Reframing Public Defense

May 15, 2014 3:00-4:30 p.m. ET

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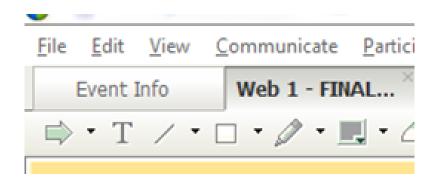
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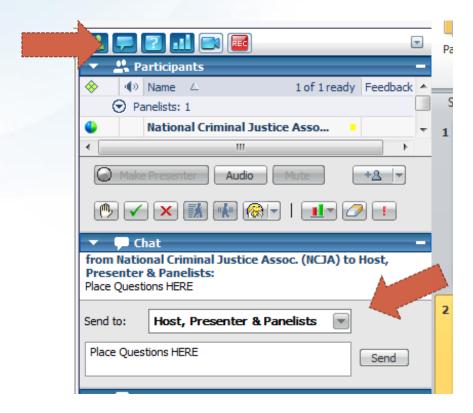
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REFRAMING PUBLIC DEFENSE

Access to Justice Initiative – U.S. Department of Justice

U.S. Department of Justice/ National Criminal Justice Association Webinar May 15, 2014





http://www.justice.gov/atj/

Attorney General Eric Holder

"Let me assure you ... that this is not a passing issue for the Justice Department. I have asked the entire Department to focus on indigent defense issues with a sense of urgency and a commitment to developing and implementing the solutions we need. As many of you know, we recently took an historic step to make access to justice a permanent part of the Department's work, with a focused effort by our leadership offices to ensure that this issue gets the attention it deserves."

- June 19, 2010, Wilmington, North Carolina



NCJA/ATJ WEBINAR SERIES

Past Webinars

- Strengthening Indigent Defense: Understanding State and Federal Resources
- Expanding Stakeholder Involvement: Promoting Inclusive
 System Planning
- Strengthening Court Systems: Understanding State and Federal Resources
- Defender Initiatives in Indian Country

For More Information:

Resources

- •DOJ Courts and Indigent Defense Resource Guide http://www.justice.gov/atj/resource-publication-4-17-12-rev.pdf
- •Office of Justice Programs Indigent Defense Fact Sheet

http://www.ojp.usdoj.gov/newsroom/factsheets/ojpfs_indigentdefense.html

- Grant Information from the Access to Justice Initiative
- http://www.justice.gov/atj/grant-info.html
- •DOJ Funded Indigent Defense Publications http://www.justice.gov/atj/idp/
- Bureau of Justice Statistics: Indigent Defense Systems
 http://www.bjs.gov/index.cfm?ty=tp&tid=28

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Presenters

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LEAH GARABEDIAN,

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Public Value of Public Defense



Ed Monahan KY Public Advocate



KY Department of Public Advocacy
Kentucky's statewide public defender program

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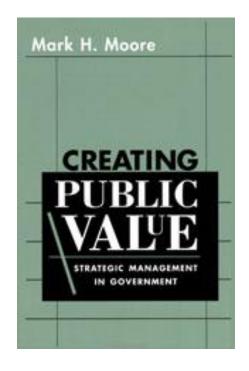
Public Defense Makes Fiscal Sense

- Protects innocent people from wrongful convictions
- Reduces the cost to counties of pretrial detention by making sure bail proceedings are proper and sensible
- Identifies defendants who are appropriate for costeffective alternative sentencing saving the state prison costs
- Policy ideas for reducing the demand side

Mark Moore

Hauser Professor of Nonprofit Organizations, HKS; Simon Professor of Education, Management, and Organizational Behavior, GSE; Ash Center for Democratic Governance and Innovation





Mark H. Moore, Alternative Strategies for Public Defenders and Assigned Counsel (April 2001)

http://www.hks.harvard.edu/criminaljustice-backup/publications/alt_strat.pdf

To be effective as leaders of these enterprises, such people need what the private sector calls organizational strategies

An organizational strategy is a coherent idea that:

- 1) sets out the **purposes** of an enterprise and the **value** it is trying to produce;
- 2) identifies the **sources of support** (financial and otherwise) that it needs to sustain its operations
- 3) describes how the **resources granted** to the enterprise can best be deployed to accomplish the desired goals

Strategic Ideas engendering wider support for public defense Supreme Court's mandate alone is not sufficient to ensure high quality representation to indigent

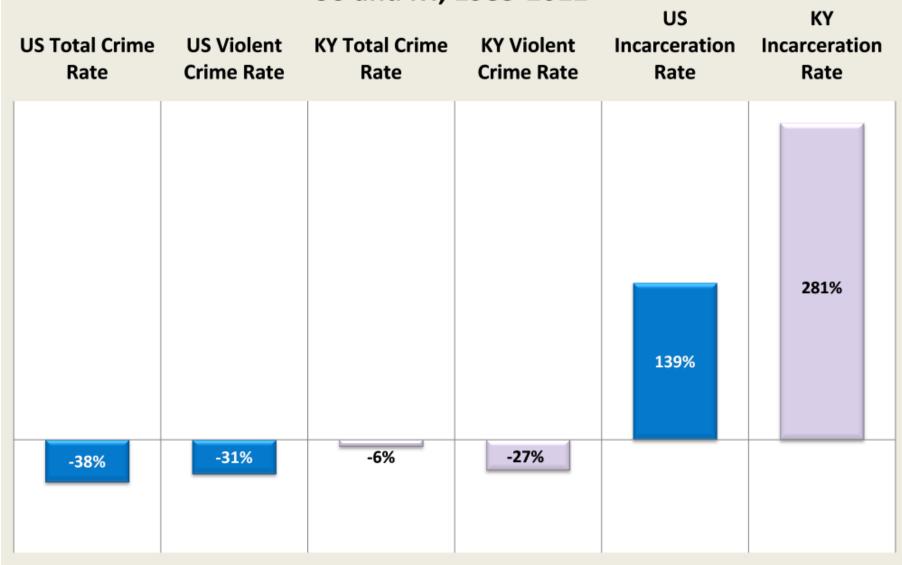
clients

- 1. Public Defenders as Public, Political Advocates
- 2. Public Defenders as Supporters of the Criminal Defense Bar
- 3. Representing the Whole Client

Public Defenders as Public, Political Advocates

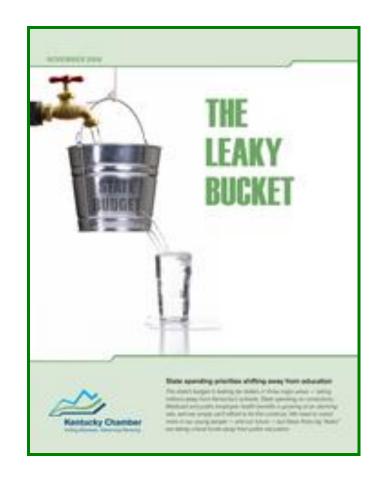
- becoming effective advocates in the political world as well as in the courtroom
- advocacy on legislative decisions to appropriate money to indigent defense systems
- advocacy on policy decisions that affect the legal rights of those accused of crime increasing the power and authority of public defense systems

Divergent Trends in Incarceration and Crime Rates, US and KY, 1985-2012



Unsustainable Incarceration Spending Kentucky Chamber report: THE LEAKY BUCKET 2010

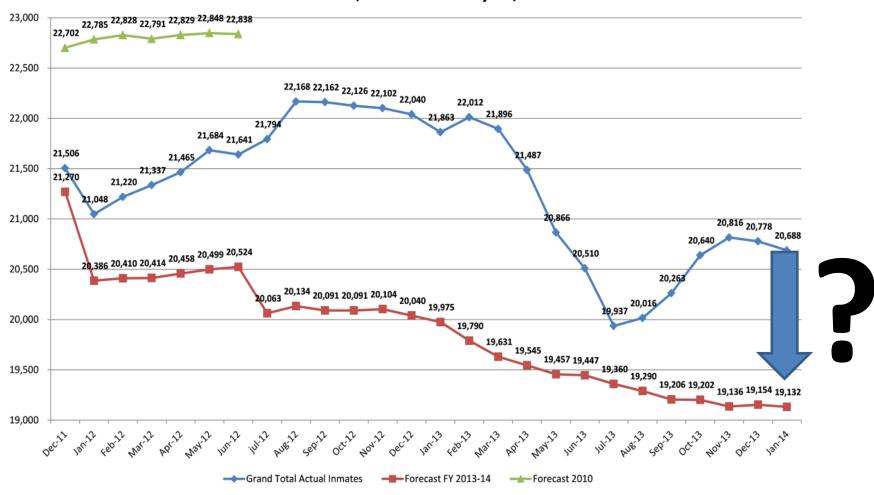
- KY has had low violent crime rates yet rising incarceration rates
- KY spends twice as much per prisoner as it does per student
- 25% of prisoners are incarcerated for a drug offense



Inmate Population between December 15, 2011 to January 15, 2014



Inmate Population between December 15, 2011 to January 15, 2014



Public Value of Public Defense

3 KY examples

- 1. Alternative sentencing social worker program
- 2. Advocating for pretrial release at first appearance
- 3. 10 commonsense ideas to safely reduce waste in criminal justice system

Each DPA alternative sentencing social worker saves a net of \$100,000 in incarceration costs



For every \$1.00 spent on social worker alternative sentencing services there is a \$4.47 to \$6.80 savings



Robert Walker, M.S.W., L.C.S.W.
Assistant Professor
Department of Behavioral Science and
Center on Drug and Alcohol Research
University of Kentucky



August 2013 University of Kentucky Center on Drug and Alcohol Research Report, The Kentucky Department of Public Advocacy Social Worker Alternative Sentencing Program Pilot Evaluation Study 2013

National Criminal Justice Association Outstanding Criminal Justice Program Award, 2011





In 2012 Harvard Kennedy School Ash Center for Democratic Governance and Innovation names the DPA Social Worker Program one of the

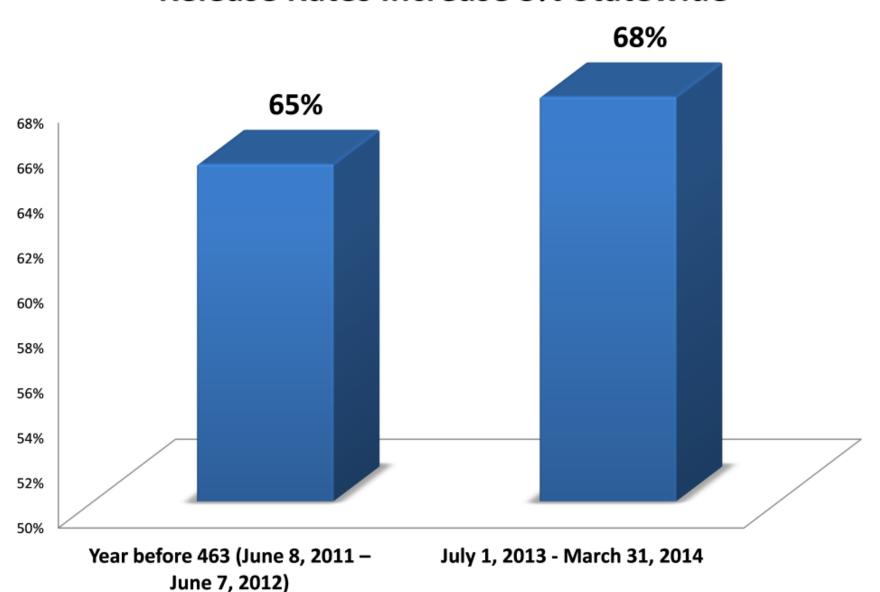
"Top 25 Innovations in Government"

"As the state's revenues continue to improve, we will have to see if we can expand this nationally recognized program's reach even more."



House Speaker Greg Stumbo
Floyd County Times

After Implementation of HB 463, Pretrial Release Rates Increase 3% Statewide



2013 National Association of Pretrial Service Agencies John C. Hendricks Pioneer Award to the Kentucky **Department of Public Advocacy** for

Pretrial Release Advocacy



KY Defenders' Nationally recognized

- ✓ Alternative Sentencing Social Workers
- ✓ First appearance/pretrial release initiative

Promoting evidence based policies and practices that

- 1) advance public safety, and
- 2) save counties and the state incarceration costs

10 commonsense ways to maintain public safety and

reduce costs for counties and state for 2014

- 1. Expand DPA alternative sentencing social worker program
- 2. Alternative sentencing plan for flagrant nonsupport
- 3. Create "clear and convincing" standard for pretrial release decision
- 4. Reclassify minor misdemeanors to violations
- 5. Create "gross misdemeanor" classification for low level felonies
- 6. Presume parole for eligible low-risk offenders
- 7. Promote employment/reduce recidivism: create Class D felony expungement
- 8. Reduce waste by limiting capital prosecutions
- 9. Amend violent offender and PFO statutes to insure KY's most costly punishments are used to protect public safety
- 10. Increase felony theft level

The Advocate



www.dpa.ky.gov

March 2014 (Part 2)

10 Commonsense ways to reduce waste in Kentucky's criminal justice system: Lasting and Unrealized Benefits of HB 463

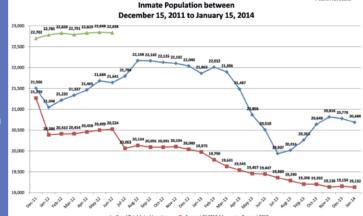
Through the foresight of Kentucky leaders, HB 463 has brought significant savings while not adversely affecting public safety. This is what taxpayers want. However, more reforms are necessary to continue to safely reduce waste in the Kentucky criminal justice system and to fully achieve what taxpayers want. While the Kentucky crime rate declines, the Kentucky corrections population continues to be above projections at a significant and unnecessary cost to the state. There are sound measures to address the waste.



Ed Monahan Public Advocate

- 10 Commonsense ways to reduce waste in Kentucky's criminal justice system: Lasting and Unrealized Benefits of HB 463
- \$3.7+ million yearly net incarceration savings to the state by creating alternatives to incarceration
- S3.5 million by providing alternative sentencing plans for flagrant non-support instead of imprisonment for felony
- Substantial savings from reducing days in the county jail by creating "clear and convincing" standard for the pretrial release decision
- Substantial savings from reclassifying minor misdemeanors to violations
- Substantial savings from creating "gross misdemeanor" classification for low level felonies
- Substantial savings from presuming parole for eligible low-risk offenders
- Up to \$9.4 million in new revenue from promoting employment/reducing recidivism by creating Class D felony expungement
- Substantial savings from reducing waste by limiting capital prosecutions
- Substantial savings from modifying violent offender and PFO statutes
- 10. Increase the felony theft limit from \$500 to \$2,000

This prison incarceration graph illustrates the significant cost savings of HB 463 and its unrealized benefits.



The imprisonment level is above projections no doubt for a variety of factors. One of those factors is a decline in the parole rate as indicated by the following data:

Parole Board Grant Rates				
Comparison	FY 12-13	13-Oct	13-Nov	13-Dec
Parole Recommendation Rate	65%	53%	55%	54%
All Cases Recommendation Rate	54%	39%	43%	41%
Initial Parole Rate	67%	56%	55%	56%
Deferred Parole Rate	63%	49%	55%	50%
File Review Parole Rate	67%	54%	56%	56%
Face to Face Parole Rate	60%	49%	48%	45%

Promoting value of public defense

- Testimony with independent evaluator to legislature with video of social workers program, independent evaluator, public endorsements from judges, prosecutors, Justice Cabinet, KY Chamber of Commerce, seeking award recognition
- Individual visits to key legislators
- Statewide newsletters to judges and legislators
- Speaking to county judge executive conference with independent evaluator

2015-16 progress

DPA provided funding from the KY General Assembly for 15 additional alternative sentencing social workers

More info (PP's, Studies, Endorsements) at:

http://dpa.ky.gov/

COLLABORATING FOR SUCCESS

JEFF ADACHI & SIMIN SHAMJI SF PUBLIC DEFENDER'S OFFICE

COLLABORATION:

Two or more people working together towards shared goals

THREE BASIC MODELS

- Start-up Collaboration: Start with a small grant and one or two partners, then grow.
- **Progressive Collaboration:** Start with a collaborative group of partners who will each bring a part of what is needed to the table. Then add additional partners as the need arrives and the vision expands.
- **Major Collaboration:** Develop a comprehensive collaboration of all agencies, organizations, individuals necessary to achieve and implement the overarching goal or mission.

START UP COLLABORATION



START UP COLLABORATION



CHILDREN OF INCARCERATEED PARENTS PROGRAM

CIP PROGRAM COLLABORATORS

- Zellerbach Family Foundation
- San Francisco Children of Incarcerated Parents Partnership (http://www.sfcipp.org/)
- SF Police Department
- Child Protective Services
- Initial Funding Level: \$60,000 per yr

PROGRESSIVE COLLABORATION



PROGRESSIVE COLLABORATION



MAGIC PROGRAMS

MAGIC PROGRAM COLLABORATORS

- United Way
- SF Public Defender's Office
- One dozen non-Profit Organizations and Neighborhood Groups
- Initial Funding Level: \$45,000 per yr
- (http://www.bayviewmagic.org/)
- (http://www.momagic.org/)

MAJOR COLLABORATION



MAJOR COLLABORATION



SF REENTRY COUNCIL

SF REENTRY COUNCIL COLLABORATORS

- The Reentry Council is composed of 23 members. The membership includes 16 representatives of the following entities:
 - Office of the Mayor
 - o Public Defender's Office
 - District Attorney's Office
 - o Sheriff's Department
 - Adult Probation Department
 - Board of Supervisors
 - Police Department
 - <u>Juvenile Probation</u><u>Department</u>

- Department of Economic and Workforce Development
- Human Services Agency
- Department of Public Health
- Department of Children,
 Youth, and Their Families,
- Department of Child Support Services
- San Francisco Superior Court
- California Department of
 Corrections and Rehabilitation
 Division of Adult Parole
 Operations
- <u>United States Probation and</u>
 <u>Pretrial Services System</u>

KEYS TO EFFECTIVE COLLABORATION

- CHOOSE YOUR PARTNERS BASED ON NEED CRITERIA
- CLEARLY DEFINE WHAT IS REQUIRED OF EACH PARTNER
- INVITE EXPERTS TO PARTICIPATE AND STUDY LITERATURE AND BEST PRACTICES
- FOCUS ON RESULTS, NOT PERSONALITIES
- BRING IN A PROFESSIONAL GRANTWRITER IF POSSIBLE, PARTICULARLY FOR LARGE GRANTS

Simin Shamji

Director of Specialty Courts & Reentry Programs

Snapshot of SF Public Defender Initiatives

Program	Funds	Funding Source	Partners
Clean Slate Program	1 Attorney 1 Legal Assistant 1 Criminal Justice Specialist	Office general funds	
Children of Incarcerated Parents Program (CIP)	1 FTE Social Worker	Initial funding source: Zellerbach Family Foundation Presently: Office general funds	None
Reentry Unit Social Worker	1 FTE Social Worker	Byrne JAG funds	Adult Probation, District Attorney, Police, Office of the Mayor, Sheriff
Employment Specialist	1 FTE Social Worker	Private: META Fund	None
Checklists For Defense: A Training Strategy for Public Defenders	.50 FTE Attorney .50 FTE Legal Assistant	BJA: Encouraging Innovation	Center for Court Innovation, NY Alameda Public Defender
Legal Education Advocacy Project (LEAP)	1 FTE Attorney 1 FTE Youth Advocate	Board of State and Community Corrections	None

Federal Funding Available to Indigent Defense Providers

- Indigent Defense
- Procedural Justice, Reducing Bias and Supporting Racial Reconciliation
- Technical Assistance
- Civil Legal Remedies
- Reducing Unnecessary Confinement
- Bail Reform & Diversion Strategies
- Sentinel Events Initiative: Criminal Justice System Errors
- Innovative Initiatives

Demystifying the Grant Process

An idea

- Local needs with widespread (in some cases, national) applicability
 - ocost savings; impact on recidivism; evidence based; strengthen criminal justice system as a whole; addresses an issue in your jurisdiction; innovative;
- What have other jurisdictions done?
- Look at previous grant applications
- What has already been funded?

Support from Leadership

- Return on investment
- Overall benefit to the criminal justice system:
 - Brings meaning to constitutional guarantees:
 - right to counsel
 - quality representation
 - accountability
- Improves legal outcomes for our clients

Demystifying the Grant Process, continued

Planning

- The grant process is very time consuming
- Identify grant sources (federal, state, local, private, foundations)
- Needs assessment.
- Identifying strong (research) partners
- Requirements of the grant can be onerous (letters of support; MOAs; local approval)
- Develop contacts

Collaboration

- o Identify stakeholders/partners: criminal justice agencies other governmental agencies
- Non profit organizations
- Research Partners
- Philanthropy arm of private corporations

Demystifying the Grant Process, continued

Independent Evaluation

- Strengthen future applications & renewals
- Program credibility with funders, criminal justice partners.
- Identify cost savings; impact on recidivism;
- Sustainability

Grant Writer

- Ideal but not necessary
- Identify staff in the office who may already have grant writing experience and/or public policy background
- Research & training department

Demystifying the Grant Process, continued

Think outside the box

- Be innovative & bold
- Look for funding sources inside and outside government
 - Network
 - Small working groups
- Partner with other agencies

E.g., Civil Legal Remedies:

- Dept. of Labor grant in partnership with SF Sheriff
- BJA grant in partnership with Adult Probation Department
- Apply
- Reapply
 - Peer review comments
 - Valuable insight; hidden gems for future applications

More Information

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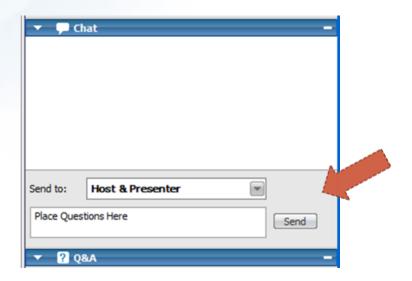
415-553-9316





To submit questions for the presenters please use the chat feature on the right hand side of your screen.

Please select Host and Presenter



Q & A



Moderator

<u>David Marimon</u> Senior Policy Analyst National Criminal Justice Association

Presenters

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THANK YOU FOR JOINING US



Please Join Us For Our Next Webinar

The Evidence Behind Pretrial:
Enhancing the Use of Data-Driven Decision-Making
May 15, 2014 - 3:00-4:30PM ET

Today's slides and a recording of this webinar will be available at:

www.ncja.org/webinars-events/ncjabja-webinar-series/webinar-archives

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