the incarceration of inmates arrested in the county or sentenced or held by order of the courts in the county. KRS 441.206 requires the department to pay each county treasurer an allotment to help cover the cost of care and maintenance of persons charged with or convicted of violations of state law, with no county to receive less than \$24,000 per year. The allotment, which the department pays monthly, is not based on the number of state inmates in jails; it is a state operating subsidy provided through the department's budget. A county receives the allotment even if it closes its jail and contracts with another jurisdiction to incarcerate its inmates.

In FY 2009, allotment payments ranged from a high of \$2,355,875 to the Louisville Metro government to a low of \$23,688 to Todd County.¹

From its enactment in 1893 to its repeal in 1982, KRS 64.150 required the state to pay fees to county jailers for incarcerating state inmates. The change from the fee system of paying jailers to the allotment system of paying all counties began in FY 1985. The first year's allotment in FY 1985 was \$12,528,500.

KRS 441.206 was amended in 1992 to accommodate counties that had substantially increased the capacity of their jails from 1980 through 1982. In this situation, the county was permitted to use an estimate of the new capacity of the jail for calculating the amount the state should have paid initially to the county. The estimate was required to be used to calculate payments made by the state beginning in FY 1993 but not to recalculate past payments.

¹ The inadvertent underpayment of \$312 to Todd County resulted from budget reductions ordered by the Governor. A department official stated that the department will ensure that no county receives less than \$24,000 in FY 2010 (Robinson. Kentucky. "Todd").

Appropriations in amounts greater than the base of \$12.5 million are required by KRS 441.206 to be allocated to counties as follows:

- 60 percent based on the amount of the base allotment that was received by the county (or that should have been received due to jail expansion) in the initial payment;
- 10 percent based on each county’s comparative ranking of median household income in inverse order, as determined by the 1980 Census; and
- 30 percent based on the proportion of each county’s age-at-risk population (18 to 34 years) to the state total, as determined by the 1980 Census.

The original base allotment of \$12.5 million established in FY 1985 continues in FY 2009.

In FY 2009, the enacted budget for the jail allotment was \$14,231,300. The amount disbursed to counties was \$13,323,111 because of state budget reductions (Robinson. Kentucky. “Jail allotment”). Of the amount disbursed, \$10,757,316 was paid to 82 counties that house state inmates; \$573,974 was paid to 7 counties that do not house state inmates; and \$1,991,821 was paid to 31 counties that have closed their jails. More than \$70 million has been paid to counties through the allotment program in the past 5 years. Table 2.8 shows the amount by fiscal year.

Table 2.8
Jail Allotment Payments to Counties
Fiscal Year 2005 to Fiscal Year 2009

Fiscal Year	Payment
2005	\$13,566,163
2006	14,548,875
2007	14,527,400
2008	14,245,900
2009	13,323,111

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Per Diem Payments

Some state inmates are required by statute to be incarcerated in a local jail rather than in a prison. The department pays counties a per diem for housing them.

Some state inmates are required by statute to be incarcerated in a local jail rather than in a prison. In FY 2009, an average of 33.8 percent of state inmates were housed in local jails. The department pays counties a per diem for housing the inmates.

A person convicted of a Class D felony with a term of imprisonment of 5 years or less is required by KRS 532.100(4)(a) to serve the term in a local jail. KRS 532.100(4)(b) states that a person convicted of a Class D or C felony with a sentence of more than 5 years who is classified by the department as community custody may serve the term in a jail if beds are available, state prisons are at capacity, and halfway houses are full. Some persons convicted of sex crimes with sentences of 2 years or less may serve their terms in local jails.

Only full-service jails can house state inmates. Full-service jails must meet minimum standards established by the Kentucky Jail Standards Commission. The standards include provisions for health and safety conditions; fire safety; custody, care, and treatment of prisoners; and medical care. Administrative regulations at 501 KAR Chapter 3 describe the requirements for administration, fiscal management, personnel, security and control, sanitation and hygiene, medical services, food services, emergency and safety procedures, inmate classification, inmate programs, inmate services, and admission and release.

KRS 532.100(6) requires the department to pay a per diem amount for Class C and D felons housed in the jails, parole violators, and inmates who are waiting to be transferred to prison. The latter group is known as controlled intake, meaning that the inmate is housed in a jail until space is available in a prison. KRS 431.215(2) requires the department to pay the county in which the person is incarcerated a fee per day beginning on the fifth day following the sentencing date. However, the department begins paying the per diem when the person is sentenced (Robinson, Kentucky. "Jail per"). Included in the per diem payment is a medical component of \$1.91 for everyday needs, such as over-the-counter medications.

According to KRS 532.100(4), counties may elect not to house state inmates. Jails in these counties are referred to as life-safety jails and are held to less stringent standards than full-service jails. The requirements for staffing, physical plant, fire safety, sanitation and hygiene, medical services, and food services for life-safety jails are described in 501 KAR Chapter 13.

Some counties have closed their jails and must pay other local jurisdictions to house county inmates. Counties that do not house state inmates and counties that have closed their jails do not receive per diem payments for state inmates but they do receive the jail allotment payments.

The per diem rate is not specified in the budget. It is established by the department based on the total appropriation and the estimated number of state inmates to be housed in local jails. In FY 2009, the per diem was \$31.34. The total payment to counties was \$94.5 million.

The per diem rate is not specified in the budget. It is established by the department based on the total appropriation and the estimated number of state inmates to be housed in local jails. The department requests incremental increases during the biennium budget cycle.

A growing number of persons convicted of Class D and C felonies and housed in jails has made it difficult for the department to increase the per diem rate. In FY 2000, 7,130 persons were admitted to state custody for Class D and C felonies. In FY 2009, the number admitted had risen to 12,659, an increase of 77.5 percent over 10 years.

In FY 2009, the department paid \$94.5 million in per diems to 76 counties and regional jail authorities for an average daily number of 7,613 state inmates. Table 2.9 shows the jail per diem rates, the average number of inmates, and the amount paid to counties for housing state inmates over the past 5 years.

Table 2.9
Jail Per Diem Rates, Average Numbers of Inmates,
and Payments to Counties
Fiscal Year 2005 to Fiscal Year 2009

Fiscal Year	Per Diem	Inmates	Amount Paid
2005	\$27.31	6,232	\$59,291,271
2006	30.51	5,958	63,021,761
2007	30.94	6,173	71,382,575
2008	31.34	7,709	106,073,400
2009	31.34	7,613	94,490,864

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

The amount paid in FY 2008 includes more than \$8 million owed the jails from FY 2007 and paid as a necessary governmental expense in accordance with KRS Chapter 48.

County officials have expressed concern that the housing of inmates before they are sentenced or plead guilty to felony offenses is funded exclusively by the counties, even though the inmates receive credit for time served in jail.

County officials have expressed concern that the housing of inmates before they are sentenced or plead guilty to felony offenses is funded exclusively by the counties, even though the inmates receive credit for time served in jail. KRS 532.120 states that

[t]ime spent in custody prior to the commencement of a sentence as a result of the charge that culminated in the sentence shall be credited by the court imposing sentence toward service of the maximum term of imprisonment. If the sentence is to an indeterminate term of imprisonment, the time spent in custody prior to the commencement of the sentence shall be considered for all purposes as time served in prison.

HB 420 from the 2008 Regular Session proposed that the state pay a per diem on a phased-in basis for the time a convicted felon spends in jail prior to conviction. The per diem payments would have started in FY 2011, with the state paying the full amount by FY 2014. The department estimated that the cost would be \$13.9 million in FY 2011, \$30 million in FY 2012, \$48.6 million in FY 2013, and \$69.6 million in FY 2014. The bill did not pass, based in large part on its projected costs.

After a person is sentenced for a felony conviction, whether the inmate serves a term of incarceration in jail or in prison, the state receives the benefit of the reduced number of days it must pay to house the inmate because of the time credited to the inmate's sentence.

Recommendation 2.1

Recommendation 2.1

The General Assembly may wish to consider appropriating funds for the Department of Corrections to pay counties per diems for incarcerating persons who serve time in local jails before being convicted of felony offenses.

If this recommendation is implemented, the monthly jail allotment payments to counties for operating expenses may merit reconsideration.

Per diem payments to jails for housing state inmates vary widely across the nation. In FY 2007, the most recent year for which information for other states was available, per diems in 14 states for which Program Review staff could obtain information ranged from \$15.00 in Arkansas to \$68.85 in Montana. Kentucky’s per diem was \$30.94. Table 2.10 compares Kentucky with the other states with similar numbers of state inmates that housed state inmates in local jails and for which staff could determine the amount of the per diem payment. Only Mississippi paid a lower rate than Kentucky.

Table 2.10
Per Diems Paid by Kentucky and States
With Similar Numbers of Inmates
(as of June 30, 2007)

State	State Inmates	
	Housed in Jails	Per Diem
Colorado	166	\$52.69
Tennessee	7,109	43.15
Kentucky	7,658	30.94
Mississippi	4,676	21.00

Note: For these four states, the total numbers of inmates range from 21,644 to 26,453.

Source: Prepared by Program Review staff from information obtained from the US Department of Justice, the Council of State Governments, and Program Review staff correspondence with state officials.

Health Care

The department pays providers for psychological, medical, dental, and hospital services for state inmates housed in jails. In FY 2009, the department paid \$3.8 million, a 48 percent increase since FY 2007.

The department pays providers for necessary psychological, medical, dental, and hospital services for state inmates housed in jails. In FY 2009, the department paid \$3,840,538—a 48 percent increase since FY 2007. Payments were \$3,075,767 in FY 2008 and \$2,597,270 in FY 2007.

Unless granted a waiver, local jails are required to participate in the department’s medical network—CorrectCare—for pharmacy, medical, dental, and psychological services for all jail inmates, regardless of whether they are in state custody. The current cost is \$5.60 per inmate per month. In FY 2009, the department paid just over \$1 million in network costs attributable to jail inmates.

Medical Network Payments. KRS 441.053 requires all local jails to participate in the department’s medical network for inmate pharmacy, medical, dental, and psychological services unless the jail receives a waiver from the department because it has an arrangement for services at least as good as and at a lesser cost than the department’s plan. Only the jails in Boone County and Lexington-Fayette County have waivers (Haas. Kentucky. “HB191”). The department is required by KRS 441.053(3) to pay the administrative fee for the network.

Known as CorrectCare, the network is operated under contract with the University of Kentucky. CorrectCare negotiates agreements with medical providers for care of inmates in state prisons and all inmates in jails, regardless of whether they are in state custody. CorrectCare typically negotiates a rate equal to the rate that Medicare would pay plus 18 percent, with some variance based on geographic location (Haas. Kentucky. "Quick"). The current cost of the network is \$5.60 per inmate per month. In FY 2009, the department paid \$1,044,345 in network costs for jails: \$495,301 for state inmates and \$549,044 for county inmates. In FY 2008, the total cost was \$1,143,673. In FY 2007, it was \$930,350.

The state is required by law to reimburse the counties for "catastrophic medical costs" of more than \$2,000 per inmate under specified conditions.

Catastrophic Medical Costs and Payments to Medical Providers. KRS 441.045(3) requires that the cost of providing medical, dental, and psychological care for indigent inmates in a local jail be paid from the jail budget. However, KRS 441.045(7) requires the state to reimburse the county for costs more than \$2,000 per inmate when the care is necessary, the inmate is indigent, and the cost does not exceed the maximum payments allowed under the Kentucky Medical Assistance Program. The costs are referred to as catastrophic medical costs.

The jailer submits the medical invoice to the department for review for compliance with statutory requirements. The invoice is then sent to CorrectCare for verification of the Medical Assistance Program calculation. Any approved amount more than \$2,000 is required to be reimbursed to the county.

KRS 441.045(11) states that any money appropriated to fund the state's obligation for medical costs greater than \$2,000 that is not spent during the fiscal year does not lapse. The appropriation is to be made available to pay the portion of each catastrophic claim above \$2,000 for which the county did not receive payment. This would be the difference between what the county paid the medical provider and the Medical Assistance rate used by the department to reimburse the county. Because of budget reductions, the department has used surplus catastrophic medical funds to make jail allotment

KRS 441.045(11) states that any money appropriated to fund the state's obligation for medical costs greater than \$2,000 that is not spent in the applicable fiscal year shall not lapse. Instead, to the extent possible, the appropriation is to be made available to pay the portion of each catastrophic claim during the year above \$2,000 for which the county did not receive payment. This amount would be the difference between what the county paid the medical provider and the Medical Assistance Program rate used by the department to reimburse the county. If there is an insufficient surplus to satisfy all claims, the state is required to pay the counties, on a per claim basis, an amount equal to each claim's percentage of the total surplus. If the surplus is sufficient to satisfy all such claims, any amount remaining is required to be carried forward to the next fiscal year to be made available for future claims.

The payments to counties for catastrophic medical expenses have been decreasing. In FY 2009, the department paid \$71,489 in catastrophic medical claims compared to \$95,194 in FY 2008 and \$265,727 in FY 2007. Because of budget reductions, the department has used surplus catastrophic medical funds to try to avoid reducing the allotment payments to counties for operating the jails (Robinson. Kentucky. "Medical").

Transportation

The department pays ambulance costs for transporting state inmates from jails to hospitals and the costs of bus tickets for state inmates released from jails. The total annual cost increased 75 percent since FY 2007 to more than \$112,000 in FY 2009.

The department pays ambulance costs for transporting state inmates from jails to hospitals and the costs of bus tickets for state inmates released from jails. The payments are made directly to the transportation provider. Table 2.11 shows that the costs of transportation for state inmates in local jails increased 75 percent since FY 2007 to more than \$112,000 in FY 2009.

Table 2.11
Cost of Ambulances and Bus Tickets
for State Inmates in Local Jails
Fiscal Year 2007 to Fiscal Year 2009

	FY 2007	FY 2008	FY 2009
Ambulances	\$23,344	\$27,498	\$53,991
Bus tickets	40,926	51,348	58,165
Total	\$64,270	\$78,846	\$112,156

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Inmate Labor

The department pays state inmates for their labor while housed in jails. Payments are made to the jail and are credited to inmate accounts. In FY 2009, the department paid \$641,324 in inmate labor costs.

Some counties contract with a state agency, such as the Department of Transportation, for work details that may employ state inmates. The department pays state inmates for their labor while they are housed in jails. Payments are made to the jail and are credited to inmate accounts. The department paid \$641,324 in inmate labor costs in FY 2009, \$790,072 in FY 2008, and \$590,119 in FY 2007.

Training Allowance for Jailers

State law requires the department to maintain a training program for jailers, jail personnel, and jailers-elect. Each jailer receives \$300 per month to help defray the costs of participating in the training. In FY 2009, the department paid \$474,388 to jailers.

KRS 196.070 and KRS 441.115 require the department to maintain a training program for jailers, jail personnel, and jailers-elect. Each jailer receives \$300 per month to help defray the travel costs of participating in the training. The payments are discontinued if the jailer fails to satisfactorily complete annual continuing training.

The department is prohibited from charging a fee for the training. In FY 2009, the department paid \$474,388 to jailers.

The purpose of the training is to raise the level of competence of jailers and jail personnel. Training methods for jail personnel include classroom instruction and computer-based training. Jailers participate in the semiannual Kentucky Jailers' Association conferences, each of which includes 12 hours of training from department staff. Training for new jailers includes 40 hours from department staff each election cycle. The training includes information on the requirements of the Kentucky Jail Standards Commission.

The program is required by statute to be directed and staffed by knowledgeable persons with sufficient experience, training, and education in jail operations. Department staff members work with the Kentucky Jailers' Association Curriculum Committee to determine the training needs of jailers, jail personnel, and newly elected jailers. KRS 441.115 requires the department to keep records of who satisfactorily completes basic training and annual continuing education.

The department's cost to provide the training was \$158,602 in FY 2009, \$151,053 in FY 2008, and \$140,069 in FY 2007.

Substance Abuse Program

In FY 2009, the department paid more than \$1.2 million to 15 jails and counties for the cost of operating substance abuse programs for inmates.

In FY 2009, the department paid more than \$1.2 million to 15 jails and counties for the cost of operating substance abuse programs for inmates. Because FY 2009 was the first year of the program, the payments were considered start-up grants and did not reflect the actual cost per inmate. The department and the Kentucky Jailers' Association are discussing a per diem rate based on the program's actual cost. Table 2.12 shows the payments in FY 2009, which ranged from \$33,165 to \$155,271.

An additional \$253,450 was incurred for salaries of departmental staff and related costs of overseeing the programs.

Table 2.12
Cost of Substance Abuse Programs in Jails
Fiscal Year 2009

Jail or County	Cost Paid by Department
Boyd County Detention Center	\$33,165
Breckinridge County Jail	35,725
Christian County Jail	138,626
Clark County Jail	65,540
Daviess County Detention Center	97,069
Floyd County Jail	60,172
Grayson County Jail	47,075
Hardin County Jail	150,000
Hopkins County Detention Center	114,142
Kenton County Detention Center	65,000
Marion County Jail	91,641
Mason County Detention Center	47,280
Pike County Detention Center	155,271
Powell County Fiscal Court	52,640
Three Forks Regional Jail	65,000
Total	\$1,218,346

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Halfway Houses

In FY 2009, 6 percent of state inmates were in transitional detention from prison in halfway houses. The daily cost of a state inmate in a halfway house was \$32.60.

In FY 2009, 6 percent of state inmates were in halfway houses. The daily cost of a state inmate in a halfway house was \$32.60.

Inmates in halfway houses are in transitional detention from prison. They are eligible for parole or are within 18 months of serving out their sentences or meeting with the Parole Board. Because the inmates are in community custody, they are supervised by probation and parole officers. While living at a halfway house, the inmates typically work in the community, attend classes, or participate in substance abuse programs.

In FY 2009, the department paid approximately \$16 million for contracted halfway house beds.

In FY 2009, the department paid approximately \$16 million for contracted halfway house beds. Contract monitoring costs were \$115,095; inmate labor costs were \$160,464. Other minimal costs included transportation and drug testing fees and supplies.

Home Incarceration

Some persons convicted of felony offenses serve all or part of their sentences on home incarceration. On average in FY 2009, 252 inmates were on home incarceration at a cost to the department of more than \$1.1 million for the year, nearly double the cost for FY 2007.

Some persons convicted of felony offenses serve all or part of their sentences on home incarceration. The sentencing court may order home incarceration, and the department may release some felons in accordance with KRS 532.260 and HB 406, the budget bill enacted in 2008. A person on home incarceration remains in the custody of the department and is monitored by the private provider of monitoring equipment and by a probation and parole officer. The person is required to maintain a telephone or other approved monitoring device in the home or on his or her person at all times. Fees are charged for supervision and equipment use according to the person's ability to pay (KRS 439.315). If the person is indigent, the department pays the fee (Robinson. Kentucky. "Home").

KRS 532.260(1) allows the commissioner to release a Class C or D felon to serve the remainder of the sentence under the terms of home incarceration using a monitoring device if the felon

- has not been convicted of a violent felony or a sex crime;
- has 90 days or less to serve on the sentence—temporarily extended by HB 406 to 180 days;
- has voluntarily participated in a discharge planning process with the department to address education, employment, technical and vocational skills, and housing, medical, and mental health needs; and
- has needs that may be adequately met in the community in which he or she will reside upon release.

The cost to the department of electronically monitoring persons on home incarceration is higher than probation and parole supervision but lower than incarceration in a prison or jail. Table 2.13 shows the average daily number of persons on home incarceration, the cost per person, and the total cost for the past 3 fiscal years. The average number of persons on home incarceration increased from 163 to 252, and the average daily cost per person increased from \$8.65 to \$12.12. Total annual cost increased from more than \$500,000 in FY 2007 to \$1.1 million in FY 2009.

Table 2.13
Average Number and Cost of Felons on Home Incarceration
Fiscal Year 2007 to Fiscal Year 2009

Fiscal Year	Felons	Daily Cost	Annual Cost
2007	163	\$8.65	\$514,365
2008	229	10.69	893,762
2009	252	12.12	1,115,238

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Probation and Parole

In FY 2009, the department had an average of 428 probation and parole officers. The officers supervise persons in the community who have been released on probation by the courts or on parole by the Parole Board.

In FY 2009, the department had an average of 428 probation and parole officers. The officers supervise persons in the community who have been released on probation by the courts or on parole by the Parole Board.

In addition to supervising offenders, the officers provide investigative services for the courts and the Parole Board, rehabilitation services to offenders, and assistance to offenders in finding employment and housing. Officers testify in court, make home visits, conduct drug and alcohol tests, and monitor payment of fees and restitution and completion of community service work. From January 1, 2009, through July 31, 2009, officers collected supervision fees of more than \$2 million that were deposited in the state general fund in accordance with KRS 439.315(8). The Division of Probation and Parole also administers the Interstate Compact for Adult Offender Supervision, under which cases are transferred between states; operates the placement office that helps incarcerated offenders find proper home placements before their release; and processes civil rights restoration requests by ex-offenders.

The average daily number of persons supervised by probation and parole officers was 38,933 in FY 2009. The daily cost was \$2.63, and the total cost for the year was \$37.4 million. The number of persons supervised and the cost have been stable over the past 3 fiscal years.

As shown in Table 2.14, the average daily number of persons supervised by probation and parole officers was 38,933 in FY 2009. The daily cost was \$2.63, and the total cost for the year was \$37.4 million. The average number of persons supervised and the cost have been relatively stable over the past 3 fiscal years.

Table 2.14
Average Number of Felons on
Probation and Parole Supervision
Fiscal Year 2007 to Fiscal Year 2009

Fiscal Year	Felons	Daily Cost	Annual Cost
2007	38,131	\$2.60	\$36,169,321
2008	38,950	2.64	37,583,584
2009	38,933	2.63	37,425,145

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Kentucky is one of 30 states and the District of Columbia in which the same officers supervise persons on probation and parole. In the other 20 states, parolees are supervised by the state and probationers are supervised by local jurisdictions.

State law allows the department, with the written approval of the secretary of the Justice and Public Safety Cabinet and the governor, to enter into an agreement with counties and cities for their payment of part of the costs of the department's probation and parole services within the counties and cities. This potential source of funding has not been pursued.

A potential way to offset the department's cost of probation and parole supervision is specified in statute. KRS 439.540 allows the department, with the written approval of the secretary of the Justice and Public Safety Cabinet and the governor, to enter into an agreement with counties and cities for their payment of part of the costs of the department's probation and parole services within the counties and cities. A department official stated that this potential source of funding has not been pursued. The department has a contract with the Louisville Metro government to supervise high-risk misdemeanants from District Court (Robinson, Kentucky, "Cost").

Offsetting the Cost of Corrections

In FY 2008 and FY 2009, the department had grants of \$4,373,867 from federal agencies and a foundation to supplement state funding.

In FY 2008 and FY 2009, the department had grants of \$4,373,867 from federal agencies and the Health Foundation of Greater Cincinnati to supplement state funding. The grants were received for education; reentry planning and programming; mental health, substance abuse, and sex offender treatment; laptop computers and bulletproof vests for probation and parole officers; elimination of prison rape; enhancement of the Victim Information and

Notification Everyday system; and other purposes. In FY 2009, the department also received training and technical assistance on reentry programs valued at \$300,000 from the US Department of Justice (Adams).

So far in FY 2010, the department has received federal grants totaling \$5,366,546 that require \$937,218 in state matching funds. Table 2.15 lists the purpose of each grant, the federal and state shares, and the total grants received as of October 26, 2009.

Table 2.15
Federal Grants Received in Fiscal Year 2010
(as of October 26, 2009)

Purpose	Federal Share	State Match	Total
Mental health, substance abuse, sex offender treatment	\$347,432	\$51,744	\$399,176
Reentry programming	1,110,192	873,774	1,983,966
Education	299,998	0	299,998
Equipment for officers and prisons	3,535,416	11,700	3,547,116
State Criminal Alien Assistance Program	73,508	0	73,508
Total	\$5,366,546	\$937,218	\$6,303,764

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

In FY 2009, the department collected \$271,528 in inmate fees, more than 50 percent of which was for medical copayments

Some states assess fees for services received by inmates. The most common fee is a medical copayment. Inmates who initiate “sick calls” are assessed a fee that generally ranges from \$3 to \$7. In addition to offsetting costs of incarceration, fees also can serve as a deterrent to inmates who would abuse services. In FY 2009, the department collected \$271,528 in inmate fees; more than 50 percent of that amount (\$138,769) was medical copayments (Dailey. Kentucky. “Inmate”). Appendix E illustrates the types of fees assessed across the country.

Chapter 3

Inmate Care and Programming

Federal and state constitutions, laws, and court rulings require the Department of Corrections to provide inmates with a safe and sanitary environment, physical and mental health care, exercise, and access to religious services and a law library or free legal assistance. State constitutional and statutory requirements for inmates to work are inconsistent.

The Department of Corrections is responsible for the safety and welfare of each inmate in its custody. Federal and state constitutions, laws, and court rulings require the department to provide inmates with a safe and sanitary environment, physical and mental health care, exercise, and access to religious services and a law library or free legal assistance. State constitutional and statutory requirements for inmates to work are inconsistent: work is either required, encouraged, or voluntary. State inmates housed in prisons have greater access to legal assistance, work, and recreation than do inmates housed in local jails.

Physical Health Care

A 1976 US Supreme Court case is the governing legal precedent on delivery of health care to inmates. Inmate care should not be substantially different from what the general public would receive.

The 1976 US Supreme Court case *Estelle v. Gamble* is the governing legal precedent on providing medical care to inmates. The court ruled that it is the “government’s obligation to provide medical care for those whom it is punishing by incarceration.” The level of health care is based on the “medical professional judgment standard,” commonly known as the community standard of care. Under this standard, an inmate is given treatment the medical professional deems appropriate using professional judgment. Professional judgment is assumed to result from the care the profession as a whole provides and therefore should not be substantially different from what the general public would receive (Posner 361).

State law allows jails to petition the department to house inmates who need specialized or long-term care not available at the jail, regardless of whether the inmate is in state custody.

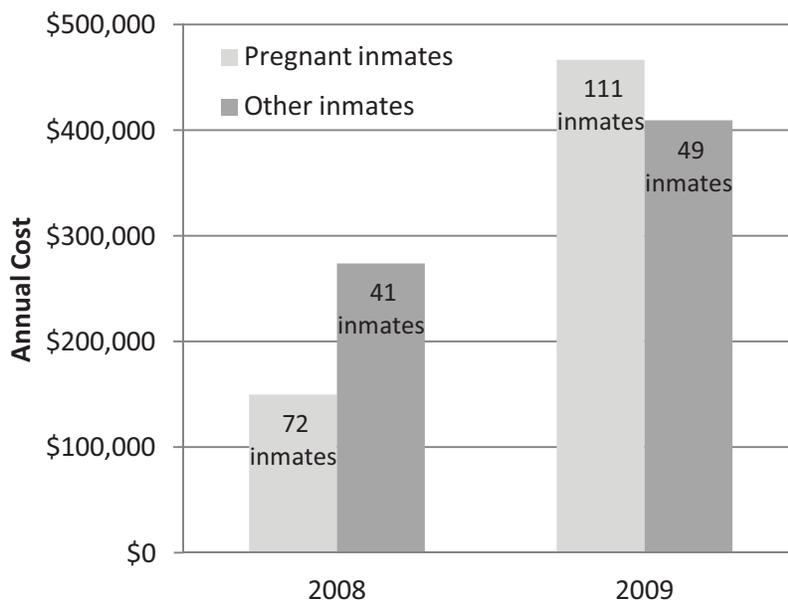
HB 191, enacted in the 2007 Regular Session, allows jails to petition the department to house inmates who need specialized or long-term care not available at the local jail, regardless of whether the inmate is in state custody (KRS 441.560). The department may decline any request for these medical transfers. If the inmate is accepted, the department must pay the costs of transfer to and from the department's facilities; the room, board, and related costs for the inmate while in the custody of the department; and the costs for medical care, treatment, medicines, and supplies for the inmate while in the custody of the department.

Of the 160 inmates approved for transfer in FY 2009, 111 were pregnant. The department's unwritten policy is to accept all pregnant inmates in jails. Total cost for the 160 inmates was approximately \$876,000.

In FY 2009, the department approved jail requests for 160 inmates, 111 of whom were pregnant, to be transferred to state prisons for medical care under the provisions of HB 191. The department has an unwritten policy to accept all pregnant inmates in jails and house them at the Kentucky Correctional Institution for Women. The department's commissioner stated that accepting medical transfers of all pregnant jail inmates is out of concern for the inmate and her unborn child (Thompson. Kentucky. "HB").

In FY 2009, the cost of providing care to pregnant inmates eclipsed the cost of providing care to all other inmates transferred to the department under the provisions of HB 191. Total cost of providing medical care to the transferred inmates increased 51 percent from FY 2008, the first year of the program, to FY 2009 (Haas. Kentucky. "Data"). Figure 3.A shows the number of inmates transferred to state prisons from jails and the cost of the inmates in the past 2 fiscal years. The total cost in FY 2009 was \$876,172 (\$5,476 per inmate). The cost for pregnant inmates increased from just under \$150,000 in FY 2008 to nearly \$467,000 in FY 2009. The cost for other inmates transferred according to the provisions of HB 191 increased from more than \$274,000 to more than \$409,000.

Figure 3.A
Cost of Medical Care for Inmates Transferred Under the Provisions of HB 191
Fiscal Year 2008 and Fiscal Year 2009



Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Mental Health Care

A 1977 federal court case extended the minimum standard of care for physical health to include mental health.

In the 1977 case *Bowring v. Godwin*, the US Court of Appeals for the Fourth Circuit extended the minimum standard of care for inmate physical health to encompass mental health. The court did not grant inmates unrestricted access to care but relied on the professional opinion of the mental health provider to establish the seriousness of the illness and the level of care needed. The court also held that not all denials of mental health care were in violation of the Eighth Amendment's protection against cruel and unusual punishment.

Recreation

Based on federal court cases, the current national correctional practice is that inmates should be provided at least 1 hour of recreation daily. Each state prison in Kentucky has a gym. The cost to the department to employ correctional officers to work as recreation staff was \$2.4 million in FY 2009.

The federal court cases of *Preston v. Thompson* (1978) and *Spain v. Procnier* (1979) acknowledged that failure to provide inmates with adequate access to exercise could constitute a violation of the Eighth Amendment. These cases helped establish the current national correctional practice of providing inmates with a minimum of 1 hour of recreation daily.

Each state prison in Kentucky has a gymnasium available for use by inmates. Similar facilities are available in contracted prisons. The gymnasiums in state prisons were built using general funds and proceeds from the centralized canteen operation. Recreation equipment in state and contracted prisons is purchased from the canteen fund (Erwin. Kentucky. "Law"). In FY 2009, the department employed 55 full-time recreation staff at its 13 state prisons at a cost of more than \$2.4 million (Dailey. Kentucky. "Inmate").

Jails are required to provide at least 1 hour of physical exercise per day and at least three exercise periods per week outside the cell (501 KAR 3:130(6)). When weather permits, outdoor recreation is available for 1 hour two times per week. Inmates who pose a threat to the safety and security of the jail can be denied outdoor recreation (Willard).

Religious Services

According to federal law, governments may not impose a "substantial burden" on exercise of religion by inmates. In FY 2009, the department employed 15 chaplains in its 13 prisons at a cost of nearly \$816,000.

The US Religious Land Use and Institutionalized Persons Act of 2000 was enacted to ensure that "no government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution" unless the government can

demonstrate that the burden furthers “a compelling government interest” and does so by the “least restrictive means.”¹

Each state prison in Kentucky has a religious services center and at least one full-time chaplain. In FY 2009, the department employed 15 chaplains at its 13 prisons at a cost of \$815,470 (Dailey. Kentucky. “09”).

The practice of religion inside a prison may also include special dietary requirements. In the 1975 case *Kahane v. Carlson*, the US Court of Appeals for the Second Circuit held that “prison authorities must accommodate the right of prisoners to receive diets consistent with their religious scruples.” In the 2002 case *Berheide v. Suthers*, an appellate court held that inmates cannot be required to contribute to the cost of a religious meal or to eat “common fare” meals that are vegetarian or pork-free but fail to follow kosher rules for storage, preparation, and service.

The department recognizes 14 religions and permits religious diets for persons who subscribe to specified faiths.

The department adopted the US Bureau of Prisons’ manual *Inmate Religious Beliefs and Practices* as the governing policy on religious accommodation for state inmates. The department recognizes 14 religions and permits religious diets for persons who subscribe to the Jewish, Islamic, Rastafarian, Native American, and Wiccan faiths. The department has two kosher kitchens to accommodate Jewish inmates. In FY 2008, the department served 8,061 kosher meals (Robinson. Kentucky. “Data”). Kosher meals cost the department \$4.68 per day; regular meals cost \$2.63 per day (Robinson. Kentucky. “Food”).

Law Library and Legal Assistance

A 1977 US Supreme Court case requires prison authorities to provide law libraries or assistance in preparing and filing legal papers.

In the 1977 case *Bounds v. Smith*, the US Supreme Court held that inmates have a constitutional right of access to the courts that requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries or adequate assistance from persons trained in the law.

Most states have chosen to provide law libraries in their prisons.

¹ Although tested in the Supreme Court case of *Cutter v. Wilkinson* (2005) as being a violation of the Establishment Clause of the First Amendment, the Act was held to be a constitutional protection of an institutionalized person’s ability to exercise religion. The decision in *Cutter* noted that the Act recognizes that persons who are institutionalized, by the very nature of their status, are restricted in their ability to practice some of the physical acts of their religion and are dependent on the government’s acceptance and accommodation to exercise these acts. The *Cutter* decision is the standard that correctional administrators use when determining the religious needs and rights of inmates.

Department policy requires each prison to provide access to a database, copier, and typing supplies for legal research. The department pays for one computer terminal in each state prison with access to the Westlaw online legal service at an annual cost of approximately \$124,000.

Department policy requires each prison to provide access to a database, copier, and typing supplies for legal research. The department pays for one computer terminal in each state prison with access to the Westlaw online legal service at an annual cost of \$123,641 (Dailey. Kentucky. "Inmate"). Additional terminals are funded by the inmate canteen fund. The Westlaw service is also available at contracted prisons.

Some jails have a limited law library. When an inmate requests specific materials in a jail that does not have a law library, jail staff typically obtain specific materials through local resources (Willard).

Work Policies for Inmates

Kentucky's Requirements for Work Are Inconsistent

Kentucky's requirements for work by inmates are inconsistent. The Kentucky Constitution and one statute require inmates to work. Another statute encourages inmates to work. A judicial consent decree states that inmate work is voluntary.

The Kentucky Constitution and one statute require inmates to work. Another statute encourages inmates to work. A judicial consent decree states that inmate work is voluntary.

Section 253 of the Kentucky Constitution states that "[p]ersons convicted of felony and sentenced to confinement in the penitentiary shall be confined at labor within the walls of the penitentiary." A constitutional amendment ratified in 1915 allows inmates to work outside the prison on public works projects.

KRS 197.070(1) states that

[t]he Department of Corrections shall provide employment for all prisoners in the penitentiaries and it shall exhaust every resource at its command to provide employment for all prisoners in its custody.

This applies to inmates housed in state prisons, contracted prisons, local jails, and halfway houses.

According to KRS 196.110(2),

[t]he department shall [e]ncourage the employment of the inmates of the institutions under its control in such ways as will contribute to their physical, mental, and moral improvement and to meeting the cost of their maintenance.

The statute also allows the department to use inmate labor in the upkeep and maintenance of prisons and other departments of state government.

A consent decree resulting from lawsuits by inmates against the Kentucky State Penitentiary and Kentucky State Reformatory states that “[a]ll inmates shall be eligible for employment except those inmates disqualified by reason of a disciplinary action, classification or a voluntary election not to work” (*Kendrick*). The decree was issued by the US District Court, Western Kentucky Division.

The department’s position is that it cannot require inmates to work.

The department’s position is that it cannot require inmates to work. Each prison establishes a total number of inmate “job” assignments, such as 4-hour and 8-hour jobs and educational assignments. An inmate is not classified to an assignment unless a vacancy exists. Inmates entering the prison are provided information on the jobs that are available. If the inmate expresses an interest in the job and is chosen, the inmate is then classified into that job (Commonwealth of Kentucky 23; Erwin. Kentucky. “Questions”). Inmate work assignments in the contracted prisons are handled in the same manner.

Work Requirements in Other States

Inmate work policies vary among states. Some states require all inmates to work by constitution, statute, or policy. Twenty states statutorily require their inmates to work. Some states require inmates to participate in educational programming.

Inmate work policies vary among states. Some states by constitution, statute, or policy require all inmates to work. Twenty states statutorily require their inmates to work (National Correctional. “2009” 130). Some states require inmates to participate in educational programming; other states have no requirements.

Georgia law permits the Department of Corrections to require all inmates to work (O.C.G.A. 42-5-60). Departmental policy requires all able-bodied state inmates to work in some capacity, with participation in educational classes constituting a work assignment. Inmates work 4 days per week for 6 to 7 hours per day; inmates participating in educational classes typically are scheduled for a half day of school and a half day of work. Work assignments include education aides, cooks, barbers, groundskeepers, food and farm services, roadside cleanup, dormitory orderlies, and assignments in Georgia Correctional Industries. The more skilled inmates may be assigned to inmate construction crews that build schools and government buildings or to general maintenance of prison facilities (Ward. Feb. 12, 2009). Georgia inmates receive no pay or sentence credits for their work (Ward. Feb. 24, 2009).

In 1994, voters amended the Oregon constitution to require all state inmates to participate in work or on-the-job training programs 40 hours per week. According to the 1994 amendment,

Measure 17, “inmates who are confined in corrections institutions should work as hard as the taxpayers who provide for their upkeep” (State of Oregon. Dept.). Participation in educational programs may fulfill half the requirement for work or hands-on training. Corrections officials reported difficulty finding enough jobs for inmates (Associated). Oregon inmates are paid based on a point awards system that considers their work performance and the type of work assigned (State of Oregon. Oregon). On average, they earn \$33 per month (Cramer).

Most Kentucky Inmates Have Work or Program Assignments, but One-third Do Not

Most inmates are able to work, but some are medically unable or are housed in segregation units. A department official stated that there were not enough jobs to employ all able inmates. All could be employed through Kentucky Correctional Industries if the industries made enough money to pay them. Correctional industries operate on the revenue they generate and receive no state funding (Robinson. Kentucky. “Follow”).

As of June 2009, 43 percent of inmates in state prisons had work assignments. An additional 4 percent were assigned to work and to an educational program. Seventeen percent had program assignments only. One-third of inmates in state prisons had no work or program assignments.

Table 3.1 shows the number and percentage of inmates with work and other program assignments in state prisons as of June 30, 2009. Forty-three percent had work assignments. An additional 4 percent were assigned to some type of work and educational program. Seventeen percent had program assignments only. One-third of inmates in state prisons had no work or program assignments.

Table 3.1
Work and Other Program Assignments for
Inmates in State Prisons
(as of June 30, 2009)

Assignment	Inmates	% of Total
Work assignment only	5,260	43%
Program assignment only	2,039	17
Both work and program assignments	515	4
Unclassified assignments	248	2
No work or program assignment	4,116	34
Total	12,178	100%

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

As of June 2009, 21 percent of state inmates in contracted prisons and 56 percent of state inmates in local jails had work assignments.

On June 30, 2009, 270 state inmates (21 percent) in contracted prisons had work assignments (Abernathy-Perkins). In the month of June 2009, 3,929 state inmates (56 percent) in local jails had work assignments (Willard).

Payments for Inmate Work

State law requires that inmates be paid for each day worked outside the prison facility.

Kentucky. KRS 197.150 requires the department to pay inmates or their dependents for each day worked outside the facility, with inmates having the greatest family dependency given preference for outside work assignments. KRS 197.150 implies that inmate earnings should be used for family support, but no statute or department policy requires the department to withhold money from inmate earnings, and the department reported no deductions for family support (Dailey. Kentucky. "Pay").

KRS 197.047(5) requires the department to pay inmates who work on governmental service programs outside the correctional facilities half the established compensation for such work. It also requires the department to specify in an administrative regulation the amount of compensation an inmate will earn for such work.

Departmental policy is that inmates who work inside the facilities and those who participate in programs such as education or vocational training are paid, but no statute requires this. During FY 2009, state inmates earned more than \$3.3 million.

No statute requires that inmates who work inside a correctional facility be paid. Departmental policy requires that inmates who work inside the facilities and those who do not work but participate in programs such education or vocational training be paid. During FY 2009, state inmates earned more than \$3.3 million for all assignments (Dailey. Kentucky. "Inmate").

Other States. To promote "fiscal accountability," South Carolina ended its policy of paying inmates for work. Inmates who were in work assignments prior to January 20, 1998, still receive compensation for working. Those assigned to work after that date are given sentence credits in lieu of pay (Rhodes).

Some states mandate deductions from an inmate's earnings for purposes such as savings, payments to the inmate's family, or for court-ordered restitution.

Some states mandate deductions from inmate earnings. Massachusetts law requires that 50 percent of earnings be deposited in the inmate's savings account for use upon release; the other 50 percent is deposited in the inmate's personal account for paying required fees or purchasing items from the canteen (Commonwealth of Massachusetts).

The New Mexico constitution requires a portion of an inmate's net earnings to be paid to his or her dependent family. Net earnings are the amount remaining after state and federal income taxes and Social Security tax. Department policy requires that 30 percent of

net earnings be paid to family, 15 percent be paid for court-ordered restitution or to the Crime Victims Reparation Fund, and 5 percent be deposited for use when the inmate is discharged (State of New Mexico).

Recommendation 3.1

Recommendation 3.1

If it is the intent of the General Assembly that inmates be paid for working or participating in program assignments inside correctional facilities, the General Assembly may wish to consider specifying in statute whether, to what extent, and for what purpose deductions should be made from inmate earnings.

Correctional Industries

Correctional industries are required by KRS 197.070(3):

The department shall establish industrial training in the penitentiaries and shall classify state prisoners according to the uses for prison labor and ability and talent of the prisoners, utilizing the best available local talent and other talent that may be obtained at an economical and practical cost, and shall select a suitable number of guards with the qualifications, when possible, and thereby avoid duplicate expense.

Kentucky Correctional Industries is designed to provide inmates with realistic work experience and skills and to produce items for sale to other state agencies and the general public. Correctional industries are required to be self-supporting.

In FY 2009, 508 inmates worked in Kentucky Correctional Industries, which is designed to provide inmates with realistic work experience and skills and to produce items for sale to other state agencies and the general public. KRS 197.240 requires that all revenue collected from the sale or disposition of articles and products manufactured or produced by prison labor be deposited with the State Treasurer and maintained as a trust and agency account for prison industries. Correctional industries are required to be self-supporting.

All 50 states operate correctional industries, and all states except Arkansas, Georgia, and Texas pay inmates. Kentucky pays its correctional industry inmates \$0.25 to \$0.95 per hour, compared to national hourly wages ranging from \$0.02 to \$10.55 (National Correctional. "2009" 131). According to the department, Kentucky inmates earned \$802,313 in FY 2009. Inmate pay is most often tied to the skill level, need for supervision, seniority of the inmate, and the type of industry. The inmates are issued Internal Revenue Service Form 1099 stating their earnings.

All 50 states operate correctional industries, and all but 3 pay inmates. Some states withhold a portion of earnings for inmate savings, reimbursement to the state for room and board, or payment of court fines and restitution. Kentucky has no such requirement.

Some states withhold a portion of earnings for inmate savings, reimbursement to the state for room and board, or payment of court fines and restitution. Kentucky has no such requirement. Twenty states withhold deductions from wages earned in correctional industries. Almost \$7 million was deducted from inmate earnings in FY 2008 (National Correctional. “2009” 133). Table 3.2 shows the types of deductions withheld from correctional industries inmate earnings and the number of states that required each type in FY 2008.

Table 3.2
Deductions From Inmate Earnings
in Correctional Industries
Fiscal Year 2008

Deduction	States
Restitution	16
Inmate savings	15
Family support	14
Court fines	13
Payments for victims	11
Room and board	9
Medical copayments	7
Taxes	6
Educational programs	1
States with deductions	20

Note: Number of states withholding deductions was updated for new information provided by Massachusetts and New Mexico. Correctional industries shown in the table differ from the Prison Industry Enhancement Certification Program. Source: Prepared by Program Review staff from information obtained from the National Correctional Industries Association.

Recommendation 3.2

Recommendation 3.2

If it is the intent of the General Assembly that inmates working in Kentucky Correctional Industries be paid, the General Assembly may wish to consider specifying in statute whether, to what extent, and for what purpose deductions should be made from inmate earnings.

Inmates in correctional industries produce goods and services for sale. The industries may be traditional ones, such as manufacturing furniture and making garments, or services, such as mass mailings, large-scale printing, and moving assistance. Appendix F lists the correctional industries in the 50 states.

Kentucky has 10 state prisons that operate correctional industries. The industries that generate the most revenue are license plate manufacturing, printing, coupon processing, moving assistance, and mail services.

Kentucky has 10 state prisons that operate correctional industries. The industries that generate the most revenue are license plate manufacturing, printing, coupon processing, moving assistance, and mail services (Robinson. Kentucky. "LRC"). Appendix G lists each Kentucky state prison that operates a correctional industry, its products or services, revenue, and average number of inmate workers in FY 2009.

In Kentucky and five of the other nine states with similar numbers of inmates, 2 percent to 4 percent of state inmates were employed in correctional industries as of FY 2008. Kentucky's net sales in FY 2008 were \$12.1 million, below every state except one and well under national average state sales of \$34.9 million. Average net sales among the 10 states increased 66 percent over the past 10 years. Kentucky was the only state to report a decrease in net sales over this period.

Table 3.3 illustrates the variation in the percentage of inmates employed, number of facilities that operate industries, and net sales in Kentucky and states with similar numbers of inmates. Kentucky's 3.4 percent of inmates employed in correctional industries ranks 7th among the 10 states as of FY 2008, the most recent year for which comparable information was available. Kentucky differs from most other states based on net sales—revenues minus costs—from its industries. Kentucky's net sales in FY 2008 were \$12.1 million, below every similar state except one and well under average state sales of \$34.9 million. Average net sales among these states increased 66 percent over the past 10 years. Kentucky was the only state among the 10 to report a decrease in net sales over this period.

Table 3.3
Inmates Working in Correctional Industries, Number of Facilities, and Net Sales
for Kentucky and States With Similar Numbers of Inmates
Fiscal Year 2008

State	% of State's		Facilities	Net Sales		% Change in Sales
	Inmates Employed	Inmates Employed		FY 2008	FY 1998	
Washington	9.5%	1,660	15	\$60,336,907	\$27,730,000	+118%
Maryland	8.4	1,890	10	51,429,708	30,003,414	+71
Indiana	6.6	1,777	14	54,000,000	34,960,200	+54
Colorado	6.0	1,367	17	64,911,851	26,967,412	+141
Oklahoma	4.4	1,065	11	18,525,500	15,415,000	+20
South Carolina	4.0	925	20	29,290,264	19,441,735	+51
Kentucky	3.4	709	10	12,100,000	12,400,000	-2
Wisconsin	2.5	568	15	24,065,328	22,844,460	+5
Tennessee	2.5	652	11	25,650,386	17,549,192	+46
Mississippi	2.4	506	5	8,468,334	3,260,652	+160
Average	4.9%			\$34,877,828	\$21,057,207	+66%

Note: These states' inmate populations range from 17,432 (Washington) to 26,807 (Indiana). Net sales are revenues minus costs. Source: Prepared by Program Review staff from information obtained from the National Correctional Industries Association and the US Department of Justice.

State law requires that all offices, departments, institutions, agencies, and political subdivisions supported in whole or in part by the state purchase required articles or products that are produced or manufactured by prison labor when economically feasible. The Finance and Administration Cabinet may grant exceptions to this requirement, however. According to a Department of Corrections official, state agencies purchase items from private vendors that are available through Kentucky Correctional Industries.

KRS 197.210(1)(a) requires that all offices, departments, institutions, agencies, and political subdivisions supported in whole or in part by the state purchase required articles or products that are produced or manufactured by prison labor when economically feasible. KRS 197.210(1)(b) states that the Finance and Administration Cabinet may grant exceptions to this requirement if it is deemed that the items produced by correctional industries will not fulfill the needs of the purchaser or an insufficient supply is available. When the Cabinet's Division of Procurement Services receives a procurement request for an item that is available from Kentucky Correctional Industries, the requesting party is instructed to check first with Kentucky Correctional Industries. However, division staff do not verify that Correctional Industries was asked if it could fill the order (Caudle).

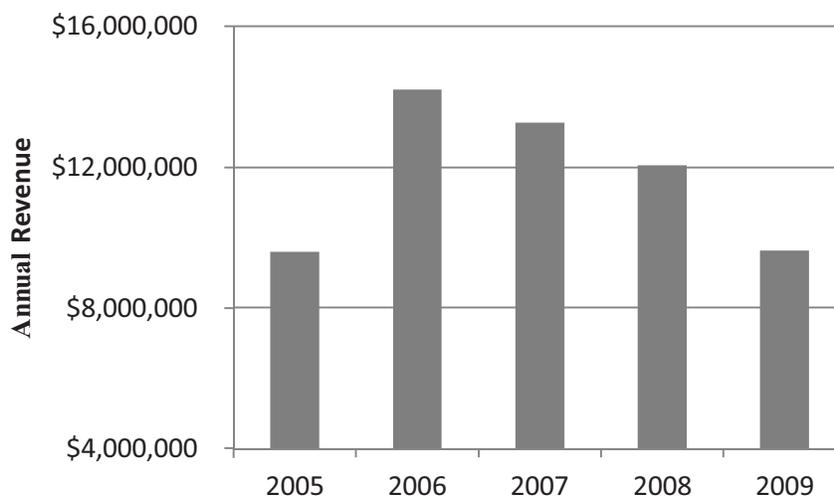
According to a Department of Corrections official, state agencies purchase items from private vendors that are available through Kentucky Correctional Industries. For instance, when state agencies have needed office furniture, some have purchased through private vendors when the quantity and quality of products may have been provided by Correctional Industries (Robinson, Kentucky, Personal).

Although Kentucky Correctional Industries receives no state funding, budget reductions have affected its profitability. Executive Order 2008-011, issued on January 4, 2008, and applicable to all state executive branch agencies, placed a moratorium on purchases of furniture and directed that essential printing be submitted to the state's Division of Printing Services in the Commonwealth Office of Technology.

The executive order had two apparently unintended consequences for Kentucky Correctional Industries. First, the Division of Printing Services has taken over much of the printing that had previously been done by Correctional Industries. Second, agencies that may have purchased furniture from Correctional Industries were prohibited from doing so.

Sales revenue of Kentucky Correctional Industries from FY 2005 to FY 2009 is shown in Figure 3.B. Sales spiked at more than \$14 million in FY 2006 when the state issued new license plates. Sales have since returned to the FY 2005 level. In FY 2009, 47 percent of revenue came from the Department of Transportation and the Department of Corrections.

Figure 3.B
Sales Revenue of Kentucky Correctional Industries
Fiscal Year 2005 to Fiscal Year 2009



Source: Prepared by Program Review staff from information provided by the Department of Corrections.

A department official stated that one reason revenue has stagnated is that the Transportation Cabinet has declined for the past 3 years to increase the rate it pays for state license plates. Because of the cost of producing the plates, Kentucky Correctional Industries is approaching the point at which it can no longer afford to continue this industry (Robinson. Kentucky. “DOC”).

One possible new industry could be created if the prison canteens were operated by Kentucky Correctional Industries. Operating the canteens as a correctional industry could help inmates learn service-industry skills they could use when released.

A possible new industry could be created if the prison canteens were operated by Kentucky Correctional Industries. The department is required by KRS 196.270 to maintain a centralized canteen operation for all state and contracted prisons that is incorporated and self-supporting. All profits must be used exclusively for the benefit of state inmates.

Currently, each state prison canteen is managed by the warden, and state inmates work in the canteens. Kentucky State Penitentiary and Eastern Kentucky Correctional Complex operate their own canteens. The other prison canteens are operated by vendors (Robinson. Kentucky. “Canteen”). Operating the canteens as a

correctional industry could help additional inmates learn service-industry skills they could use when released, such as placing orders with suppliers, receiving and stocking inventory, and filling orders from prisons. The management, warehousing, and distribution operations could be centralized. Profits could be used to support other industries, which could increase work opportunities for more inmates. Inmates are required to have at least a GED to participate in Kentucky Correctional Industries, which could provide an incentive for state inmates to advance their educations.

However, if Kentucky Correctional Industries centralized the canteen operations, more state staff would have to be hired, and it is unknown whether Correctional Industries could operate the central canteen at a lesser cost than the prisons and vendors.

Recommendation 3.3

Recommendation 3.3

The Department of Corrections should conduct a cost-benefit analysis to determine the feasibility of operating prison canteens as a correctional industry. If the results of the analysis are favorable, the department should centralize the canteen operations under Kentucky Correctional Industries.

Food and Farm Services

In 2007, 42 states operated prison farms (US. Dept. Bureau of Justice Statistics. Prison). Prison farms allow states to produce a portion of the food served, which can lower the cost of feeding the inmates.

Kentucky

Since 2005, the Kentucky has contracted with Aramark Correctional Services to provide all meals for the 13 state prisons.

Since 2005, Kentucky has contracted with Aramark Correctional Services since 2005 to provide all meals for the 13 state prisons. The department pays \$2.63 per day for nonkosher meals and \$4.68 a day for kosher meals (Robinson. Kentucky. "Food"). Inmates receive three hot meals a day, 7 days a week. Contracted prisons receive food services from Canteen Correctional Services.

In FY 2009, Kentucky's prison farms had sales of \$729,562 and employed 13 full-time staff at a cost of \$663,409. Approximately 80 inmates worked on the farms.

In FY 2009, Kentucky's prison farms had sales of \$729,526 and employed 13 full-time staff at a cost of \$663,409. Approximately 80 inmates worked on the farms (Dailey. Kentucky. "Farm" and "Questions").

The department operates farms at Blackburn Correctional Complex, Northpoint Training Center, Roederer Correctional Complex, and Western Kentucky Correctional Complex. The farms produce cattle, shrimp, tilapia, hay, corn, soybeans, and other vegetables. Aramark purchases a portion of the vegetables grown on the farms for inmate meals. Other state agencies do not purchase products from the farms.

The farms at Northpoint Training Center, Roederer Correctional Complex, and Western Kentucky Correctional Complex also manage compost operations.

The farm at Blackburn Correctional Complex is home to the Thoroughbred Refuge Foundation program, a nonprofit organization that has partnered with the state to provide a place for retired racehorses. The department provides use of state-owned land and a barn, a farm manager, a vehicle for the manager, and inmate labor. Remaining program costs are paid by the foundation through private donations (Robinson. Kentucky. Email).

Other States

The Farm Operations program of the Ohio Department of Rehabilitation and Correction produces dairy products, beef, pork, corn, soybeans, wheat, and hay. All farms that have livestock also have support crops and pasture. Ohio operates a 37,000-square-foot meat processing and packing facility that provides pork breakfast mix, hamburger, roasts, cubed steak, and diced pork and beef for state prisons (State of Ohio. Dept. "Agricultural").

As a cost-saving measure, Ohio also serves only two meals a day on weekends and state holidays. On those days, inmates are served brunch instead of separate breakfast and lunch meals. Changing to a brunch meal service allowed the department to offer some of the food most often requested by inmates. Inmates are served the same quantity of food they received when on the three meals a day service (State of Ohio. Dept. "Brunch").

The Georgia Department of Corrections has a similar meal plan for its inmates. On weekends and holidays when inmates are not working, they are served two meals a day instead of three. After the department reduced the inmate work week to save money on fuel, it also eliminated the lunch meal on Fridays to cut costs. Inmates still receive the same number of daily calories, but the meals are larger. When lunch is served, inmates no longer receive hot meals but instead are served cold-cut sandwiches, saving the department more than \$400,000 a year ("Georgia").

Georgia spends on average \$2.99 per inmate per day feeding its prison population of nearly 60,000 inmates, compared to Kentucky's cost of \$2.63 per inmate per day for regular diets. Georgia's cost includes food and supplies; all central office, farm, and facility personnel costs; and equipment purchases and maintenance. Georgia does not pay its inmates to work, thus no inmate labor cost is included in this cost.

In contrast, Kentucky's \$2.63 cost per inmate per day includes food and supplies and Aramark staff but does not include the cost of facility personnel, central office food service staff, or inmate labor. Kentucky pays its inmates to work on the farms.

Georgia's Food and Farm Services Division produces approximately 43 percent of the food served to inmates. Prison farms produce all of the milk, eggs, beef, and pork served to inmates. The farms produce fresh fruits and vegetables and operate a cannery for vegetables. The department attributes its low daily cost to a number of factors, including the use of a centralized warehouse that allows control of one master menu and buying items in greater bulk at lower prices (Wilson). The department also began adding dehydrated soy to some of its meat products, allowing it to produce three beef patties or sausage links for the price of two ("Georgia").

Alabama reduced the amount of milk and fresh fruit served, saving an estimated \$700,000 a year. Tennessee reduced the amount of milk provided from three servings per day to two, saving an estimated \$600,000 a year (McCaffrey).

Not all states benefit financially from the operation of prison farms. In November 2008, the New York State Department of Correctional Services announced it would eliminate its 12 prison farms, saving the state \$3.4 million annually (State of New York. Dept. "Department"). The farms had produced meat, milk, and vegetables that were used in prison meals, but the farms were operating at a loss and were not significantly contributing to feeding the state's inmates (Rubin).

Although New York's farms were not successful, the state found cost savings with its food production center that provides three "cook/chill" meals a day to all 70 state facilities. The cook/chill process involves cooking and chilling large quantities of food that can be stored up to 6 weeks. The meals need only to be heated and served. The department estimates it saves \$6.2 million per year by producing all meals at a centralized location rather than at each

correctional facility. New York's cost to feed an inmate is \$2.49 per day (State of New York. Dept. "Correctional").

In addition to supplying all the state prisons with meals, the New York State Department of Correctional Services also has contracts with 12 counties to provide food for their jails. The state sells the food to the counties at cost. The Oneida County jail estimates that purchasing food from the state saves county taxpayers \$40,000 a year (State of New York. Dept. "Correctional"). Inmates who work at the center learn marketable skills. Several inmates who worked at the center found employment at similar cook/chill facilities upon their release from incarceration (State of New York. Dept. "Cook").

The state of Washington offsets the cost of feeding its own inmates and generates revenue from feeding others. One prison factory operates a bakery and produces bulk goods such as chili, soups, and spaghetti sauce. It also packages frozen vegetables and raw commodities such as flour and spices. In addition to frozen meals, the factory produces prepacked tray lunches for state and local correctional facilities. The food industry program has gross annual sales of \$5 million. Sales to city and county jails and senior nutrition programs in Washington, Oregon, Montana, and Idaho accounted for 25 percent of sales (Stewart).

Prison Industry Enhancement Certification Program

The federal Prison Industry Enhancement Certification Program encourages state and local governments to develop meaningful employment opportunities for inmates by partnering with private industries needing labor.

The federal Prison Industry Enhancement Certification Program, which was created in 1979 and expanded in 1984, encourages state and local governments to develop meaningful employment opportunities for inmates by partnering with private industries needing labor. Federal restrictions normally prohibit the sale of inmate-made goods in interstate commerce, except for goods produced for use by federal or state governments or as part of a designated pilot project in which inmate workers are paid prevailing wages. Program certification exempts all inmate-made goods from the restrictions on interstate commerce. To be certified, the applying agency must meet strict guidelines and provisions that require

- legislative approval of private industry involvement;
- payment to inmates of the prevailing wage for similar work in a similar locality;
- a guarantee that inmate employment will not result in displacement of private-sector workers;

- legislative or administrative authority to take deductions from gross wages earned (not to exceed 80 percent of gross earnings);
- assurances that inmate participation is voluntary;
- consultation with organized labor groups;
- consultation with local private industries; and
- compliance with environmental protection laws, including the National Environmental Policy Act (US Dept. Bureau of Justice Assistance).

Kentucky is one of 13 states not certified to participate in the program.

Kentucky is one of 13 states not certified to participate in the program. Senate Bill 26 in the 2009 Regular Session would have authorized the department to operate the program, but the bill did not pass. Concerns were raised that private-sector jobs would be lost, but one condition of certification is a guarantee that inmate employment will not displace private-sector workers.

Inmates earned more than \$40 million in gross wages in 2008 in the states with programs that were in operation and generating revenue.

Of the 37 states that are certified, 28 are operating and generating revenue; their inmates earned \$40.3 million in gross wages in calendar year 2008. More than \$25.5 million of inmates' earnings was deducted to pay room and board to offset the cost of their incarceration; pay restitution to the victims of their crimes or to a crime victims fund; provide financial support to their families; and pay local, state, and federal income taxes. Nineteen states require a portion of the remaining wages to be placed in savings accounts for the inmates. In calendar year 2008, more than \$3 million was set aside for inmate savings (National Correctional. Quarterly). Table 3.4 shows the total deductions from inmate wages in the program in calendar year 2008.

Table 3.4
Total Deductions From Inmate Wages in Prison Industry Enhancement Certification Program Operations for 28 States Calendar Year 2008

Deduction	States	
	Reporting Deductions	Amount Deducted
Room and board	28	\$12,816,938
Victims fund or restitution	28	4,366,484
Taxes	25	5,131,521
Family support	19	3,232,288
Mandatory savings	19	3,023,731
Total		\$28,570,962

Source: Prepared by Program Review staff from information obtained from the National Correctional Industries Association.

In addition to financial incentives, the program allows inmates to gain employment experience and job skills that will increase their chances of being employed after release. Participants in the work programs had lower recidivism rates than inmates who worked in “traditional prison industries” or in other correctional programs (Moses 34).

Starting a certified industry can take years. After receiving legislative approval for the program, the department must apply to the Bureau of Justice Assistance to become a certified state. Upon certification, the department must find a private employer with which to partner. After securing a private partner, the department must notify and assure local community and labor groups that employees will not be displaced as a result of the prison-labor partnership. The department and employer must also work with the state’s wage-setting agency to determine the prevailing wage to be paid the inmates. After completing these steps, the department must again apply to the Bureau of Justice Assistance for the individual work program to be certified (Howard).

Recommendation 3.4

Recommendation 3.4

The General Assembly may wish to consider authorizing the Department of Corrections to participate in the federal Prison Industry Enhancement Certification Program.

Sentence Credits

State inmates in Kentucky earn credits on their sentences for good conduct, meritorious service, work on governmental services program-related projects, and educational accomplishment. Sentence credits are deducted from the maximum expiration date of an inmate’s sentence.

State inmates in Kentucky earn credits on their sentences for good conduct, meritorious service, work on governmental services program-related projects, and educational accomplishment. Sentence credits are deducted from the maximum expiration date of an inmate’s sentence. If the inmate commits an offense or violates institutional rules, the credits may be forfeited or the inmate may be denied the right to earn credits. Sexual offenders can earn sentence credits, but the credits are not applied to their sentences until they complete the Sex Offender Treatment Program.

KRS 197.045(1) allows the department to award up to 10 days of credit for each month served on an inmate’s sentence based on good conduct. It requires the department to provide an educational credit of 60 days to an inmate who receives a GED or high school diploma, a 2-year or 4-year college degree, a 2-year or 4-year certification in applied sciences, or a technical education diploma. HB 406, enacted in the 2008 Regular Session, suspended the

educational sentence credit provision from April 18, 2008, to June 30, 2010, to require the department to award 90 days of credit.

HB 371, which was introduced but did not pass in the 2009 Regular Session, would have expanded the educational credit to treatment programs. The bill proposed awarding 90 days of sentence credit to inmates who successfully complete a drug treatment program or other treatment program that requires participation of 6 months or more.

According to a 2009 National Conference of State Legislatures report, states are expanding earned time programs to create incentives for inmates, save money, and possibly reduce recidivism (4).

Recommendation 3.5

Recommendation 3.5

The General Assembly may wish to consider amending KRS 197.045(1) to award sentence credits to inmates who successfully complete substance abuse or other treatment programs that require participation of 6 months or more.

KRS 197.045(3) allows the department to award up to 5 days of sentence credit a month to an inmate who performs “exceptionally meritorious service” or performs “duties of outstanding importance in connection with institutional operations and programs.” HB 406 suspended this provision until June 30, 2010, to allow the department to award up to 7 days a month.

KRS 197.047 allows the department to award sentence credits to inmates who work in a governmental services program-related project or within an institution in maintenance and operations. A “governmental services program-related project” is defined as a project involving work for the state, a state agency, or a local governmental unit.

KRS 197.047(8) defines the sentence credits for work. One sentence credit is earned for each 8 full hours of work. One day of the sentence is deducted for every 5 sentence credits earned.

KRS 197.047(5) requires the department to pay inmates who work on governmental service programs half the established compensation for such work. It also requires the department to specify in an administrative regulation the amount of compensation an inmate will earn for any work-related project, but the statute

does not require that inmates be paid for work or educational assignments performed inside a correctional facility.

The administrative regulation on inmate compensation is codified in 501 KAR 6:020, which refers to Chapter 19 of the department’s policy and procedure manual. Policy 19.1 describes the policies for work details on governmental services and related programs, such as public works projects performed outside the prison for state agencies and local governments. The state or local recipients of the services are required to pay the department a per diem to cover the inmate earnings and reimburse the department for mileage.

Policy 19.3 specifies the daily rate of pay and sentence credit hours in the department’s five job categories. Category I, II, and III jobs are performed inside the institutions. Category IV is governmental services and other work assignments performed outside the prison. Category V is for inmates who are students in educational programs; these inmates receive pay but are not eligible for sentence credits until they complete their programs. Inmates in all categories receive a daily rate of pay, but those who qualify for sentence credits receive half the daily rate.

In FY 2009, inmates earned a net total of 7,234,595 days off their maximum sentence expiration dates. Table 3.5 shows the days of sentence credits earned and forfeited. More than 90 percent of net days—days earned minus days forfeited—were for statutory good time (63 percent) and meritorious service (28 percent) (Morgan. Kentucky. “Word”).

Table 3.5
Days of Sentence Credits Earned and Forfeited
Fiscal Year 2009

Sentence Credit	Days Earned	Days Forfeited	Net Days	% of Total
Statutory (good time)	4,893,341	351,597	4,541,744	63%
Meritorious service	2,062,915	7,638	2,055,277	28
Work	388,427	63	388,364	5
Program	249,210	0	249,210	3
Total	7,593,893	359,298	7,234,595	100%

Note: Total does not add to 100% due to rounding.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Education

Inmate education and training are not required by constitution, statute, or court ruling, but state and departmental policy encourages inmates to obtain basic academic skills and pursue vocational training.

Inmate education and training are not required by constitution, statute, or court ruling. Rather, state and departmental policy encourages inmates to obtain basic academic skills and pursue vocational training. The department's policy 20.1 states that [t]he Department of Corrections shall provide an opportunity for an inmate to acquire skills which facilitate non-criminal behavior through educational programming. The educational program shall include communication skills, general education, basic academic skills, GED preparation, special education, vocational education, postsecondary education opportunities, and other educational programs deemed necessary by the department.

In all prisons, adult education programs are available to inmates who do not have high school diplomas. In FY 2009, the department paid \$1,607,986 for inmate educational programs, of which \$960,816 was contributed by the inmate canteen fund.

In all prisons, adult education programs are available to inmates who do not have high school diplomas. An inmate must have a high school diploma or GED to enroll in a vocational-technical program or work in Kentucky Correctional Industries. From January 2003 to June 2009, more than 4,300 inmates received GEDs in the prisons (Commonwealth of Kentucky 24; Slempp). In FY 2009, the department paid \$1,607,986 for inmate educational programs, of which \$960,816 was contributed by the inmate canteen fund.

Vocational-technical postsecondary programs are offered in 10 of the 13 state prisons. The programs are provided by the Kentucky Community and Technical College System. In FY 2009, the system incurred salary and benefits expenses of \$4,579,393 for prison programs.

Vocational-technical postsecondary programs are offered in 10 of the 13 state prisons. The programs are provided by the Kentucky Community and Technical College System, and inmates can earn certificates of completion and diplomas. The three contracted prisons provide vocational-technical programs through the National Center for Construction Education and Research. Inmates earn certificates only (Commonwealth of Kentucky 24).

Programs in state and contracted prisons include carpentry, masonry, welding, electrical, horticulture, small engine repair, and business and computer skills. From FY 2004 to FY 2008, inmates earned 4,487 certificates and 1,209 diplomas (Commonwealth of Kentucky 24-26).

In the current biennium budget, vocational-technical programs in state prisons are funded through the Kentucky Community and Technical College System rather than through the department. In FY 2009, the system incurred salary and benefits expenses of \$4,579,393 for prison programs.

Jails are required to provide state inmates with the opportunity to attend adult basic education programs or pursue a GED (Willard).

Reentry Programs and Practices

Caution is warranted when claims are made about the effectiveness of particular offender reentry programs. Many are relatively new. Few established programs have been evaluated systematically.

Caution is warranted when claims are made about the effectiveness of particular felon reentry programs. Many of the programs are relatively new, so they may not have had time to achieve results that could be analyzed. Few programs with longer histories have had rigorous evaluations. Most evaluations have used recidivism as the sole outcome criterion (Petersilia).

The following is a summary of offender reentry programs in states and localities.

Worthwhile Programs and Practices Based on Research

According to the authors of a 2008 review of research, four practices should be strongly considered: enhancing supervision, adding employment to support and supervision, starting interventions before release from prison, and connecting to community support and resources.

Based on site visits and their review of research on existing programs, Goldsmith and Eimicke in 2008 identified useful reentry programs. The authors identified four practices “worthy of serious consideration”:

- Enhancing supervision
- Adding employment to support and supervision
- Starting interventions before release
- Connecting to significant community support and resources, such as might be provided by faith-based organizations (3)

These recommended practices are consistent with the findings of a study from the Washington State Institute for Public Policy.

In 2006, the institute published a systematic review of 291 evaluations of evidence-based programs for adult offenders conducted in the United States and in other English-speaking countries over the past 35 years. The authors considered only evaluation studies that included a matched comparison group that did not receive the treatment under study. They concluded that some types of adult corrections programs have a demonstrated ability to reduce crime but that other types do not (Aos, Miller, and Drake 1). Some of these programs are related to offender reentry efforts.

The authors of the study compared the estimated percentage changes in recidivism rates for adult corrections programs. For example, an analysis of five community drug treatment program evaluations indicated that community drug treatment programs achieved, on average, a statistically significant 12.4 percent

reduction in the recidivism rates of program participants compared with a control group.

The results of the study indicate that some offender reentry initiatives may be effective based on the estimated percentage change in recidivism rates. Table 3.6 provides details for five categories:

- Programs for drug-involved offenders
- Programs for the general offender population
- Programs for sex offenders
- Intermediate sanctions
- Work and education programs

Table 3.6
Programs Shown To Reduce Recidivism Based on Multiple Evaluations

	% Reduction in Recidivism	Evaluations
Programs for Drug-involved Offenders		
Drug treatment in the community	12.4%	5
Adult drug courts	10.7	56
Programs in prison or jail with separate units for drug offenders who are involved with organizing and operating the unit:		
• with community-based aftercare	6.9	6
• without community aftercare	5.3	7
Cognitive-behavioral drug treatment in prison	6.8	8
Drug treatment in jail	6.0	9
Programs for the General Offender Population		
General and specific cognitive-behavioral treatment programs	8.2	25
Programs for Sex Offenders		
Cognitive-behavioral treatment in the community for low-risk offenders on probation	31.2	6
Cognitive-behavioral treatment in prison	14.9	5
Intermediate Sanctions		
Intensive community supervision with a focus on treatment	21.9	10
Work and Education Programs		
Vocational education in prison	12.6	3
Correctional industries programs in prison	7.8	4
Basic adult education programs in prison	5.1	7
Employment training and job assistance in the community	4.8	16

Source: Aos, Miller, and Drake 3, 4, 6.

A 2006 review of nearly 300 evaluations indicated that six types of treatment each reduced recidivism by more than 10 percent: cognitive-behavioral treatment in the community for low-risk sex offenders on probation, intensive community supervision with a focus on treatment, cognitive-behavioral treatment in prison for sex offenders, vocational education in prison, drug treatment in the community, and adult drug courts. These six programs are provided in Kentucky.

Based on the evaluations, six types of treatment each reduced recidivism by more than 10 percent. These six programs are provided in Kentucky; all but the adult drug court program are operated by the Department of Corrections. The department has received federal grant awards to provide a reentry framework to train staff and reduce recidivism rates.

Below are the authors' findings for each type of treatment (Aos, Miller, and Drake 3, 4, 6). For each type, descriptions are provided of the relevant Kentucky programs and practices.

1. Cognitive-behavioral treatment in the community for low-risk sex offenders on probation reduced recidivism by 31.2 percent. In Kentucky, the department's Sex Offender Treatment Program has community-based components to fulfill the required treatment opportunities for felony sex offenders.
2. Intensive community supervision with a focus on treatment reduced recidivism by 21.9 percent. In Kentucky, the department's Division of Probation and Parole uses a violation matrix to determine when additional supervision is necessary based on a change in an offender's risk factors. The focus remains on treatment, with a referral to the social service clinician to determine whether additional treatment needs warrant an increased level of services.
3. Cognitive-behavioral treatment in prison for sex offenders reduced recidivism by 14.9 percent. In Kentucky, the Sex Offender Treatment Program manages institutional treatment to engage offenders approximately 2 years before their release into the community so they can complete the prison treatment components as close to release as possible.
4. Vocational education in prison led to a 12.6 percent reduction in recidivism. In Kentucky, both vocational and college programs are available to offenders. Programs focus on industry certifications when possible.
5. Drug treatment in the community for drug-involved offenders was found to reduce recidivism by 12.4 percent. In Kentucky, each probation and parole district has a social service clinician who assesses offenders to determine their substance abuse treatment needs. The clinician provides referrals to community-based providers. Probation and parole officers maintain contact with treatment providers to ensure that offenders adhere to their treatment plans (Thompson. Kentucky. "12-8-09").

6. Adult drug courts decreased recidivism by 10.7 percent. In Kentucky, adult drug courts are administered by the Administrative Office of the Courts.

Reentry Programming in Kentucky

Between 180 and 30 days before potential release from prison, an inmate can participate in a reentry program, also known as a prerelease program. The topics covered by and the time devoted to the program vary among prisons. Some spend 16 to 20 hours on the program; others spend only 1 to 5 hours. Reentry programming typically is not provided in jails (Commonwealth of Kentucky 33-34).

As of August 26, 2009, the department had a full-time reentry position in six state prisons and a part-time reentry position in seven prisons. Each of the three contracted prisons had one part-time reentry position (Robinson. Kentucky. "Loose").

Accreditation

The department agreed to obtain national accreditation based on a consent decree resulting from federal lawsuits filed by inmates in the early 1980s. The American Correctional Association is a national organization that has created standards, policies, and procedures for correctional agencies.

The department agreed to obtain national accreditation based on a consent decree resulting from federal lawsuits filed in the early 1980s by inmates of Kentucky State Reformatory and Kentucky State Penitentiary. The American Correctional Association is a national organization that has created standards, policies, and procedures for correctional agencies. In addition to all US Bureau of Prisons facilities, 27 states have at least one adult facility accredited through the association (Flowers).

The association has 21 types of accreditation for adult correctional facilities, juvenile correctional facilities, detention centers, probation, parole, health care programs, and electronic monitoring. Each facility or program is accredited separately; accreditation can take up to 18 months (American. "Standards").

To be accredited, an agency first signs a contract with the association, conducts a comprehensive self-study evaluation, is audited by the association, and pays accreditation fees. The agency submits an annual update for each accredited program or facility during the 3-year accreditation period. After 3 years, the agency repeats the contract, self-study evaluation, and audit (American. "Seeking").

All 13 state prisons in Kentucky are accredited. The three contracted prisons are required by contract to be accredited.

All 13 state prisons in Kentucky are accredited. The three contracted prisons are required by contract to be accredited. The department's Division of Probation and Parole also is accredited.

A department official stated that accreditation provides specific management goals for the operation of facilities and provides a defense in potential lawsuits regarding living conditions because the prisons meet the standards used by the federal government (Dunn).

In November 2008, the association changed its fee structure for accreditation. The new fees are \$3,000 a day plus \$1,500 for each auditor on the team (American. Fee). The fees include the team's travel and food expenses. Reaccreditation costs the same as initial accreditation (Patmon).

During the last 2 fiscal years, the department's total cost of prison accreditation was \$81,415. The department estimates the cost of accreditation for its facilities in FY 2010 will be \$49,000.

During the past 2 fiscal years, the department's cost of prison accreditation was \$81,415. The department estimates the cost of accreditation for its facilities in FY 2010 will be \$49,000. Table 3.7 shows for each state prison the accreditation date, the cost in FY 2008 and FY 2009, and the estimated cost in FY 2010.

Table 3.7
Dates and Costs of Accreditation of State Prisons
Fiscal Year 2008 to Fiscal Year 2010

State Prison	Accreditation Date	Cost FY 2008	Cost FY 2009	Estimated Cost FY 2010
Blackburn Correctional Complex	Jan. 2009	\$4,995	\$4,995	
Bell County Forestry Camp	Jan. 2008	5,500		
Eastern Kentucky Correctional Complex	Aug. 2007			\$7,000
Frankfort Career Development Center	Jan. 2009	4,995	4,995	
Green River Correctional Complex	Aug. 2009		13,650	
Kentucky Correctional Institute for Women	Aug. 2009		13,650	
Kentucky State Penitentiary	Aug. 2007			7,000
Kentucky State Reformatory	Jan. 2007			14,000
Luther Lockett Correctional Complex	Jan. 2007			14,000
Little Sandy Correctional Complex	Jan. 2007			7,000
Northpoint Training Center	Sept. 2008	4,995	4,995	
Roederer Correctional Complex	Aug. 2008	4,995		
Western Kentucky Correctional Complex	Aug. 2009		13,650	
Total		\$25,480	\$55,935	\$49,000

Note: Facilities pay the first half of their accreditation cost prior to the audit and the other half after the audit is completed; payments may be made in two different fiscal years. The estimates for FY 2010 reflect the changes to the fee structure announced in November 2008.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Chapter 4

Indicators of Prison Performance

The financial cost of incarceration should not be the sole measurement of how well a prison system is managed. A system may have relatively low financial costs but be ineffective in ensuring the safety of the public and the inmates and staff inside its prisons.

The financial cost of incarceration should not be the sole measurement of how well a prison system is managed. A system may have relatively low financial costs but be ineffective in ensuring the safety of the public and the inmates and staff inside its prisons.

This chapter provides an overview of performance indicators, then uses selected indicators to compare contracted prisons and the state prisons to which they are considered similar for contract negotiations. The chapter concludes with a discussion of the value of performance indicators, the system used by the department, and a recommendation for increased development and use of performance data.

Overview of Performance Indicators

According to Charles H. Logan, a prominent researcher and professor in the fields of criminal justice and sociology, [w]e ask an awful lot of our prisons. We ask them to correct the incorrigible, rehabilitate the wretched, deter the determined, restrain the dangerous, and punish the wicked.... Moreover, when we lay upon prisons the utilitarian goals of rehabilitation, deterrence, and incapacitation, we ask them to achieve results primarily outside of prison, rather than inside (23-24).

Logan argued that prisons are asked to perform in areas outside their actual control and instead should be judged on their operational mission of confinement, which goes beyond the warehousing of offenders. Successful confinement requires prisons to efficiently and fairly ensure that offenders do not escape, are not harmed, remain healthy and orderly, and are kept busy.

A prominent researcher identified eight dimensions to assess prison performance and quality: security, safety, order, care, activity, justice, conditions, and management. Data could be used for indicators of performance of an institution within each dimension.

To that end, he identified eight dimensions to assess prison performance and quality: security, safety, order, care, activity, justice, conditions, and management. Within each dimension, he provided examples of data that could be used to measure the performance of an institution. Data from one dimension often affect prison performance in other areas. For example, overtime hours worked in management can have a negative impact on measures in safety and security.

How Performance Indicators Can Be Used

As an illustration of how performance indicators can be used, Program Review staff used indicators for which data were available to compare the performance of three state prisons and three contracted prisons.

To illustrate how performance indicators can be used, Program Review staff selected indicators relevant to five dimensions: security, safety, order, justice, and management. These indicators were chosen based on the availability of data from state and contracted prisons and the verifiability of the information, which is based on official reports rather than on subjective opinion. Not all data requested by Program Review staff are routinely collected by the department.

The selected indicators have not been tested for validity or reliability. Because national benchmarks have not been established, these indicators alone should not be used to assess how well a prison is operated, nor should they be used to compare state and contracted prisons. The point of this section is to provide examples of performance indicators and to illustrate how such indicators could be used.

As explained in Chapter 2, state and contracted prisons in Kentucky are not similar. For contract negotiations, the state-operated Western Kentucky Correctional Complex is compared to the contracted Marion Adjustment Center; Little Sandy Correctional Complex is compared to the Lee Adjustment Center; and the Kentucky Correctional Institution for Women is compared to the Otter Creek Correctional Center.

For dimensions other than management, indicators evaluated the rates of certain unwanted activities such as positive urine tests, escapes, and assaults on staff. The rates are shown below for the contracted prisons and the state prisons to which they are compared for contract negotiations. Rates are reported in values per 100 inmates in order to account for different population levels in each prison and to standardize these values for comparison purposes. As a result, the following tables do not identify the actual numbers of incidents, just the rate at which each occurred. For example, there were 0.15 assaults on staff for each 100 inmates at the Western Kentucky Correctional Complex in FY 2009.

Security

Table 4.1 shows the rates for performance indicators related to security.

Table 4.1
Security Performance Indicators for State and Contracted Prisons (Rates Per 100 Inmates)
Fiscal Year 2009

Performance Indicator	State Prison	Contracted Prison
	Western Kentucky Correctional Complex	Marion Adjustment Center
Contraband found	0.89	2.82
Positive urine tests	1.33	1.96
Escapes	0.00	0.24
	Little Sandy Correctional Complex	Lee Adjustment Center
Contraband found	2.60	15.38
Positive urine tests	3.00	0.00
Escapes	0.00	0.00
	Kentucky Correctional Institution for Women	Otter Creek Correctional Center
Contraband found	1.26	0.00
Positive urine tests	0.47	0.00
Escapes	0.00	0.00

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Contraband is the term commonly used to refer to forbidden items in the possession of inmates, such as drugs and cell phones. Contraband is often found during physical searches of inmates and their living quarters. Contraband found is an indicator of a prison's security procedures. Large amounts of contraband found can be viewed as either a positive or negative indicator. High numbers can be seen as a failure of security procedures because the items were brought into the institution. On the other hand, the identification and removal of contraband can be seen as a successful result of the number of searches conducted. In FY 2009, the two contracted prisons for men had higher rates of contraband found than the state prisons. The contracted prison for women reported no contraband found.

Positive urine tests indicate a lapse of security that allowed an inmate to obtain drugs. The positive urine tests reported in this chapter were based on random testing within the facilities. In FY 2009, all three state prisons reported positive urine tests. Only one contracted prison for men reported positive tests.

Escapes from prison are another measure of security. Of the six prisons compared, only the contracted Marion Adjustment Center for men reported escapes. During FY 2009, two inmates escaped.

Security performance indicators can be viewed as measures that impact individual prisons and public confidence. The issues of contraband, drugs, and escapes diminish public confidence in not only the specific prison but also the administration of the correctional system as a whole.

Safety

The performance indicators related to security are shown in Table 4.2.

Table 4.2
Safety Performance Indicators for State and Contracted Prisons (Rates Per 100 Inmates)
Fiscal Year 2009

Performance Indicator	State Prison	Contracted Prison
	Western Kentucky Correctional Complex	Marion Adjustment Center
Inmate-on-inmate nonsexual assaults	0.00	0.00
Inmate-on-inmate sexual assaults	0.00	0.00
Staff-on-inmate sexual assaults	0.00	0.00
Assaults on staff	0.15	0.00
Performance Indicator	Little Sandy Correctional Complex	Lee Adjustment Center
Inmate-on-inmate nonsexual assaults	0.68	0.00
Inmate-on-inmate sexual assaults	0.00	0.00
Staff-on-inmate sexual assaults	0.00	0.00
Assaults on staff	0.20	0.00
Performance Indicator	Kentucky Correctional Institution for Women	Otter Creek Correctional Center
Inmate-on-inmate nonsexual assaults	1.36	0.34
Inmate-on-inmate sexual assaults	0.00	0.17
Staff-on-inmate sexual assaults	0.00	0.50
Assaults on staff	0.79	0.34

Note: Sexual assault data include only substantiated cases.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

High rates of assault can be viewed as a measure of prison safety and of staffing adequacy. If prisons are not sufficiently comparable, the wrong conclusions can be reached. For example, in FY 2009, the contracted Otter Creek Correctional Center had an inmate-on-inmate nonsexual assault rate of 0.34; the Kentucky Correctional Institution for Women had a rate of 1.36. The Kentucky Correctional Institution for Women houses inmates of all security levels, including maximum; Otter Creek houses only medium- and lower-security inmates. Otter Creek may be a “safer” prison based on the number of assaults reported, but the safety of inmates and staff may have more to do with the security level of the inmates than with how well the facility is managed.

Order and Justice

Table 4.3 shows the indicators related to two dimensions: order and justice.

Table 4.3
Order and Justice Performance Indicators for State and Contracted Prisons
(Rates Per 100 Inmates)
Fiscal Year 2009

Performance Indicator (Dimension)	State Prison	Contracted Prison
	Western Kentucky Correctional Complex	Marion Adjustment Center
Staff use of force on inmates (order, justice)	0.00	0.24
Grievances against staff (justice)	3.41	7.84
All other grievances (justice)	17.48	27.44
	Little Sandy Correctional Complex	Lee Adjustment Center
Staff use of force on inmates (order, justice)	0.30	10.26
Grievances against staff (justice)	2.60	5.13
All other grievances (justice)	18.40	0.00
	Kentucky Correctional Institution for Women	Otter Creek Correctional Center
Staff use of force on inmates (order, justice)	0.16	0.00
Grievances against staff (justice)	5.20	9.92
All other grievances (justice)	33.54	27.90

Note: Grievance data are for calendar year 2008.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

The use of force by staff on inmates is an indicator of maintaining order in a prison and as a measure of justice in the prison. Lower rates of the use of force give the perception of an orderly and well-managed prison. In addition, limited use of force by staff increases the perception that force is used judiciously and only when

necessary. In FY 2009, both contracted men's prisons reported higher rates of staff use of force on inmates than the state prisons. The contracted Otter Creek prison for women reported no staff use of force.

The number of grievances filed is a measure of prison conditions but also is an indicator of perceived justice. Inmates who believe they are being treated justly by staff will file fewer grievances than inmates who feel they are treated unfairly by staff. In FY 2009, all three contracted prisons reported a higher rate of grievances against staff than their state counterparts. The rate of other grievances filed was higher in one contracted prison than its state counterpart and lower in the other two.

Management

Personnel indicators are related to management. High levels of vacancies require officers to work overtime, which can lead to fatigue, increased stress, job burnout, and low morale. High vacancy and turnover rates also cause the department to pay overtime to staff to maintain a minimum level of security for the prison and to expend resources on training new staff. Lack of experienced officers also negatively impacts the security and safety of the institution.

The department does not collect vacancy and overtime data by position, but a department official estimated that 85 percent of all vacancies are for security positions (Dailey, Kentucky. "Performance"). During FY 2009, state prison staff worked more than 430,000 hours of overtime at a cost of nearly \$1.5 million. Staff at contracted prisons worked more than 16,000 hours in overtime during FY 2009 at a cost to the contractor of \$244,658.

Table 4.4 shows total staff positions, percentage of vacant positions, number of overtime hours worked, and dollar amount of overtime paid in the contracted prisons and the state prisons to which they are compared for contract negotiations.

Table 4.4
Management Indicators: Vacant Positions and
Overtime Paid in State and Contracted Prisons
Fiscal Year 2009

Performance Indicator	State Prison	Contracted Prison
	Western Kentucky Correctional Complex	Marion Adjustment Center
Total positions	210	190
Percent vacant	4%	4%
Overtime hours	25,792	9,487
Overtime paid	\$16,800	\$134,593
	Little Sandy Correctional Complex	Lee Adjustment Center
Total positions	234	213
Percent vacant	2%	9%
Overtime hours	35,869	3,819
Overtime paid	\$57,500	\$58,157
	Kentucky Correctional Institution for Women	Otter Creek Correctional Center
Total positions	218	203
Percent vacant	4%	9%
Overtime hours	26,975	3,301
Overtime paid	\$58,300	\$51,908

Note: Overtime hours in state prisons included compensatory time. Percentage of vacant positions was measured at all prisons on March 1, 2009.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Performance-Based Measures System

The department has begun using the Performance-Based Measures System developed by the Association of State Correctional Administrators. The system has 112 indicators in the areas of organizational and facility information, public safety, institutional safety, substance abuse, mental health, justice, academic education, and health care.

The system provides standard definitions so that data can be compared among states. However, meaningful performance

measures must be developed with input from stakeholders, including the citizens of Kentucky and members of the General Assembly so that data can be used within the state. At this time, there are no national or state benchmarks against which to measure performance.

Better data on performance could provide critical information to managers of Kentucky's corrections system and to members of the General Assembly as they make policy decisions about the system and its funding.

Better data on performance could provide critical information to managers of Kentucky's corrections system and to members of the General Assembly as they make policy decisions about the system and its funding. Indicators could be used to measure changes in performance at a specific prison over time and to compare performance among different prisons. Trends could be identified, and department benchmarks could be established. Department benchmarks could be used in contract negotiations with private prison vendors and as a method of gauging individual prison performance. Performance data could also be used to assess the quality of management of the system as a whole.

Recommendation 4.1

Recommendation 4.1

The Department of Corrections should identify meaningful performance indicators, collect the needed data, and develop benchmarks for prisons and the system. The information should be publicly available.

Works Cited

- Abernathy-Perkins, Wende. Kentucky Department of Corrections. "Questions about inmate programs." Email to Cindy Upton. Oct. 6, 2009.
- Adams, Brigid. Kentucky Department of Corrections. "LRC Grant Request." Email to Sarah Spaulding. June 29, 2009.
- American Correctional Association. Fee letter. Nov. 20, 2008.
<<http://www.aca.org/standards/pdfs/AccreditationFeeLetter.pdf>> (accessed March 2, 2009).
- . "Seeking Accreditation." <<http://www.aca.org/standards/seeking>> (accessed March 2, 2009).
- . "Standards and Accreditation." <http://www.aca.org/standards/faq.asp#overview_benefits> (accessed March 19, 2009).
- Aos, Steve. "Evidence-Based Policy Options to Reduce Crime, Criminal Justice Costs and Prison Construction: Results from Washington State. Symposium on Alternatives to Incarceration." Washington, D.C.: US Sentencing Commission. July 2008.
<http://www.uscc.gov/Research/Research_Projects/Alternatives/20080714_Alternatives/Aos.pdf> (accessed April 1, 2009).
- Aos, Steve, Marna Miller, and Elizabeth Drake. *Evidence-Based Adult Corrections Programs: What Works and What Does Not*. Olympia: Washington State Institute for Public Policy, 2006.
<<http://www.wsipp.wa.gov/rptfiles/06-01-1201.pdf>> (accessed Sept. 20, 2009).
- Associated Press and the East Oregonian. "Inmate Jobs Scarce."
<<http://corrections.oregonafscme.com/locals/EOCINews/EOCINews19.htm>> (accessed Feb 25, 2009).
- Berheide v. Suthers*, 286 F.3d 1179 (10th Cir. 2002).
- Bounds v. Smith*, 430 U.S. 817 (1977).
- Bowring v. Godwin*, 551 F.2d 44 (1977).
- Caudle, Rose. Kentucky Finance and Administration Cabinet, Division of Procurement Services. Telephone interview. Oct. 5, 2009.
- Commonwealth of Kentucky. Legislative Research Commission. *Reentry Programs for Felons Should Be Improved and Outcome Measures Should Be Developed*. Research Report No. 357. Frankfort: LRC, 2008.
- Commonwealth of Massachusetts. Department of Correction. Inmate Funds.
<<http://www.mass.gov/Eeops/docs/doc/policies/405.pdf>> (accessed Sept. 29, 2009).
- Cramer, Thomas. Oregon Department of Corrections. "Measure 17 and Inmate Work #2." Email to Sarah Spaulding. Feb. 25, 2009.
- Council of State Governments. Southern Legislative Conference. *The Aging Inmate Population: Southern States Outlook*. Dec. 2006. <http://www.slcatlanta.org/Publications/HSPPS/aging_inmates_2006_lo.pdf> (accessed Sept. 29, 2009).
- Cutter v. Wilkinson*, 544 U.S. 709 (2005).

Dailey, Hilarye. Kentucky Department of Corrections. "09 Salary Chaplains.xls." Email to Sarah Spaulding. July 16, 2009.

---. ---. "Farm Operations Personnel." Email to Sarah Spaulding. Aug. 17, 2009.

---. ---. "Inmate Wages." Email to Sarah Spaulding. July 22, 2009, and July 27, 2009.

---. ---. "Pay Deductions." Email to Sarah Spaulding. July 29, 2009.

---. ---. "Performance Measures Matrix 9 17 09.xlsx." Email to Sarah Spaulding. Sept. 17, 2009.

---. ---. "Questions about Farms." Email to Sarah Spaulding. Aug. 24, 2009.

DiIulio Jr., John J., and Anne Morrison Piehl. "Does Prison Pay?" *Brookings Review*. Vol. 9, No. 4. Fall 1994.

Dunn, John. Kentucky Department of Corrections. "ACA Accreditation." Email to Sarah Spaulding. June 18, 2009.

Erwin, James. Kentucky Department of Corrections. "Law library and recreation." Email to Sarah Spaulding. June 16, 2009.

---. ---. "Questions about inmate programs." Email to Cindy Upton. Oct. 5, 2009.

---. ---. "Smoking policies." Email to Cindy Upton. Sept. 3, 2009.

Estelle v. Gamble, 429 US 97 (1976).

Flowers, Mark. American Correctional Association. "ACA Questions Status Update." Email to Sarah Spaulding. May 8, 2009.

"Georgia Farms Reduce Prison Food Costs." *Food Service Director*. Oct. 15 1999.
<<http://www.allbusiness.com/retail-trade/eating-drinking-places/4177194-1.html>> (accessed Feb. 16, 2009).

Goldsmith, Stephen, and William Eimicke. "Moving Men into the Mainstream: Best Practices in Prisoner Reentry Assistance." *Civic Bulletin* 51 (March 2008): 1-14.
<http://www.manhattan-institute.org/pdf/cb_51.pdf> (accessed Sept. 12, 2008).

Greenfield, Lawrence A. "Foreword." *Performance Measures for the Criminal Justice System*. Washington, D.C.: Bureau of Justice Statistics, 1993. v-x.

Haas, Scott. Kentucky Department of Corrections. "Data Request." Email to Sarah Spaulding. Aug. 19, 2009.

---. ---. "HB191 Questions." Email to Sarah Spaulding. Aug. 3, 2009.

---. ---. "Question about Private Medical." Email to Sarah Spaulding. Sept. 1, 2009.

---. ---. "Quick question about rates." Email to Sarah Spaulding. July 6, 2009.

Howard, John C. Georgia Department of Corrections. "Georgia Prison Industry Enhancement." Email to Sarah Spaulding. Jan. 27, 2009.

Kahane v. Carlson, 527 F.2d 492 (1975).

Kendrick v. Bland, 541 F.Supp. 21 (1991).

Lawson, Robert G. "Difficult Times in Kentucky Corrections—Aftershocks of a 'Tough on Crime' Philosophy." *Kentucky Law Journal* 93 (Winter 2004-2005): 305-376.

Logan, Charles H. "Criminal Justice Performance Measures for Prisons." *Performance Measures for the Criminal Justice System*. Washington, D.C.: Bureau of Justice Statistics, 1993. 19-59.

McCaffrey, Shannon. "Prison Blues: States Slimming Down Inmate Meals." June 5, 2009.
<http://news.yahoo.com/s/ap/20090605/ap_on_re_us/us_prisoner_meals> (accessed June 6, 2009).

McNeil, Dale E., and Renée L. Binder. "Effectiveness of Mental Health Court in Reducing Criminal Recidivism and Violence." *American Journal of Psychiatry* 164 (Sept. 2007): 1395-1403.
<<http://ajp.psychiatryonline.org/cgi/reprint/164/9/1395.pdf> > (accessed Sept. 29, 2009).

Morgan, Tammy. Kentucky Department of Corrections. "Admits by age groups – FY09."
Email to Cindy Upton. Aug. 21, 2009.

---. ---. "Recidivism data." Email to Cindy Upton. Aug. 13, 2009.

---. ---. "Word Data." Email to Sarah Spaulding. Aug. 26, 2009, Sept. 23, 2009, and Sept. 30, 2009.

Moses, Marilyn C., and Cindy J. Smith. "Factories Behind Fences: Do Prison 'Real Work' Programs Work?" *National Institute of Justice Journal*. June 2007. <<http://www.ojp.usdoj.gov/nij/journals/257/real-work-programs.html>> (accessed July 13, 2009).

National Association of State Budget Officers. *FY 2007 Expenditure Report*.
<<http://www.nasbo.org/Publications/PDFs/FY07%20State%20Expenditure%20Report.pdf>> (accessed Jan. 13, 2009).

National Conference of State Legislatures. *Cutting Corrections Costs: Earned Time Policies for State Prisoners*.
<http://www.ncsl.org/documents/cj/Earned_time_report.pdf> (accessed Sept. 16, 2009).

National Correctional Industries Association. "2009 Directory."

---. Quarterly PIECP Statistical Reports. <http://www.nationalcia.org/?page_id=62> (accessed Jan. 21, 2009).

Patmon, Cecil. American Correctional Association. Phone interview. Feb. 19, 2009.

Petersilia, Joan. "What Works in Prisoner Reentry? Reviewing and Questioning the Evidence." *Federal Probation*, 68(2) (Sept. 2004): 4-8. <http://www.uscourts.gov/fedprob/September_2004/whatworks.html> (accessed Sept. 12, 2008).

Posner, Marc J. "The Estelle Medical Professional Judgment Standard: The Right of Those in State Custody to Receive High-Cost Medical Treatments." *American Journal of Law and Medicine* (1992): 347-68.

Preston v. Thompson, 589 F.2d 300 (1978).

Rhodes, Sherry. South Carolina Department of Corrections. "South Carolina Corrections." Email to Sarah Spaulding. March 26, 2009.

Robinson, Mark. Kentucky Department of Corrections. "canteen." Email to Sarah Spaulding. Sept. 9, 2009.

---. ---. "Cost of probation & parole." Email to Cindy Upton. Sept. 17, 2009.

---. ---. "Data Reminder." Email to Sarah Spaulding. July 10, 2009

---. ---. "DOC Comments." Response to first report draft. Oct. 30, 2009.

---. ---. Email to Sarah Spaulding. June 5, 2009.

- . ---. "Follow up work questions." Email to Sarah Spaulding. Sept. 9, 2009.
- . ---. "Food Services." Email to Sarah Spaulding. June 9, 2009.
- . ---. "Home incarceration." Email to Cindy Upton. Sept. 30, 2009.
- . ---. "Inmate Work." Email to Cindy Upton. Sept. 15, 2009.
- . ---. "Jail allotment budget and allocations." Email to Cindy Upton. July 31, 2009.
- . ---. "Jail per diem payment procedures." Email to Cindy Upton. July 28, 2009.
- . ---. "Loose Ends." Email to Cindy Upton. Aug. 26, 2009.
- . ---. "LRC Survey." Email to Sarah Spaulding. June 5, 2009.
- . ---. "Medical network." Email to Cindy Upton. July 28, 2009.
- . ---. "Number of beds." Email to Sarah Spaulding. April 20, 2009.
- . ---. Personal interview. Aug. 20, 2009.
- . ---. "Todd Co. jail allotment." Email to Cindy Upton. Aug. 17, 2009.
- Rubin, Brian. "Cows Come Home for Prison Farm Programs." *Shawangunk Journal*. Nov. 13, 2008. <<http://www.shawangunkjournal.com/2008/11/13/news/0811131.html>> (accessed Feb. 23, 2009).
- Slemp, Martha. Kentucky Department of Corrections. "Private v. State GED numbers." Email to Sarah Spaulding. July 1, 2009.
- Spain v. Procunier*, 600 F.2d 189 (1979).
- Spears, Valarie Honeycutt. "Bill Would Cancel Prison Food Contract." *Lexington Herald-Leader*. Sept. 9, 2009.
- State of New Mexico. Corrections Department. Inmate Employment and Labor Compensation System. <<http://corrections.state.nm.us/policies/current/CD-100700.pdf>> (accessed Sept. 29, 2009).
- State of New York. Department of Correctional Services. "Cook/Chill Providing Meals to Every Prison, Weighing Outside Contracts." <<http://www.docs.state.ny.us/pressrel/docstoday/september2003edition.pdf>> (accessed March 4, 2009).
- . ---. "Correctional Services Commissioner Tours DOCS Food Production Center, Tout Executive Budget's Public Safety, Criminal Justice Proposals." Feb. 11, 2009. <<http://www.docs.state.ny.us/PressRel/FPCTour2009.html>> (accessed Feb. 23, 2009).
- . ---. "Department of Correctional Services Plan Additional Consolidations as Part of Continuing Cost Savings Measures." Nov. 6, 2008. <<http://www.docs.state.ny.us/PressRel/AdditionalBudgetReductions08.html>> (accessed Feb. 23, 2009).
- State of Ohio. Department of Rehabilitation and Correction. "Agricultural and Farm Services." <http://www.drc.state.oh.us/web/ag_farm.htm> (accessed Feb. 19, 2009).
- . ---. "Brunch Meal". <http://www.drc.ohio.gov/web/brunch_memo.pdf> (accessed July 13, 2009).

State of Oregon. Department of Corrections. "Measure 17 – November 1994."
<http://www.oregon.gov/DOC/OPS/PRISON/crci_workcrew.shtml#History_of_Work_Crews>
(accessed Feb. 25, 2009).

---. Oregon Administrative Rules. "Performance Recognition and Award System."
Stewart, Marc. "Airway Heights Prison to Expand Food Factory." *Journal of Business*. May 19, 2005.
<<http://www.allbusiness.com/management-companies-enterprises/1073564-1.html>> (accessed March 4, 2009).

Thompson, LaDonna. Kentucky Department of Corrections. "12-8-09.doc." Email to Cindy Upton. Dec. 9, 2009.

---. ---. "HB 191 Pregnant Inmates." Email to Sarah Spaulding. Aug. 17, 2009.

Thompson, LaDonna, and Mark Robinson. Kentucky Department of Corrections. Personal interview. Aug. 20, 2009.

Thompson, Ruth. Kentucky Department of Corrections. "More questions." Email to Cindy Upton. Sept. 17, 2008.

United States. Department of Justice. Bureau of Justice Assistance. Prison Industry Enhancement Certification Program. July 2002. <<http://www.ncrjs.gov/pdffiles1/bja/193772.pdf>> (accessed March 4, 2009).

---. ---. Bureau of Justice Statistics. Prison Inmates at Midyear 2007. June 2008.
<<http://www.ojp.usdoj.gov/bjs/pub/pdf/pim07.pdf>> (accessed Jan. 16, 2009).

---. ---. ---. Mental Health Problems of Prison and Jail Inmates. <<http://www.ojjp.usdoj.gov/bjs/pub/pdf/mhppji.pdf>>
(accessed Sept. 21, 2009).

Ward, Timothy. Georgia Department of Corrections. "Georgia Prison Work Details."
E-mail to Sarah Spaulding. Feb. 12, 2009, and Feb. 24, 2009.

Willard, Kirstie. Kentucky Department of Corrections. "Questions about inmate programs." Email to Cindy Upton. Oct. 6, 2009.

Wilson, Norman. Georgia Department of Corrections. "Georgia Food and Farm Services." Email to Sarah Spaulding. Jan. 26, 2009.

Appendix A

How This Study Was Conducted

In completing this report, Program Review staff interviewed and obtained information from officials of the Kentucky Department of Corrections, the Kentucky Department of Education, the Kentucky Jailers' Association, the National Correctional Industries Association, the US Department of Justice, the American Correctional Association, and corrections officials from 25 other states.

Program Review staff reviewed federal and state laws, regulations, and court rulings and the policies and procedures of the Kentucky Department of Corrections. Staff reviewed research reports and national statistics on the number and types of persons who are incarcerated, the cost of incarceration and community supervision, measures of cost efficiency and effectiveness, and indicators of prison performance.

Appendix B

Persons Convicted of Nonviolent Property and Drug Offenses: Estimated Cost To Incarcerate, Estimated Cost To Supervise in the Community, and Estimated Revenue if Supervised in the Community

To estimate the cost to incarcerate persons convicted of nonviolent property and drug offenses, Program Review staff obtained from the Department of Corrections the number of these offenders in each type of correctional facility (local jail, state prison, and contracted prison) on June 30, 2009. The number of offenders was multiplied by the estimated cost to house an inmate in each type of facility.

For example, the number of state inmates incarcerated in local jails (4,849) was multiplied by the \$31.34 per diem the state paid the jails in FY 2009, resulting in a total daily cost of \$151,968. To determine the annual cost, the daily cost was multiplied by 365 days. This method was also used for persons housed in state and contracted prisons, with the only differences being the cost to incarcerate. The average daily cost of minimum security state prisons (\$47.91) was used to calculate the cost to incarcerate inmates in state prisons. The average of the three contracted prison per diems (\$50.55) was used to estimate the cost of incarcerating offenders in contracted prisons.

To estimate the cost to supervise these persons had they been released to probation or parole supervision, the total number of offenders (9,430) was multiplied by the \$2.63 daily cost of supervising a person in the community in FY 2009. To estimate the number of new officers that would be needed, the number of potential new community offenders (9,430) was divided by the current caseload average of 96.5, resulting in the need to hire 98 new officers. The cost to hire, train, and equip new officers was estimated by the department as \$55,738 in FY 2009. The cost of the new officers would decrease after the first year as the need to provide training and equipment would be eliminated or reduced, but the reduced cost was not estimated.

To estimate the potential revenue to the state general fund that would be generated by persons serving community sentences, the number of persons (9,430) was multiplied by the \$25 monthly supervision fee. Additional revenue to the state from sales and income taxes these persons would pay could not be estimated.

The following pages show the estimated cost of incarcerating nonviolent property and drug offenders; the estimated cost to supervise them in the community if they were released on probation or parole; and estimated fee revenue that could be collected if the persons were supervised in the community by probation and parole officers. The estimates are shown by type of facility to demonstrate the impact of the different facility costs on the department's budget compared to releasing offenders to community supervision.

**Estimated Cost To Incarcerate Nonviolent Property and Drug Offenders
Fiscal Year 2009**

Estimated Cost To Incarcerate in Local Jails

Offense	State Inmates	Per Diem	Cost To Incarcerate	
			Daily	Annual
Property	2,426	\$31.34	\$76,031	\$27,751,315
Drug	2,423	31.34	75,937	27,717,005
Total	4,849	\$31.34	\$151,968	\$55,468,320

Estimated Cost To Incarcerate in State Prisons

Offense	State Inmates	Per Diem (Minimum Security)	Cost To Incarcerate	
			Daily	Annual
Property	2,166	\$47.91	\$103,773	\$37,877,145
Drug	1,733	47.91	83,028	30,305,220
Total	3,899	\$47.91	\$186,801	\$68,182,365

Estimated Cost To Incarcerate in Contracted Prisons

Offense	State Inmates	Contract Per Diem (Average)	Cost To Incarcerate	
			Daily	Annual
Property	344	\$50.55	\$17,389	\$6,346,985
Drug	338	50.55	17,086	6,236,390
Total	682	\$50.55	\$34,475	\$12,583,375

Estimated Total Cost

Facility	State Inmates	Annual Cost To Incarcerate
Local jails	4,849	\$55,468,320
State prisons	3,899	68,182,365
Contracted prisons	682	12,583,375
Total	9,430	\$136,234,060

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

**Estimated Cost To Supervise Nonviolent Property and Drug Offenders in the Community
 Fiscal Year 2009**

Estimated Cost To Supervise Offenders Currently in Local Jails				
Offense	State Inmates	Supervision Per Diem	Cost To Supervise Daily	Annual
Property	2,426	\$2.63	\$6,380	\$2,328,700
Drug	2,423	2.63	6,372	2,325,780
Total	4,849	\$2.63	\$12,752	\$4,654,480

Estimated Cost To Supervise Offenders Currently in State Prisons				
Offense	State Inmates	Supervision Per Diem	Cost To Supervise Daily	Annual
Property	2,166	\$2.63	\$5,697	\$2,079,405
Drug	1,733	2.63	4,558	1,663,670
Total	3,899	\$2.63	\$10,255	\$3,743,075

Estimated Cost To Supervise Offenders Currently in Contracted Prisons				
Offense	State Inmates	Supervision Per Diem	Cost To Supervise Daily	Annual
Property	344	\$2.63	\$905	\$330,325
Drug	338	2.63	889	324,485
Total	682	\$2.63	\$1,794	\$654,810

Estimated Total Cost		
	State Inmates	Total Cost To Supervise
Local jails	4,849	\$4,654,480
State prisons	3,899	3,743,075
Contracted prisons	682	654,810
Total	9,430	\$9,052,365

Estimated Cost of Hiring, Training, and Equipping New Probation and Parole Officers To Supervise Offenders Released to Community Supervision			
Persons Released to Community Supervision	New Officers Needed To Maintain Current Caseload Average	Cost Per New Probation and Parole Officer	Total Cost
9,430	98	\$55,738	\$5,462,324

Estimated Total Cost	
Annual cost of community supervision	\$9,052,365
First year cost of new officers	5,462,324
Total	\$14,514,689

Note: The current caseload average is 96.5.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

**Estimated Supervision Fees Paid by Persons on Probation and Parole
Fiscal Year 2009**

Estimated Revenue if Offenders Currently in Local Jails Paid the Supervision Fee

Type of Offense	State Inmates	Monthly Supervision Fee	Revenue	
			Monthly	Annual
Property	2,426	\$25	\$60,650	\$727,800
Drug	2,423	25	60,575	726,900
Total	4,849	25	\$121,225	\$1,454,700

Estimated Revenue if Offenders Currently in State Prisons Paid the Supervision Fee

Type of Offense	State Inmates	Monthly Supervision Fee	Revenue	
			Monthly	Annual
Property	2,166	\$25	\$54,150	\$649,800
Drug	1,733	25	43,325	519,900
Total	3,899	25	\$97,475	\$1,169,700

Estimated Revenue if Offenders Currently in Contracted Prisons Paid the Supervision Fee

Type of Offense	State Inmates	Monthly Supervision Fee	Revenue	
			Monthly	Annual
Property	344	\$25	\$8,600	\$103,200
Drug	338	25	8,450	101,400
Total	682	\$25	\$17,050	\$204,600

Estimated Total Revenue

Facility	State Inmates	Annual Revenue
Local jails	4,849	\$1,454,700
State prisons	3,899	,169,700
Contracted prisons	682	\$204,600
Total	9,430	\$2,829,000

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Appendix C

State Inmate Populations, Facilities, and Spending Fiscal Year 2007

Ordering of states is from highest to lowest corrections spending as a percentage of total state spending.

State	State Inmate Population	Public and Contracted Prisons	Corrections Spending As % of General Funds	Corrections Spending As % of Total State Spending
Michigan	50,648	39	22.5%	5.3%
California	176,059	32	8.6	4.8
Maryland	23,123	27	8.2	4.4
Florida	95,078	107	9.8	4.4
Idaho	7,357	13	6.8	4.3
Virginia	37,824	40	6.9	4.0
Oregon	14,012	14	11.3	3.9
Ohio	50,418	34	7.4	3.8
Colorado	22,662	29	8.5	3.8
Nevada	13,034	9	7.8	3.8
Texas	172,626	113	7.2	3.7
Arizona	37,088	16	8.5	3.6
New Jersey	28,378	13	5.0	3.6
Utah	6,524	2	6.9	3.5
Washington	17,438	15	5.8	3.5
Wisconsin	23,766	32	7.9	3.4
Pennsylvania	45,563	23	6.2	3.4
North Carolina	38,179	78	6.2	3.2
Delaware	7,521	5	7.4	3.2
Indiana	26,833	21	5.3	3.2
Montana	3,469	6	8.3	3.1
Kansas	8,850	9	5.5	3.1
South Dakota	3,446	6	7.0	3.0
New York	63,536	68	5.6	3.0
South Carolina	24,093	28	6.7	2.9
Illinois	45,565	54	5.9	2.9
Georgia	53,226	40	5.9	2.9
Tennessee	26,453	15	5.6	2.9
Missouri	29,942	20	7.1	2.9
Connecticut	20,780	18	4.1	2.8
Iowa	8,837	8	5.9	2.7

State	State Inmate Population	Public and Contracted Prisons	Corrections Spending As % of General Funds	Spending As % of Total State Spending
Massachusetts	11,440	18	4.1%	2.7%
Oklahoma	25,686	17	7.7	2.6
Rhode Island	4,119	8	4.8	2.5
Alaska	5,312	13	5.7	2.4
Nebraska	4,435	8	5.4	2.4
Vermont	2,165	8	9.7	2.4
Kentucky	21,644	16	5.3	2.4
Arkansas	13,914	17	7.8	2.2
New Hampshire	2,814	3	6.6	2.1
Louisiana	36,981	13	5.8	2.1
Mississippi	21,758	9	5.8	2.0
Hawaii	6,039	4	3.7	2.0
Maine	2,185	7	4.6	2.0
Minnesota	9,891	9	2.6	2.0
North Dakota	1,435	4	5.3	1.9
New Mexico	6,526	10	4.0	1.8
Alabama	29,244	19	2.6	1.5
West Virginia	5,886	15	4.5	1.0
Wyoming	2,114	4	0.03	0.02

Source: Prepared by Program Review staff from information obtained from the US Department of Justice and the National Association of State Budget Officers.

Appendix D

State Prison Populations December 31, 2005, to June 30, 2007

Ordering of states is from largest to smallest state prison populations as of June 30, 2007.

State	Date				% Change Dec. 31, 2005 to June 30, 2007
	Dec. 31, 2005	June 30, 2006	Dec. 31, 2006	June 30, 2007	
California	170,676	175,115	175,512	176,059	3%
Texas	169,003	172,889	172,116	172,626	2
Florida	89,768	91,001	92,969	95,078	6
New York	62,743	63,295	63,315	63,536	1
Georgia*	48,749	51,549	52,792	53,226	8
Michigan	49,546	50,766	51,577	50,648	2
Ohio	45,854	47,494	49,166	50,418	9
Illinois	44,919	45,440	45,106	45,565	1
Pennsylvania	42,380	43,087	44,397	45,563	7
North Carolina	36,365	37,201	37,460	38,179	5
Virginia	35,344	36,074	36,688	37,824	7
Arizona*	33,565	34,962	35,892	37,088	9
Louisiana	36,083	36,571	37,012	36,981	2
Missouri	30,823	30,657	30,167	29,942	-3
Alabama	27,888	27,888	28,241	29,244	5
New Jersey	27,359	28,436	27,371	28,378	4
Indiana	24,455	25,504	26,091	26,833	9
Tennessee	26,369	26,119	25,745	26,453	0
Oklahoma	26,676	25,375	25,497	25,686	-4
South Carolina	23,160	23,633	23,616	24,093	4
Wisconsin	22,697	23,005	23,431	23,766	4
Maryland	22,737	23,084	22,945	23,123	2
Colorado	21,456	22,145	22,481	22,662	5
Mississippi	20,515	21,085	21,068	21,758	6
Kentucky	19,662	20,005	20,000	21,644	9
Connecticut**	19,442	20,054	20,566	20,780	6
Washington	17,382	16,633	17,561	17,438	0
Oregon	13,411	13,645	13,707	14,012	4
Arkansas	13,541	13,570	13,729	13,914	3
Nevada	11,782	12,468	12,901	13,034	10
Massachusetts	10,701	11,109	11,032	11,440	6
Minnesota	9,281	9,776	9,108	9,891	6

State	Date				% Change Dec. 31, 2005 to June 30, 2007
	Dec. 31, 2005	June 30, 2006	Dec. 31, 2006	June 30, 2007	
Kansas	9,068	8,936	8,816	8,850	-2%
Iowa*	8,737	8,695	8,875	8,837	1
Delaware**	6,966	7,271	7,206	7,521	7
Idaho	6,818	6,976	7,124	7,357	7
New Mexico	6,571	6,803	6,639	6,526	-1
Utah	6,382	6,235	6,430	6,524	2
Hawaii**	6,146	6,227	5,967	6,039	-2
West Virginia	5,312	5,408	5,733	5,886	10
Alaska**	4,812	5,063	5,069	5,312	9
Nebraska	4,455	4,507	4,407	4,435	0
Rhode Island**	3,654	3,914	3,996	4,119	11
Montana	3,532	3,596	3,572	3,469	-2
South Dakota	3,463	3,527	3,359	3,446	0
New Hampshire	2,530	2,682	2,805	2,814	10
Maine	2,023	2,046	2,120	2,185	7
Vermont**	2,078	2,139	2,215	2,165	4
Wyoming	2,047	2,094	2,114	2,114	3
North Dakota	1,385	1,401	1,363	1,435	3
Total	1,340,311	1,367,155	1,377,069	1,395,916	4%

* Population is based on custody counts.

** Prisons and jails form one integrated system. Data include total jail and prison populations.

Source: US. Department of Justice. Bureau of Justice Statistics. Prison Inmates.

Appendix E

Inmate Fees

Types of fees are listed in the table below in order of the number of states using each type.

Eleven states have fees. Colorado has seven fees. Four states—Arizona, **Kentucky**, Massachusetts, and South Carolina—have five fees each. Pennsylvania and Washington have four fees each. Three states—Hawaii, North Carolina, and Ohio—have two fees each. New Jersey has one fee.

Fee	Amount	States
Medical	\$3 to \$7	10: Arizona, Colorado, Kentucky , Massachusetts, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Washington
Dental	\$3 to \$5	5: Colorado, Kentucky , Massachusetts, South Carolina, Washington
Optometry	\$3 to \$5 or cost of frames	4: Colorado, Hawaii, Massachusetts, South Carolina
Assault	Actual cost of medical care or \$15	3: Arizona, Massachusetts, Pennsylvania
Drug test	\$5 or actual cost	3: Arizona, Ohio, Pennsylvania,
Escape	Actual cost of apprehension or percentage	2: Arizona, South Carolina
Prescription	\$2 to \$5 each	2: Kentucky , South Carolina
Annual health care services	\$5	Colorado
Copy	\$0.10 each	Kentucky
Electronic device utilities	\$1	Arizona
Extended family visit	\$5	Washington
Funeral or bedside visit	Actual cost of mileage and officer's time	Kentucky
Guilty disciplinary reports	\$10 (up to 3 reports per fee)	North Carolina
Haircut	\$1.50	Massachusetts
Mental health	\$1	Colorado
Missed appointment	\$3	Colorado
Pregnancy test	\$3	Colorado
Prosthetics	Actual cost	Hawaii
Recreation	\$5 per quarter	Washington
Replacement of items destroyed by misconduct	Cost of item	Pennsylvania

Source: Prepared by Program Review staff based on state websites and telephone interviews.

Appendix F

Correctional Industries in the States

Industry	In Operation in Kentucky States	
Furniture and assembly	●	49
Graphics, printing, desktop publishing, and signs	●	47
Textiles, sewing, footwear, and embroidery	●	47
Upholstery	●	45
Metal, welding, and machine shop	●	44
Modular office systems	●	43
Mattresses	●	42
License plates	●	39
Wood production and carpentry	●	38
Refurbishing	●	36
Other industries	●	35
Sanitary, cleaning, and chemical products	●	32
Engraving and presentation recognition items		31
General labor	●	30
Inventory management, order fulfillment, and warehousing	●	22
Laundry		21
Product assembly		21
Data and database processing		18
Recycling	●	18
Food production	●	16
Geographic information system and computer-aided design and drafting		14
Dental and optical lab and products		13
Vehicle repair and refurbishing		12
Garbage bags		11
Recreational equipment		11
Electronics and computer assembly, repair, and recycling	●	10
Construction		10
Vinyl products		10

Note: Industries in some states may include Prison Industry Enhancement Certification programs.

Source: Prepared by Program Review staff from information obtained from the National Correctional Industries Association.

Appendix G

Kentucky Correctional Industries

The table lists each Kentucky state prison operating a correctional industries plant, its products and services, its FY 2009 revenue, and the average number of inmate workers it employs. The correctional industries earning the most revenue are license plate manufacturing, printed materials, coupon processing, moving assistance, and mail services.

Facility	Products and Services	FY 2009 Revenue	Inmates Employed
Blackburn Correctional Complex	Computer refurbishing, road signs, specialized office signs, office panel systems, moving services	\$467,115	43
Eastern Kentucky Correctional Complex	Coupon processing, custom wood work, furniture refinishing, file cabinets, custom metal work, metal refinishing	864,787	131
Green River Correctional Complex	Office furniture, furniture refinishing	553,763	48
Kentucky Correctional Institution for Women	Braille transcription, mailing service, screen printing, printed products	970,722	41
Kentucky State Penitentiary	Plastic bags, clothing products	1,174,347	65
Kentucky State Reformatory	Shelving, custom metal work, soap and laundry products, plastic recycling, license plates	3,098,387	Not reported
Luther Lockett Correctional Complex	Embroidery work, printed products	1,580,467	60
Little Sandy Correctional Complex	Mattresses and bedding products, plastic recycling, custom products	512,685	82
Northpoint Training Center	Chairs, various seating products, furniture refinishing	416,693	27
Central Office	Warehouse	N/A	11
Total		\$9,638,967	508

Note: The total for FY 2009 revenue does not equal the sum of the entries above due to rounding.

Source: Prepared by Program Review staff from information provided by the Department of Corrections.

Appendix H

Response From the Department of Corrections

Testimony of Commissioner LaDonna Thompson

Introduction

We would like to take this opportunity to thank Cindy Upton and Sarah Spaulding and the project staff for all their hard work they devoted to this report. We would also like to especially thank them for working with us through the difficult and challenging time of the Northpoint prison disturbance. They were very understanding in realizing how critical this incident was and were willing to wait for information they had requested until critical areas could be addressed concerning the riot.

In reviewing the report, the Cost of Incarceration, we find few recommendations that are directed specifically to the Department of Corrections. We believe this is an indicator that we are good stewards of the funds that are allocated to us.

There are Recommendations in Four Areas:

1.1 This recommendation is directed to the General Assembly and the Department has no purview over this recommendation;

1.2 This recommendation is also directed to the General Assembly, however we would like to point out that the Community Corrections Grant Committee has funded several initiatives for drug and mental health courts and in fact the Committee specified during the last grant period that projects involving mental health, drug testing kits and electronic monitoring would receive priority consideration. There were a total of 16 of these programs funded in the last grant cycle.

2.1 This is a recommendation to the General Assembly regarding the jail per diem; this recommendation has been made in the past.

3.1 – 3.2 – 3.4 These recommendations are also directed to the General Assembly; however, we have received a new grant under the Second Chance Act. This grant is aimed at reducing recidivism through better re-entry planning.

Currently, inmates make between 25 cents and \$1 in wages for the jobs they do in prison. Deductions from these already low wages could override any incentive the inmate would have to work or to participate in programs. The inmates use money they earn to buy canteen items.

Cost Savings to the Commonwealth

The Department receives a portion of the money spent in the canteen and all proceeds are deposited into the Kentucky Centralized Inmate Commissary, Inc. (KCIC), a central canteen operation, governed by state statute - KRS 196.270. KCIC has a Board of Directors with bylaws and executive leadership. KCIC is governed by a strict set of rules which specify all monies withdrawn from the fund must be used to purchase items for the sole benefit of the inmate population. Examples of items purchased with funds from this account are library books, GED bonus awards, parenting classes, smoking cessation materials, items for visitation for the children of inmates (such as toys, games) and exercise equipment. Without this fund, those items would have to be purchased using monies allocated to other areas within the Department. Canteen funds are used to provide for a range of low cost programs, services and incentives which directly benefit inmates that would otherwise be unfunded in the state budget.

Security

It could also impact security within the institutions. Serving time in prison is stressful - of paramount importance to prison administrators is the ability to establish and sustain a controlled and stable environment. The ability to provide activities as safe keeping measures, such as the television system, library, and recreation equipment, are invaluable security tools. These things occupy an inmate's mind *and* body. Prison administrators also need the ability to reward inmates through educational incentives as an essential part of their rehabilitation.

Inmates will find a means to obtain the items, whether legitimately or not. If these things are taken away, they will steal, gambling will increase, and we will see an increase in inmate on inmate violence.

Little things matter to the inmate population. Canteen funds allow Wardens the ability to reinforce positive behavior through meal enhancements, special events and small meritorious items.

Inmates know their purchases fund these small quality of life benefits. If these funds are removed, canteen profits could decline because inmates would have less motivation to spend their limited funds in the canteen.

Re-entry

We have spent the past week training with national organizations on the topic of "Re-entry," and they had some suggestions involving inmate jobs and programs. One suggestion was to "normalize" how inmate jobs are done in prison. In other words, as an inmate gets a better job, more education, they should receive better pay – a system that mirrors what life is like on the outside. This was one of their key suggestions to reduce recidivism.

Which is a perfect segue for me to talk about recommendation 3.4; if legislation known as "P.I.E." or Prison Industries Enhancement could be passed here in Kentucky it would be a tremendous benefit to the Commonwealth.

This is a program, which needs legislative approval that would allow private companies to come in to our prisons and use inmate labor. The companies would build whatever type of structure they need (if necessary) and they would pay the inmates at least minimum wage. It offers several benefits including:

- Citizens and communities are safer as a result of reduced recidivism;
- Offenders pay taxes from earnings;
- Taxpayer dollars are saved through reduced incarceration;
- Victims receive restitution from offenders; offenders can begin paying child support obligations.

In addition, deductions can also be made in order for the inmate to establish a savings account that can be used in the outside world upon release. At the same time, these inmates would be learning skills that could realistically translate into jobs once they leave prison.

Recommendation 3.3 regarding a centralized Canteen operation: We have considered this in the past and have reviewed other states with this system. We agree to this recommendation to conduct a cost benefit analysis and agree that KCI is an important part of the Department of Corrections and an integral part of our re-entry efforts.

