

SPECIAL REPORT: PRESCRIPTION FOR PAIN

Nobody knew how bad Eastern Kentucky's prescription drug problem was. The Herald-Leader revealed that the region was the painkiller capital of the United States. And nobody — not the doctors, the cops, the court system or society — was doing anything to stop the abuse.

TRYING PUBLIC TRUST

PUNISHMENT OF DRUG OFFENDERS VARIES WIDELY

EASTERN KENTUCKY FARES POORLY IN STATEWIDE ANALYSIS

Originally published Feb. 2, 2003

By Bill Estep, Tom Lasseter and Linda J. Johnson
HERALD-LEADER STAFF WRITERS

MANCHESTER — Monroe Sizemore, a former coal miner, makes no bones about it: He has sold drugs to make extra money.

Police say they've caught him selling pills or cocaine four times since 1994, but Sizemore hasn't had to pay much in the way of penalties.

Dismissals, reduced charges and shock probation meant that he spent about a month in jail on the first three drug charges.

"I think it was awful nice," Sizemore said, to get "a three-time break."

Last year, he pleaded guilty to possession of cocaine — a charge that was amended down from trafficking. Court records say he was sentenced to four years' probation after serving 59 days in jail. He also served six months of home incarceration.

Stories like Sizemore's suggest that the court system presents little deterrent to drug offenders — a suggestion that judges and prosecutors call simplistic.

Still, in Eastern Kentucky, a region besieged by traffickers and the misery they feed, there's no escaping the fact that often the crime is like cancer and the punishment like aspirin.

For example:

■ In Magoffin County, an assistant commonwealth's attorney said the Kentucky State Police have served notice that they don't trust local prosecution.

■ In Perry County, the prosecutor says the circuit judge won't let him get tough on drug traffickers.

■ In Owsley County, a judge dismissed several cases as a result of misinterpreting the law.

■ In Martin County, a district judge last month dismissed more than 120 cases in a single order, saying they had lingered too long without any real prosecution. A few were older than 10 years.

The Herald-Leader examined hundreds of individual criminal court files, and electronic summaries of more than 39,000 drug cases filed in circuit courts from 1996 through early 2002. The electronic records showed that circuit courts around the state rank poorly on various measures:

■ Courts in 32 counties had conviction rates of 50 percent or less in drug cases.

■ Courts in 18 counties dismissed 20 percent or more of their drug cases.

■ Courts in 25 counties granted probation to more than 60 percent of the people convicted of drug crimes.

■ And courts in 18 counties allowed at least 20 percent of their cases to linger 18 months or more without resolutions — risking the loss of evidence or witnesses' memories. (The American Bar Association recommends that all felony cases be resolved within a year.)

Courts in six counties ranked among the worst on three or more of those measures. All were in Eastern Kentucky.

See next page

COURTS | In drug cases, plenty can and does go wrong

From preceding page

Criminologists have long debated the effect that tough enforcement and sentencing have on reducing drug crime. But prosecutors and others say that effective, consistent enforcement is vital to maintaining public confidence in the judicial system.

"A community needs to know that people who violate the law will be held accountable," said Bell Commonwealth's Attorney Karen Blondell.

So why are drug cases handled differently, depending on the county in which they're tried?

Some prosecutors are more aggressive than others, and judges' philosophies differ. But experts — and former court officials — say politics plays a key role.

In rural Kentucky, elected sheriffs, prosecutors and judges are particularly susceptible to political influence, said Gary Potter, a criminal-justice professor at Eastern Kentucky University. Potter has made several studies of crime in rural Kentucky.

Rural electorates are small, and extended families are large, Potter noted.

"If you arrest a bootlegger, or a marijuana grower, or an OxyContin seller in a particular family, and pursue the case all the way through, you're not just angering that one person," Potter said. "You may be angering hundreds of constituents in a county that may only have two, three, four thousand votes. So there is a great deal of discretion applied by criminal-justice personnel, some of which is simply politically motivated."

Harlan County Sheriff Steve Duff attributed some officials' reluctance to bust drug dealers to "a sense of self-preservation for sheriffs who want to get re-elected."

Steve Tackett was not re-elected as Perry County commonwealth's attorney in 2000. But he could have been, he said, if he'd made political deals.

"There were several cases that I had that if I had agreed to dismissals, I would have gotten enough votes to win the election," Tackett said. "In a county the size of Perry, a large family can make a difference. And if you are politically astute, I guess you watch who you indict."

Plenty of chances for error

Kentucky's top judge, Supreme Court Chief Justice Joseph Lambert, said there are many reasons for the disparate handling of drug cases. The factors include differences in the quality of police work and prosecution.

To be sure, there are many valid reasons courts don't convict every defendant — or send every convict to prison.

Many drug offenders get probation because prison space is limited and costly. Gov. Paul Patton angered prosecutors recently when, in a bid to save money, he released nearly 900 non-violent offenders — including many drug convicts — from prisons before their sentences were complete.

Prosecutors often dismiss or reduce charges to bargain for guilty pleas — a necessity in a swamped system that can't try every case.

Informants, who are often key witnesses in drug cases, disappear or commit crimes of their own, undermining their credibility.

That's why prosecutors had to offer Monroe Sizemore probation in his most recent drug case — the informant got in trouble, said Richie Couch, an assistant commonwealth's attorney in Clay County.

Couch said many people do not understand the complexities of the courts. For example, in Sizemore's 1994 case, prosecutors couldn't use the 1,500 pills found in his house as evidence after defense attorneys successfully argued that police had exceeded the bounds of their warrant.

"Drug cases, to me, are the hardest cases we have," Couch said, in part because a number of things can go wrong with them.

Who is to blame?

When things go wrong in the courtroom, it's not always easy to determine who's responsible.

For example, District Judge Susan M. Johnson last month issued a blanket order dismissing more than 120 cases in Martin County — including such charges as felony assault and drug trafficking.

The cases, which were filed from 1991 through last year, had lingered without indictments after they were referred to the grand jury from district court. There is no indication in court files that the cases were ever presented to the grand jury, said Martin Circuit Clerk Jack H. Horn.

Presenting cases is typically the job of the prosecutor, but Commonwealth's Attorney Anna Melvin, who took office in 1994, said she didn't know whether the cases in question were presented.

Melvin said it's the job of police to bring her cases to take before grand juries. She said she has often written letters to police to try to get them to bring cases.

But one former lower-court prosecutor in the circuit said police didn't want to work with Melvin.

Former Johnson County Attorney Scott Preston said police regularly asked him to reduce charges so cases could be resolved in district court, rather than going to Melvin's bailiwick.

"I got the impression that the police officers didn't have any faith in her prosecuting abilities," said Preston, who has had bitter differences with Melvin.

Melvin said no police officer had ever expressed such reservations to her.

She announced an initiative last year aimed at getting more felony cases into circuit court and reassuring the public that defendants are being treated equally.

In statistical terms, Melvin's circuit — Johnson, Martin and Lawrence counties — ranked among the worst in Kentucky in the newspaper's analysis of the state court data.

The counties had a combined conviction rate of 44 percent, and a significant case backlog. But Melvin said the numbers were inaccurate or skewed by factors beyond her control.

Several cases could not be resolved because police couldn't find people who had been indicted, Melvin said. She estimated that her conviction rate is consistently 85 percent or above.

Data mislead, prosecutor says

Statewide, the data show Kentucky's average conviction rate for felony drug cases was 64 percent.

The closest national comparison dates to 1998, when 72 percent of felony drug defendants were convicted in the 75 largest U.S. counties, according to the U.S. Department of Justice.

Several prosecutors took issue with the picture reflected by the state data.

In Fayette County, where the numbers show a conviction rate in circuit court of 60.4 percent, Commonwealth's Attorney Ray Larson said that number is artificially low.

The data include cases his office didn't have a chance to prosecute, Larson said, such as cases dismissed in state court after they were adopted for federal prosecution and cases dismissed by the grand jury before any indictment.

Larson's own figures, adjusted for such factors, put his 2002 conviction rate for drug cases at 98 percent.

It's not clear that every county would see the kind of difference Larson cites, but it's true that the state court data do not reflect all the nuances of a complex system. The information is sent to the state Administrative Office of the Courts by local circuit clerks, and AOC officials do not vouch for its accuracy.

Nonetheless, the reporting requirements are uniform statewide, making it clear that accused drug dealers face more aggressive enforcement, prosecution and penalties some places than others.

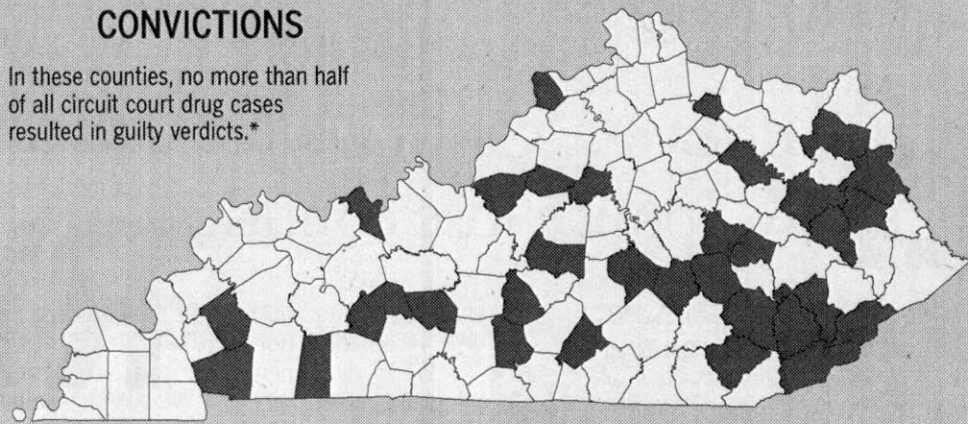
THE VERDICTS ARE IN

The state Administrative Office of the Courts in Frankfort gathers data from circuit court clerks on how criminal courts across Kentucky conduct business. The Herald-Leader analyzed nearly six years of the agency's data related to how courts handled drug cases — more than 39,000 cases in all — from 1996 through early 2002. The newspaper used the data to pinpoint counties where cases were allowed to continue for longer than 18 months; where conviction rates were low; where dismissal rates were high; and where probation was granted frequently.

Because the data are reported by elected circuit clerks throughout Kentucky, state court administrators said they can't vouch for their accuracy.

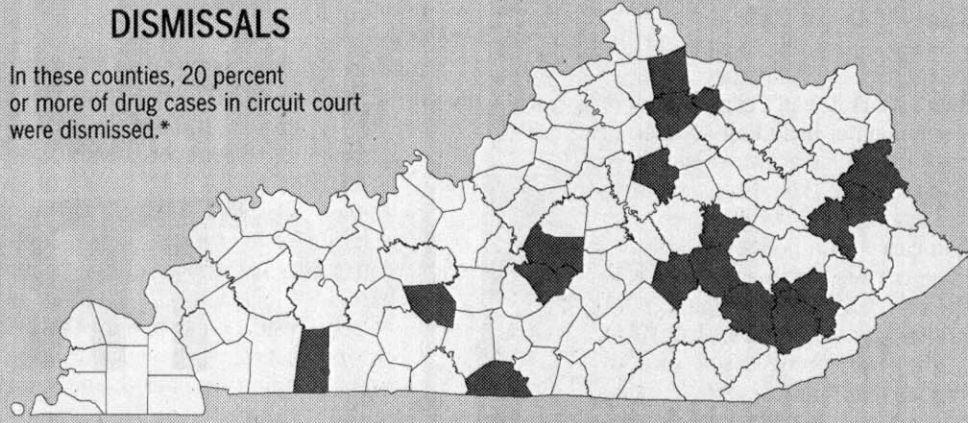
CONVICTIONS

In these counties, no more than half of all circuit court drug cases resulted in guilty verdicts.*



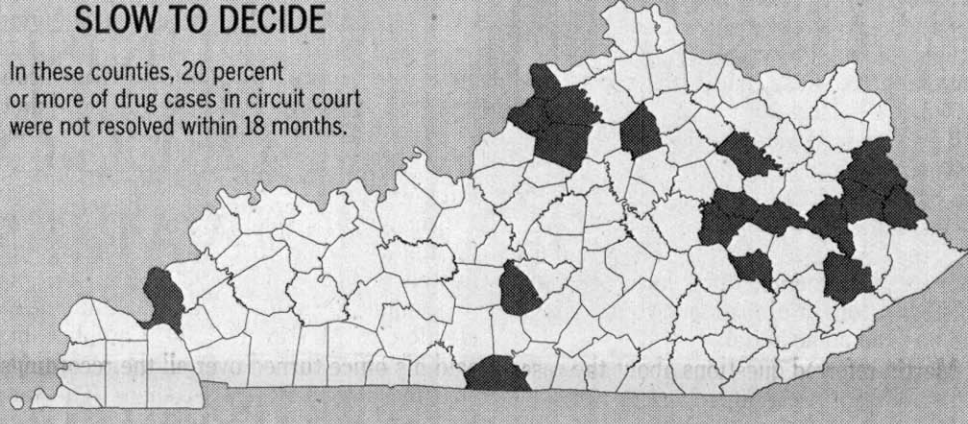
DISMISSALS

In these counties, 20 percent or more of drug cases in circuit court were dismissed.*



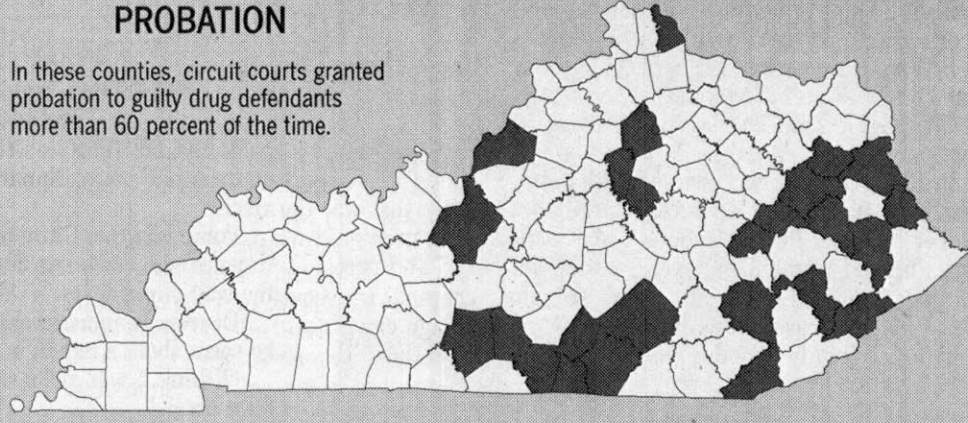
SLOW TO DECIDE

In these counties, 20 percent or more of drug cases in circuit court were not resolved within 18 months.



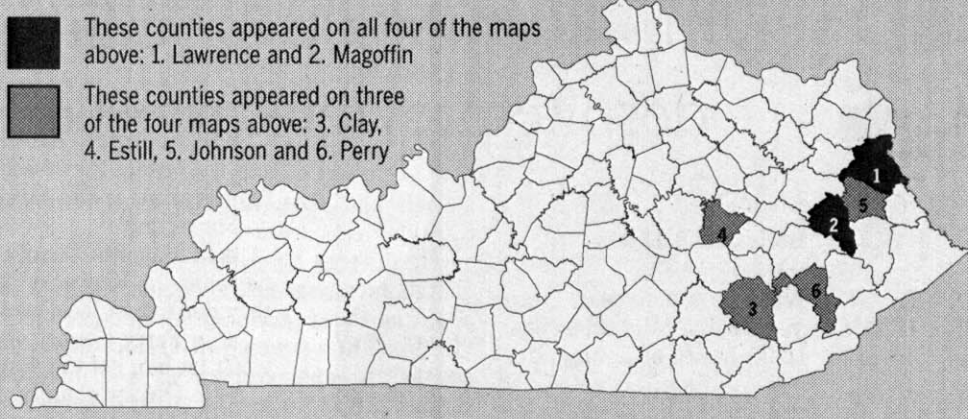
PROBATION

In these counties, circuit courts granted probation to guilty drug defendants more than 60 percent of the time.



BOTTOM OF THE RANKINGS

These counties appeared on all four of the maps above: 1. Lawrence and 2. Magoffin
These counties appeared on three of the four maps above: 3. Clay, 4. Estill, 5. Johnson and 6. Perry



Analysis of state Administrative Office of the Courts data by Linda J. Johnson, computer-assisted reporting coordinator. Maps by Johnson and graphic artist Chris Ware. Find data for every county in Kentucky at www.kentucky.com.

* Robertson County had only two cases.

Prosecutors' misunderstanding produces parade of probations

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By Tom Lasseater and Bill Estep

HERALD-LEADER STAFF WRITERS

Prosecutors across Southeastern Kentucky say they have no choice: A little-noticed change to state law has forced them to give probation to repeat drug offenders.

But a state appellate court ruling says otherwise.

House Bill 455, known as Gov. Paul Patton's crime bill, drew favorable reviews in the 1998 General Assembly because of its requirement that violent felons serve 85 percent of their sentences.

Less noted was a change designed to free up prison space for violent criminals by requiring that judges consider probation and other light sentences for non-violent felons. Previously, the law merely urged judges to consider probation; the new language required such consideration in all but the riskiest cases.

Prosecutors such as Letcher Common-

wealth's Attorney Edison Banks say the change leaves local court officials with little choice when sentencing drug offenders. In Letcher County, about 84 percent of drug felons over the past six years have received probation, according to state records.

"I don't think the legislature did a good enough job of telling the public that they didn't say 'may probate,' but 'shall probate,'" Banks said.

In reality, the legislature did no such thing, according to the Kentucky Court of Appeals. In a 2000 case, the court ruled that the 1998 change to state law did not eliminate trial courts' authority to determine when probation is inappropriate.

Jim Lovell, a former legislator who drafted the change, agreed that local courts "still have all the discretion in the world."

"If they think the crime is so serious, they still have the option to send that person off," Lovell said.

Specifically, the law allows a judge to send a

non-violent offender to prison only if the judge believes any of the following:

■ There is a substantial risk that the defendant will commit another felony soon.

■ The defendant needs "treatment that can be provided most effectively by ... commitment to a correctional institution."

■ Probation would "unduly depreciate the seriousness" of the crime.

Kentucky's probation numbers have skyrocketed since the bill passed.

During June 1998, 10,524 felons on probation were supervised by the state's probation and parole offices, according to the state Department of Corrections. In June 2000, that number had climbed to 12,791 felons. By last June, it was 15,439.

But not every court contributes to the trend.

Circuit Judge Larry Raikes, a 20-year veteran who presides over Nelson, Hart and Larue counties in Central Kentucky, has the state's lowest rate of probation in drug cases.

According to state records, Raikes has not granted probation in any Nelson County drug case in the past six years. He granted a total of seven probations in the other two counties.

In an interview, Raikes said he thinks drug abuse is the worst social problem in the country. "Anyone convicted of a drug felony, in my opinion, does not deserve probation," Raikes said.

Kentucky Supreme Court Chief Justice Joseph Lambert said he doesn't consider it a problem that Kentucky probation rates range from 0 to more than 80 percent, depending on the circuit court. The state has long taken the stance that judges should have broad discretion in sentencing, and judges at both ends of the spectrum are following the law, Lambert said.

If the public wants to limit judges' use of probation, the law needs to be changed, Lambert said. If that happens, another change would be needed, he said: Build more prisons.

MISTAKES AND MISCOMMUNICATION

COURTS' CONFUSION AID THE ACCUSED



MAGOFFIN COUNTY

Prosecutor's office loses tapes; police lose confidence

Originally published Feb. 2, 2003

By Tom Lasseter and Bill Estep
HERALD-LEADER STAFF WRITERS

SALYERSVILLE — Eighteen felony cases have been swept out of court in Magoffin County since the end of 2000, and though the local prosecutor could bring them back, he hasn't.

Magoffin Commonwealth's Attorney Graham Martin won't comment on why various defendants, including accused drug dealers and marijuana growers, have been allowed to walk. The dismissals are a prime example of how inactive prosecution can poison police attitudes.

The trouble began as Martin took office in 2001. Tapes of some grand jury sessions were lost in transition as Martin's predecessor, Randy Campbell, left office. Such tapes must be preserved for defense lawyers' use.

The loss meant that at least 27 indictments, including charges of violence and sex abuse, had to be dismissed.

The good news: Martin could seek new indictments in each case. The bad news: In 18 of the 27 cases, his office has not done so.

In the nine cases for which Martin's office got new indictments, there have been just four resolutions: a probation, two pretrial diversions and an acquittal.

Martin referred questions about the cases to his assistant prosecutor, Lori Daniel.

Daniel said she and Martin have let the 18 cases lie mostly because local law enforcement didn't provide enough evidence — even though there was enough evidence to persuade grand jurors to indict previously.

Charles Gambill has benefited from the inaction.

In 1999, Gambill was charged with felony theft. Also that year, a Kentucky State Police trooper reported finding about 45 marijuana plants behind Gambill's house; Gambill was charged with cultivating the plants. Within two years, both cases were dismissed.

Trooper Randy Woods, who worked on

the marijuana case, reacted to the outcome with resignation, not surprise.

"When it happens over and over again, you can't get mad about it, because it's going to keep happening," Woods said. "That stuff goes on more than you know."

It does.

Magoffin County had the highest dismissal rate in the state for drug cases in circuit court, 40 percent, from 1996 through early 2002, state records show.

During 2001, Martin's office opened 83 cases. Only seven have resulted in sentences in which the defendants had to serve time behind bars.

As a result, police tell local prosecutors that they have learned to avoid bringing cases to them, Daniel said.

She recalled contacting the state police several times after being hired in 2001.

"I said, 'We've got a drug problem, drug traffickers and no indictments. What's going on here?' They said they had no confidence that anything was going to happen."

Meanwhile, the whereabouts of the grand-jury tapes that caused the 27 dismissals remains a mystery.

Campbell, the former prosecutor, lost reelection to Martin in 2000. Campbell has said his office turned over all the recordings. Martin said he never got them. The men have argued about the matter in local newspapers.

In one letter to the editor, Campbell wrote that Martin once told him "that he would not run against me in the election. That was a lie. He further told me the last thing he wanted to do with his time was to spend it prosecuting criminal cases. Apparently, that was the truth."

Daniel said Martin never agreed not to run and certainly did not show disdain for criminal prosecution. "There will never be an agreement as to what went on in that conversation," she said.



Graham Martin won't say why he has not sought new indictments in 18 dismissed felony cases.



HARLAN COUNTY

Drug kingpin did little time despite previous arrests

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By Tom Lasseter and Bill Estep
HERALD-LEADER STAFF WRITERS

HARLAN — When he was released from jail in 1993, five years early, Michael Barker was told to do 1,200 hours of community service.

Among the options Harlan Circuit Judge Ron Johnson ordered: "He can make public speeches on what can happen to someone who deals in drugs."

Court records don't say whether Barker made any speeches. If he did, Barker might have said, "I became a kingpin."

For years, according to a federal indictment, Barker got away with building a million-dollar drug-trafficking business based in Harlan County.

Barker pleaded guilty last week to four counts of the indictment, including a violation of the so-called "kingpin statute." The indictment said he masterminded an OxyContin and cocaine ring that operated in four states and Mexico.

Barker's plea made an unintentional point: When local courts fail at enforcement, they help the illegal drug trade grow.

While news releases announced Barker's arrest last fall, none of them mentioned that before the federal court got its hands on Barker, he escaped serious punishment in Harlan Circuit Court twice.

Barker was incarcerated after pleading guilty in 1993 to selling more than 20 pounds of marijuana, but records show he was soon released on court-ordered probation.

One condition of the probation was that he commit no other offenses for five years.

A little more than four years later, Barker was back in court, charged with planning

a theft and receiving stolen property, an \$1,800 circuit breaker.

He entered an Alford plea to a merged charge, meaning that he denied his guilt but admitted there was enough evidence to convict him. In a pretrial diversion order, the court said he'd committed a crime, but Barker didn't go to jail — and he wasn't punished for violating his probation.

Instead, he continued to build a drug empire, according to this year's federal indictment.

Barker's attorney, Robert Cato, said neither he nor Barker had any comment.

Harlan County officials weren't eager to discuss Barker's history either.

Ron Johnson, the circuit judge, released a statement through his secretary noting that the local prosecutor and probation office are responsible for saying when probation should be revoked. "It's their job to keep the court informed," the statement said.

Harlan Commonwealth's Attorney Henry Johnson said the evidence in the 1997 theft case was too weak for him to seek to revoke Barker's probation because the case hinged on others' testimony, not on evidence. (Henry Johnson is not related to the circuit judge.)

Barker was indicted in the federal case in September, after an investigation by the Harlan sheriff's office, the federal Drug Enforcement Administration and the Internal Revenue Service.

But damage had already been done, Sheriff Steve Duff said.

"When you see certain people that the drug society condones as the big drug dealer, and they're not held accountable by the court, it encourages the small dealers," Duff said.



Henry Johnson said evidence didn't support revoking a drug dealer's probation.



OWSLEY COUNTY

Wrong interpretation of law leads to 40 cases' dismissal

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By Tom Lasseter and Bill Estep
HERALD-LEADER STAFF WRITERS

BOONEVILLE — Drug trafficking cases? Dismissed.

Bloody assault cases? Dismissed.

Shots fired at a sheriff's deputy? Dismissed.

At least 40 potentially serious cases have been dismissed by Owsley County judges over the past five years after they misinterpreted state law.

Circuit Judge William W. Trude Jr. acknowledged in a recent interview that many of the dismissals came about because he wasn't familiar with the law.

For years, Trude has acted on his impression that state law required him to dismiss any cases in which defendants hadn't been indicted within 60 days of a lower court's decision to refer them to a grand jury.

He was wrong.

The rules do not require that such cases be dismissed — only that unindicted defendants be released from jail.

"A defendant held to answer for longer than 60 days without having been indicted shall be entitled to discharge from custody," the rule says.

After reading that passage, Trude said it appeared that he'd been improperly dismissing cases for years.

"Nobody's ever brought it to my attention," Trude said.

Asked why he hadn't consulted the law books earlier, Trude said: "Well, that's a good question ... that's how we've handled it all along."

Cases were also dismissed by District Judge Ralph McClanahan, who no longer hears such motions to dismiss for lack of indictments.

In an interview, McClanahan stood by his interpretation that the law forces the

dismissals.

The effect of that interpretation has been that Owsley County cases essentially disappeared.

Commonwealth's Attorney Tom Hall could seek indictments to resurrect the 40 dismissed cases — as he has in other instances — but he hasn't.

In an interview, Hall said he can't take many of the cases to a grand jury because police don't have enough evidence for indictments.

"The district court is very quick to summon the grand jury," Hall said. "That doesn't mean that I'm compelled to take that case to the grand jury."

In at least 29 of the 40 cases, Hall said, either the police didn't show up to testify in front of the grand jury or their investigation was insufficient. In many cases, Hall said, police turned over only a warrant sworn by the alleged victim and an arrest citation showing that the warrant had been served.

With so little material for a case, Hall said, it would be irresponsible to seek a felony indictment.

In a letter he sent to area lawyers last year, Hall said: "There are numerous felony cases pending where no investigations have been conducted, or if investigated, the actions by the case officer have not been documented."

Former Owsley Sheriff Paul Short, who left office last month, suggested that Hall didn't want to push cases unless he was guaranteed a conviction.

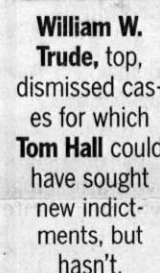
"We can take them to court, but we can't make them prosecute them or indict them," Short said.

The former sheriff acknowledged that his cases were not always ironclad.

"We may not have had enough evidence sometimes, but other times we did," Short said. "I don't know what else to tell you."



William W. Trude, top, dismissed cases for which Tom Hall could have sought new indictments, but hasn't.



PERRY COUNTY

Judge, prosecutor blame each other for settlements

Originally published Feb. 2, 2003

By Tom Lasseter and Bill Estep
HERALD-LEADER STAFF WRITERS

HAZARD — In Perry County, where a high-profile OxyContin roundup got national attention in 2001, the local prosecutor says there's a reason he didn't throw the book at the dealers.

He says the circuit judge won't let him get tough.

"I would like to take all the trafficking cases to trial," said Commonwealth's Attorney John Hansen. "But I've been given a strong suggestion by the court to settle them."

Circuit Judge Doug Combs, who has accused Hansen of indicting people without good evidence, denies forcing any deals.

It's unclear where the truth lies. But this much is clear: Justice has gone so far awry in Perry County that the county has become notorious.

In Operation OxyFest, the state and local sweep through Eastern Kentucky in February 2001, Hansen's office handled 53 felony cases. Only 11 defendants were sentenced to time behind bars. (Five other Perry County cases were prosecuted by the Fayette Commonwealth's Attorney's office. All five got probation.)

Ten of Hansen's defendants received pretrial diversion, which deletes the offenses from their records if they meet certain conditions. The prosecutor said the judge was pushing him to offer many of the diversions.

"He's never given a reason," Hansen said. "He just kind of shouts at me."

Hansen said the judge sometimes lob-

bies for plea deals to control caseload. But in 2001, more than half the state's judicial circuits had heavier caseloads than Perry.

Combs says Hansen is just looking for a scapegoat.

"If he doesn't want to take responsibility for his plea agreements and wants to blame them on me, I don't think that's the right way to do things," Combs said.

The pair's relations reached rock bottom in August, when Hansen filed an emergency motion with the state Court of Appeals to keep Combs from obtaining a grand-jury tape. The court ruled in Combs' favor, but not before receiving allegations of impropriety from both sides.

Among other things, Combs said Hansen was using his office to harass members of the local political establishment who didn't support him; and that "people are being indicted without evidence of probable cause."

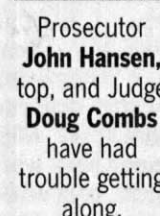
Hansen denied wrongdoing and asked that most of Combs' accusations be stricken because they were based on "gossip or divulgence of apparent grand juror contact."

Perry County's situation has gotten attention in higher legal circles. During a 2001 federal sentencing hearing in a drug case, U.S. District Judge Joseph M. Hood went out of his way to note the state of affairs there.

"A lot of these people ... coming before me right now have numbers, charge after charge, charge after charge, pending in Perry Circuit Court, and they're not being prosecuted," Hood said. "Now, I don't know whose fault that is, but that's like putting it into limbo."



Prosecutor John Hansen, top, and Judge Doug Combs have had trouble getting along.



A CLIMATE OF FEAR, MISTRUST

EASTERN KENTUCKY'S DRUG CULTURE IS SO PERVASIVE THAT SOME FOES COWER IN SILENCE



A state police tape of a drug sale, from which this image was taken, was not enough to result in a conviction for Tina Green of Booneville, whose jury deadlocked.

'MOONSHINE MENTALITY'

Some jurors simply refuse to convict

CLOSE TIES TO DEFENDANTS, FEAR OF GOVERNMENT SCUTTLE CASES

Originally published Feb. 3, 2003

By Bill Estep and Tom Lasseter

HERALD-LEADER STAFF WRITERS

BOONEVILLE — Roll tape:

The informant asks for Tylox pills and counts out \$200 for 10. Tina Green stretches forward from her easy chair and drops pills into the informant's hand.

As far as state police are concerned, you have just witnessed a crime, courtesy of a video camera hidden in the informant's purse.

"It's as strong as you can build a drug case," said Dave Mirus, a veteran state police detective who investigated the case in Owsley County and supervised the taping of the drug buy.

But it wasn't strong enough to win a conviction.

Though 12 jurors saw the videotape, three of them would not vote to convict Green. They deadlocked, and the case ended in a mistrial in February 2000. The jury foreman attributed the failure to reach a verdict to jurors who weren't impartial.

The local prosecutor will tell you that you have just witnessed a key barrier to local courts' efforts to control Eastern Kentucky's raging drug problem:

In small counties such as Owsley, where the population is less than 5,000, it's difficult to pick an unbiased jury, prosecutors say. Too many people know one another or are related.

"When you've got a county that small with a drug problem that big, what are the odds that you're not going to get someone in that culture?" asked Owsley Commonwealth's Attorney Tom Hall.

In Green's case, for example, 17 people of 51 in the jury pool were excused from jury service because they knew Green or her family or were related to her, according to court records.

One potential juror said she had helped care for Green's mother. The very next potential juror was a neighbor. Next came a friend of Green's. The next two were friends of Green's family.

Chris Gabbard wasn't a friend, but he, too, made it clear that he'd have trouble convicting Green. Gabbard said he had to work around the apartment complex where she lived, and feared retaliation.

"Plus, if I find them guilty, then they're going to threaten my father," Gabbard said, according to a trial transcript.

Beyond family ties and fear, the small pool of potential jurors in some Kentucky counties might make jurors more susceptible to jury tampering, said David Keller, a former FBI agent who worked in Eastern Kentucky for 20 years.

"It's very difficult to get somebody on the jury pool who doesn't know somebody," Keller said.

Some prosecutors tell of interviewing hundreds of potential jurors just to seat a panel of 12. Vickie Howard, a former prosecutor in Magoffin and Knott counties, said she once had a case in which a husband and wife wound up on the jury together.

Some people in Eastern Kentucky are reluctant to serve as jurors for religious reasons: They don't believe they should judge others.

Ask potential jurors in Eastern Kentucky whether they would have trouble voting to convict someone, and the hands shoot up, prosecutors said.

Once a jury is seated, prosecutors sometimes bump up against a tendency to acquit that has roots in the region's history of illegal trade in moonshine and marijuana.

The "moonshine mentality," as it was described in a 1999 federal report about South-eastern Kentucky, holds that it's OK to supply a drug demand outside the area if it helps you make a living. Some people fear that the mentality is extending to harder drugs, such as pills, methamphetamine and cocaine.

Combine that with a distrust of government, and it can be tough to win convictions.

"Eastern Kentuckians fear the government more than they fear drugs," said Steve Tackett, a former prosecutor in Perry County.

At Green's trial, Hall, the prosecutor, told jurors that they were sending a signal about their county.

If jurors ignored the videotaped evidence, Hall said during his closing statement, "nothing is going to be done here with respect to the problem in Owsley County concerning illegal drugs."

Ninety minutes later, the jury said it was deadlocked.

Two members of the jury said in recent interviews that they had no doubt Green was guilty. But they said three other jurors wouldn't vote to convict her.

"It just blew my mind," said jury foreman John Anderson, an employee at Toyota's factory in Georgetown.

Anderson and John Minter, a retired teacher who was also on the jury, recalled that the holdouts said they had problems with the credibility of the informant, who had drug charges on her record.

At least one holdout also raised a question about whether another person in the room — not Green — handed over the drugs, Minter said.

Minter didn't see it that way.

"When I walked in that jury room, I thought, 'We'll be out of here in five minutes'" with a conviction, Minter said. "The video didn't lie."

Anderson and Minter said they believed factors aside from the evidence caused the hung jury.

Some people don't want to convict someone for fear that one of their own relatives will later suffer the same fate, Anderson said.

Minter said many people in Owsley County — where the drug problem has gotten "steadily worse" — know one another, or are related.

"I don't think it would have mattered to them what the evidence was," Minter said of the holdouts.

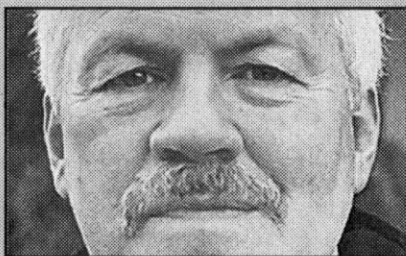
Efforts to reach several other jurors were unsuccessful.

After the mistrial, a special prosecutor took over Green's case.

Green pleaded guilty in August to a reduced charge of trafficking in controlled substances. She was placed on probation.

Two cases stir fears of drugs' influence on local politics

The slayings of Harlan County sheriff candidate Paul Browning and Pulaski County Sheriff Sam Catron had links to drug crime in their counties.



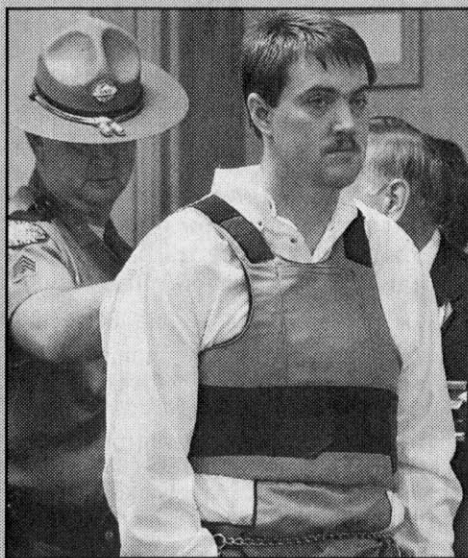
PAUL BROWNING: VIDEO SHOWS DEAL WITH MAN WHO HAD DRUG CHARGES

Last February, Browning was videotaped, without his knowledge, accepting stacks of cash from Dwayne Harris, a man who had been charged twice with selling cocaine. On the tape, the candidate promised to protect some drug dealers if he won. He was found dead the next month.

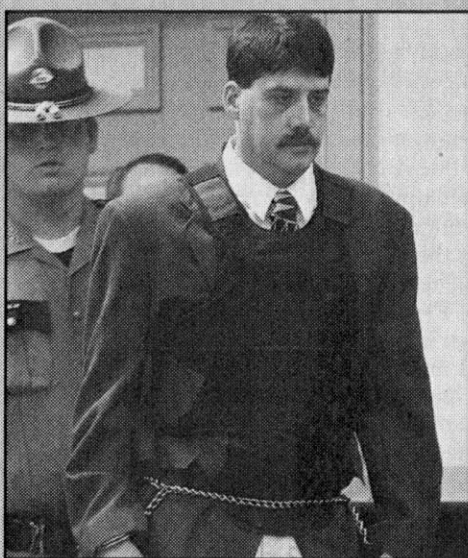


SAM CATRON: GUNMAN'S LAWYER SAYS DRUGS PLAYED A ROLE IN SLAYING

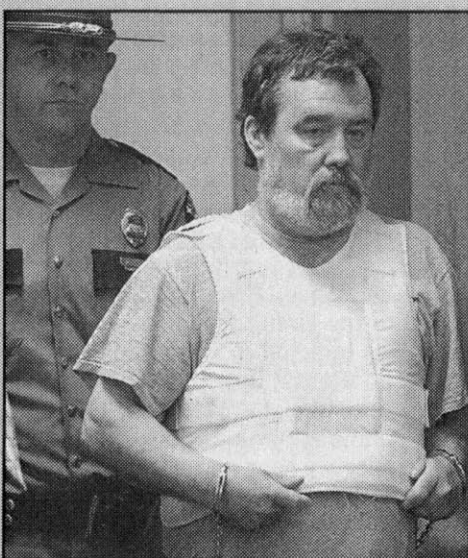
Catron was shot to death at a campaign fish fry. The gunman, Danny Shelley, pleaded guilty last month; his lawyer said drugs played a role in the killing. Police have charged Jeff Morris, one of Catron's opponents, and Kenneth White, an accused drug dealer, with complicity in the murder.



Danny Shelley



Jeff Morris



Kenneth White

ASSOCIATED PRESS FILE PHOTOS

MAN'S KILLING SENDS A MESSAGE IN LETCHER

Originally published Feb. 3, 2003

By Tom Lasseter and Bill Estep

HERALD-LEADER STAFF WRITERS

WHITESBURG — Jackie Blair's death set the rumor mill humming around here.

His family had reported him missing in July 2000. At first, people figured he had skipped town to avoid going to prison after pleading guilty in a cocaine trafficking case.

Then, in October, a hunter scouting for deer found Blair's skeletal remains in a car on the side of U.S. 119 in Letcher County. The car had gone some 250 feet off the side of a mountain. Blair's body was bound in jumper cables that were looped several times around his left arm, chest and waist, the state medical examiner said.



The medical examiner's verdict: homicide by undetermined means.

People quickly concluded that someone killed Blair because he had squealed to the cops about big-time drug dealers — even though police insist Blair never told them about any drug activity except his own.

"He didn't tell us anything about where the drugs were coming from because he didn't know," said Danny Webb, the Letcher County sheriff.

Webb was in charge of the Kentucky State Police's Hazard post when Blair's body was discovered, and oversaw the investigation. He said there was "no proof whatsoever that there was a big conspiracy to kill Jackie Blair."

In Letcher County, though, the body of Jackie Blair is taken as a warning: Snitch on drug dealers and you risk your life.

It's a classic example of how the cycle of community suspicion often hampers law enforcement and the courts in Eastern Kentucky.

There's such a distrust of the system — informed by both fact and fiction — that many people are willing to believe conspiracy theories. Those theories, in turn, increase the level of distrust.

Beth Carrender, the 4-H agent at the Letcher County Extension office, said the Blair case still worries her. She recently offered that "theory has it he was going to sing, so they killed him. I fear for his family."

"Maybe he was going to tell on somebody," said Delbert Anderson, the Letcher County coroner. "It affects the community real bad, people talking about it and wondering how that could happen in a small community."

All across the region, people fear that drugs come closer every day to owning the place. They say that the very institutions — courts and police — that should fix the problem aren't working.

Joe Hood, a federal district judge for Eastern Kentucky, said the suspicion isn't surprising.

"I could understand where they get that attitude. Every time you turn around, somebody's sheriff has been convicted for being involved in the drug trade," Hood said.

Residents have taken note.

Starla Hampton, a member of the Hemp Hill Community Center in Letcher County, said she was looking out her kitchen window one day and saw a drug deal in progress across the street.

"I told my husband, 'I'm seeing a deal go down,' and he said, 'Keep your mouth shut or we'll get burned out.'"

Why didn't she call the police? Hampton laughed at the question.

"Because," she said, "you don't know who's connected to who."

Sgt. Claude Little of the state police, who spent almost a year as the lead investigator on Jackie Blair's death, is familiar with such reluctance. "An informant may say, well, I don't want to give any information because I don't want to end up like Jackie."

Tracy Frazier, director of the Letcher County Action Team and an assistant football coach at Whitesburg High School, agrees. A local gadfly who shows up to argue in fiscal court sessions, Frazier splits his time between economic development — such as helping people with business plans — and pushing social issues, such as stricter drug enforcement.

"Most people feel deep down that the system is set up to allow drug crime to go on," Frazier said. "It's so ethereal. People don't know who controls the drugs — if there's an organized network — but what they do know is they don't get justice."

Ripped from the headlines

Conspiracy theories may be easier to believe in Eastern Kentucky because the area has had so many real-life examples of public officials gone wrong.

See next page



DAVID STEPHENSON | STAFF

Danny Webb, who headed the state police investigation into Jackie Blair's death, stood beside U.S. 119 where Blair's car went down the mountain. Webb is now sheriff in Letcher County, where Blair's death is taken as a warning of what can happen to those accused of snitching on drug dealers.

From preceding page

In county after county — Breathitt, Lee, Morgan, Owsley, Perry, Wolfe, Letcher — residents have seen their police, court, and other elected officials busted for cutting deals with drug dealers.

They've also seen local courts struggle. A Herald-Leader analysis of court data found that the six worst counties in the state for prosecuting drug crime in circuit court were all in Eastern Kentucky.

During 1993, people in Letcher County read news accounts of their circuit judge, Larry Collins, being sentenced to five years for accepting a bribe of money and marijuana to protect a drug dealer.

In 2000, they read that the police chief from the small Letcher County community of Fleming-Neon, Danny Neil Yonts, pleaded guilty in U.S. District Court to a bank robbery and firearm charge.

As part of Yonts' plea deal, several other charges against him were dropped, including conspiracy to rob a local pharmacy and possession of a controlled substance. Although the pharmacy charge was dropped, the court ordered Yonts to make restitution of \$1,957.55 to the business, Family Drug of Neon.

Overrun by drugs

Across the region, people from all walks of life fear their society is being taken over by drugs.

■ On a gravel road in Bonnyman, just north of Hazard in Perry County, Della Fletcher sat on the front porch of her mobile home last summer, stringing green beans. She blamed all kinds of crime on the area's appetite for drugs. "I know one thing, this is a thieving place," she said. "They stole our heat pump and started to remove the hot-water heater."

■ Shelagh Cassidy is associate director of child and adolescent services for Kentucky River Community Care, a mental health agency that serves eight Southeastern Kentucky counties. Drug users, she said, are getting younger. "It doesn't surprise you to have a kid come in and say they use marijuana on a regular basis who's 10 years old," she said, describing a "self-fulfilling prophecy of I'm in this situation, so I'll continue to be in it."

■ Matthew Gullion, pastor of First Baptist Church in Salyersville and head of a Magoffin County group that helps drug abusers, said drug users and dealers tell him that when it comes to selling drugs, "you can pretty much do what you want when you want to do it."

As Frazier in Letcher County puts it, everyone knows who the drug traffickers are, but the police don't arrest them.

Police acknowledge they often know who the dealers are. Getting enough evidence to arrest them, however, can be difficult and time-consuming.

State police Lt. Col. Rodney Brewer, who commands the division responsible for investigations, said many people have an unrealistic perception of how long it takes to handle drug complaints. TV shows, with their images of SWAT teams kicking down doors, are part of the reason, he said.

"They think if I call the state police at 3 they ought to have the (special response team) down there by 5 beating down the door," Brewer said.

When frustrated community residents see people selling drugs and not going to jail, it often causes questions about police.

Sometimes, the questions aren't far-fetched.

In Perry County, state police Detective Mark Lopez resigned after he was indicted in 1994 on charges of forging another officer's name on receipts. Police thought the object was to steal money meant for undercover buys. The case was dismissed when the prosecution's witness declined to testify.

State police also investigated an allegation that Lopez stole marijuana from an evidence room and had an informant sell it for him. A police investigator said in a report that it was "difficult for me not to believe that there is truth to this allegation."

Lopez was hired later as a detective by Perry Commonwealth's Attorney John Hansen. "With my knowledge that the charges were dismissed ... I really did not know all of Mark's history," Hansen said recently.

In 2001, Hansen fired Lopez after learning he was being investigated on federal extortion charges. He later pleaded guilty.

As Lopez's drama unfolded, Perry County sheriff's Deputy Freddie White pleaded guilty in 2000 to three counts of distributing

Tylox and one count of marijuana possession. Investigators said White, who handled the department's drug dog, was selling drugs he had taken from evidence lockers.

After working with addicts and their families for years, Perry County therapist Michael Spare said he's noted "an umbrella fear" that the entire community structure supports the drug trade.

"The general consensus," Spare said, "is if it's so prevalent here, it must be allowed ... any time there's a high prevalence of anything, it becomes the norm."

More deaths linked to drugs

Jackie Blair isn't the only dead man who showed up on the side of U.S. 119.

Harlan County sheriff's candidate Paul Browning Jr. was found last March, shot to death, in the burned remnants of his pickup truck near 119 in Bell County.

About a month before Browning's murder, he was videotaped, without his knowledge, accepting stacks of cash from Dewayne Harris, a man who had been charged twice with selling cocaine. (One of Harris' trafficking cases was amended to possession, and the other was dismissed.)

In gathering the money, Browning told Harris that if he won the election, he planned to protect some drug dealers.

There has been no arrest in Browning's case.

The murder has spawned theory upon theory: Browning was killed by drug dealers whom he'd been bullying for campaign money, or local politicians hired a hit man to keep him from exposing their corruption.

Browning himself was sent to prison in the early 1980s for conspiring to kill two local public officials. His family is convinced that his death was a political assassination.

"I feel like the higher-ups don't want anything opened up. It blows my mind," said Browning's widow, Jayne. "People say things like they'll never solve it, it's all political."

The state police detective assigned to the Browning case, Mike Cornett, did not return phone calls for this story.

Another killing in last year's political season also had a chilling effect.

Sam Catron, Pulaski County sheriff, was shot in the head at a fish fry. The gunman has since pleaded guilty; his attorney said drugs played a role in the killing.

Police have also charged one of Catron's opponents and an accused drug dealer who had served as a police informant with complicity in the murder.

"I think most people are aware that drugs were some part of the motive" in Catron's killing, said Todd Wood, who was later elected Pulaski sheriff. "I certainly hope and pray that this will be an isolated incident, but then again, drugs are a huge problem."

Wood was at the fish fry the night of Catron's murder, standing about 20 yards away. To this day, he said, he remembers the faces of children who were there that night: "young children at a fish fry, having to witness this, the fear in their eyes."

The danger, said Graham Ousey, a University of Kentucky sociology professor who specializes in criminology, is that those children and many others will grow up with a skewed sense of right and wrong.

"Really what you've got happening is your sheriff is supposed to be your symbol, your representation of the law," Ousey said. "When they end up dead or involved in some drug conspiracy, it really challenges the whole legitimacy of the legal order."

Frazier, the Letcher community activist, said he'd been in his job for about two weeks when he got a stern lesson on how things work.

While attending the state's 1999 high school basketball playoffs in Lexington, Frazier said he was approached by someone — he wouldn't give a name — with a message from Letcher County's drug establishment.

People were tired of hearing Frazier preach about law enforcement needing to crack down.

"They told me they'd kill me or have me set up if I don't shut my mouth," Frazier said. The activist has learned what to tell people when they come to him with tips about drug dealers.

"It's a liability for you and your family to go public," Frazier tells them. "People around here feel like if you stick your neck out it'll get cut off. And a lot of times it does."

Herald-Leader Staff Writer Lee Mueller contributed to this report.

DRUGS, VIOLENCE: A FAMILY HISTORY

FOR THE NEWTONS OF LEE COUNTY,
SO MANY CRIMES BRING SO LITTLE TIME

Originally published Feb. 3, 2003

By Tom Lasseter and Bill Estep

HERALD-LEADER STAFF WRITERS

BEATTYVILLE — In some areas, entire families are infamous for getting into trouble — and getting off the hook. The result, residents say, is a lack of faith in the court system.

In Lee County, members of the Newton family have been charged with crimes that include dealing drugs, assaulting cops and holding a loaded gun to a man's head.

The subject puts Beattyville Mayor Charles Beach III in a bad mood.

"What can the community do about it?" he said of the Newtons. "It's demoralizing."

The circuit judge for the county, William W. Trude Jr., said he views each case on its merits.

"I don't look at the whole family. I look at the individuals," Trude said.

Consider the last decade of Newton family history, as traced through Lee County court files.



Melvin Newton, 43, was arrested in 1992 on charges of trafficking marijuana and having drug paraphernalia. The trafficking charge was reduced to possession, and Melvin received probation.

He came up on charges again in 1995, this time for selling Tylox to an informant. Melvin was sentenced to eight years in 1998, but Judge Trude freed him on shock probation after less than 11 months.

In 1997, Melvin, who said in court records that he was self-employed, had been charged in an arrest warrant with wanton endangerment. A man told police that Melvin put a loaded .38-caliber pistol to his head, "threatening to blow his head off." That case was dismissed at the alleged victim's request.

Melvin says he doesn't think he got any special deals. "They didn't do no favoritism towards me, because I had to go get me a lawyer and get pre-release probation," he said recently.

Trude said he gave Melvin shock probation in the 1995 trafficking case because it was Melvin's first felony conviction. (Had Melvin been convicted on the 1992 trafficking charge, the 1995 conviction would have been his second felony.)

Commonwealth's Attorney Tom Hall said he opposed the probation.

Melvin Newton's 25-year-old son, Melvin Newton Jr., was charged in March 2000 with receiving stolen property and possession of marijuana. The case was dismissed on the motion of the prosecutor. In October 2000, he pleaded guilty to assaulting a woman, and his one-year sentence was discharged for two years on the condition that he not assault the victim again.

In August 2002, police charged Melvin Jr. with disorderly conduct and fleeing police. He received three months in jail, which was set aside for two years.

Melvin Jr. was indicted in May 2001 on charges of complicity in burglary and complicity in theft by unlawful taking. He thinks he'll get some jail time this time, he said, because he took some property to settle a debt.

"I'm going to go to the penitentiary over that," Melvin Jr. said last month. The alleged victim "owed me money, so I went in there and took some things."

Melvin's brother, Arvel "Sugar" Newton Jr., assaulted a Beattyville police officer in the Lee

courthouse in 1998. Newton's punch broke the officer's nose, according to court records.

On the day that he punched the officer, Arvel was at court trying to get an early release in another assault case, one in which he'd hit a woman. The motion was denied, and Arvel served a full year, getting out in April 1999.

But before Arvel was sentenced for assaulting the police officer, he was charged again with attacking law officers. This time he bit a state police trooper who responded to a domestic-abuse call in June 2000, according to court records.

During the struggle that followed, according to court records, the trooper and two sheriff's deputies had to shackle Arvel. In the process, one deputy sustained internal bruising, and the other suffered a swollen right hand, according to court records.

As officers took him into custody, Arvel told the trooper that he had an "ass-whooping" coming, court documents said. And when they got to the Lee County jail, Arvel kicked out a rear window of the police car he was in, court records said.

Arvel was sentenced to 2½ years on Sept. 5, 2001. A little more than two months later, Trude granted him shock probation, and Arvel was released from custody.

(Arvel also had been charged with punching his girlfriend in the face in 1997, and with punching a man at a gas station in 2000. In both instances, the alleged victims asked that the charges be dropped.)

Trude said he gave Arvel probation in 2001 because he has a brain injury that was confirmed by medical records. Those records have been sealed in the case file. Other court records say the 34-year-old has collected federal Supplemental Security Income because of "Chronic Brain Syndrome."

"I didn't feel like he needed to be in prison any longer," Trude said.

Besides, the judge added during a Jan. 6 interview, "Sugar hasn't been in any trouble" since his release.

One week later, on Jan. 13, Arvel was charged with harassment.

Police allege that he kicked and punched a man named Ronald Roland. Roland is the husband of Tilda Sue Roland, an informant who testified against James Fox, a relative of Arvel's, in a drug-trafficking case. The jury recommended that Fox get seven years.

"I shouldn't have went to court," Arvel said. "It was the pressure."

Arthella Newton Moore, mother of Melvin and Arvel, was also arrested in the Tilda Sue Roland incident. She's charged with tampering with a witness for allegedly trying to induce Roland not to testify against Fox.

The mother and son's cases are pending.

In federal court last March, Marvin Newton — brother of Melvin and Arvel — was sentenced to two years in prison for distribution of cocaine, possession of cocaine with intent to distribute and a weapons charge.

Officer Matt Easter of the Beattyville Police Department said the Newtons' cases are well known in town.

"There are certain families that you know growing up," Easter said. "If they were afraid of going to jail or prison, I wouldn't think they'd be acting that way."

Drug suspect's arrest involves trio of sheriff's candidates

Originally published Feb. 3, 2003

By Lee Mueller

EASTERN KENTUCKY BUREAU

PAINTSVILLE — Last May, a man accused of dealing drugs quickly bumped up against three candidates for sheriff — one of whom was campaigning amid accused dealers in jail.

The strange criminal case of John Keeton, who is charged with manufacturing and trafficking methamphetamine, shows that Eastern Kentucky's drug problem sometimes converges with its politics in unusual ways.

First on Keeton's schedule was incumbent Sheriff Bill Witten, whose deputies were stationed outside his house at Sitka early on the morning of May 20, trying to serve a warrant.

The second candidate was Joe Keeton, John Keeton's brother. Joe Keeton was summoned by Witten's deputies to talk his brother into surrendering quietly.

"I was the man who went into the house and got my brother while these 16 officers stood around the gate," Joe Keeton, 38, said. "I don't want to see my brother dead."

Police took John Keeton to the Big Sandy Regional Detention Center at Paintsville and put him in Cell 219 with 14 other inmates — including 11 others who had been rounded up in the pre-election drug sweep. The prisoners were sitting there in their orange jail uniforms when another candidate for sheriff



was escorted into the cell area.

Inmates were ordered outside the cell, where they stood in line to meet candidate Ray Pennington, John Keeton said.

"He said he'd do anything he could to help them out," John Keeton said. "I sort of looked at him and he looked at me, but I didn't shake his hand."

"I've been in jail a few times, but I've never seen anything like that before."

Pennington, a convenience store owner, acknowledged campaigning at the jail, but said none of the inmates refused to shake hands.

He also said he didn't make any promises to any of the suspected drug dealers.

"I have never courted drug dealers for votes," he said. He added: "I hate drugs."

Johnson County Jailer B. Joe Hill, a political ally of Pennington, said he couldn't recall the candidate's exact words. But "the thing I remember is he said he was running for sheriff and would like to have their families' support," Hill said.

It's not clear whether he got it, but he didn't win. Pennington finished second behind Witten in the Republican primary for sheriff. Joe Keeton came in third.

John Keeton was released on bond and then indicted in December by a Johnson County grand jury on drug-trafficking and meth-manufacturing charges. He was considered a fugitive until his arrest last week. His case is pending.

POLITICS CRIPPLES A CRIME FIGHTER

BUDGET SNAFU SLOWS PRESCRIPTION-ABUSE TRACKING SYSTEM

Originally published Feb. 4, 2003

By Charles B. Camp

HERALD-LEADER STAFF WRITER

FRANKFORT — Political haggling in Frankfort has crippled a plan to beef up one of Kentucky's chief tools for fighting prescription-drug abuse.

Lawmakers, who return today to try to craft a state budget after more than a year of gridlock, will be asked again to pay for improving a system that collects information on every controlled-substance prescription filled in Kentucky.

The \$1.5 million request would buy and support new computer equipment to speed up the system — and perhaps give state officials faster warning of widely abused drugs.

That kind of capability might have tipped off state officials to widespread abuse of the painkiller OxyContin before it was linked to dozens of overdose deaths in Eastern Kentucky.

Federal data show that more prescription drugs per capita flow into parts of Eastern Kentucky than anywhere else in the nation. And the state's prescription-tracking system, nicknamed KASPER, has been buried under requests for information from doctors, pharmacists and law-enforcement agencies as they try to identify possible drug abuse.

As a result, the agency that operates KASPER has too little time, staffing and computer power to analyze the data for prescribing patterns that might spell trouble — rapid increases in certain drugs, for instance, or unusual volumes of prescriptions in certain counties.

"We're getting a lot of criticism that we are reactive, not proactive," said Danna Droz, who supervises KASPER.

Upgrade in limbo

The Kentucky All-Schedule Prescription Electronic Reporting system is one of 18 such state systems nationwide, and it's considered a national model.

Gov. Paul Patton's original budget last year would have made it better still, by upgrading its hardware and related items used by the Department for Public Health to run the database, which contains 32 million files.

In 2002, lawmakers switched the proposed financing from cash to bonds, but then failed to pass any budget — effectively freezing the effort. The governor has power to spend money, but not to issue debt.

The plan is now in financial limbo until there's a formal budget — far from a certainty in the session that begins today.

"While we're playing games, drug abuse is continuing to rise," said state Rep. Jack L. Coleman Jr., D-Burgin, who sponsored the original bill creating KASPER.

"We've got a huge problem and people are madder than hell about it," he said. "I'm hoping the leadership in both houses will get this in."

That might not happen, said Sen. Tom Buford, R-Nicholasville, vice chairman of the Senate Health and Welfare committee.

Anyone can report suspected drug crimes

Under state law, regular citizens cannot request information from KASPER, Kentucky's system for tracking prescriptions of narcotics and other controlled substances.

But people who think they have evidence of improper prescribing, distribution or illegal acquisition of controlled substances may file complaints with local law enforcement, state police or other regulatory agencies. Here's how:

The Kentucky Board of Medical Licensure regulates doctors. To get a required form for alerting the board, call (502) 429-8046. More information: www.state.ky.us/agencies/kbml/

The Kentucky Board of Pharmacy regulates pharmacists. For forms, phone (502) 573-1580. More information: www.state.ky.us/boards/pharmacy/

The Kentucky State Police marijuana and drug hotline is 1-800-367-3847; or call your local post. More information: www.kentuckystatepolice.org.

Buford said he doesn't doubt the merit of the plan to pay for \$1 million worth of equipment and its upkeep, but he added, "let's look at it in another year or two. Not now."

Unless, he quipped, state bureaucrats can "find 14.28 principal assistants to lay off at \$72,000 each." Republican leaders have criticized the number of such appointees on state payrolls.

The need for speed

Doctors and pharmacists use KASPER to see whether patients are getting prescriptions from too many sources or too frequently. Law enforcement officers use it to investigate such patients, or doctors and druggists suspected of distributing pills improperly.

The immediate impact of the plan to improve the system's hardware would be to shorten the response time for such queries. Currently, five state employees work full time fielding and answering an average of 450 requests a day, mostly on paper. The average reply takes four hours.

The added computer power would make that process entirely electronic, and cut the time to minutes.

At least three employees freed from routine paperwork could then turn their attention to analyzing data in KASPER, said Droz, the manager of the Drug Enforcement and Professional Practices Branch of the state health department.

They could produce statistical reports to alert doctors and law officers to the rising use of certain pills or abnormal regional patterns of prescriptions.

Under state law, such analyses could not be aimed at identifying individuals. When KASPER was created, Droz said, lawmakers took pains to protect patients' privacy by limiting its use. Doctors and druggists can look only into their own clients. Law officers who use the system must be working on

specific cases — and must have a good reason to examine individual records.

The only other legal users are grand juries, courts, Medicaid officials and professional licensing agencies such as the state physician-licensing board. Disclosing KASPER records to unauthorized people is a felony.

Nobody can use KASPER to "fish" for individual lawbreakers. But that might not prevent officials using it to find highly prescribed drugs or identify cities or counties that have high rates of prescriptions, Droz said.

"Maybe we could have seen the rise in OxyContin use" and warned doctors before abuse of that drug became epidemic, she said.

Such work might require a policy change. Droz's boss, Dr. Rice Leach, acknowledged that KASPER could probably help focus enforcement efforts on drug "hot spots" without invading patients' privacy — an effort he compared to mapping leaky septic tanks or abandoned coal mines.

But "the question is whether we want to," said Leach, head of the state Department for Public Health. He called for a "public discussion" on the question.

Possibilities and privacy

The idea of souping up KASPER is gathering support.

"There's no question that all of us would like to see it stronger" — specifically faster, said Attorney General Ben Chandler in an interview last fall. Chandler, now a Democratic candidate for governor, led the 1997 task force that proposed the system.

House Majority Leader Gregory Stumbo, D-Prestonsburg, sees KASPER as "the way we strike at the heart of the drug problem. We should use it to the fullest advantage possible."

Stumbo, a Democratic candidate for attorney general, said he wants to compel doctors and pharmacists to use KASPER regularly to screen patients and customers. Use is currently optional. He added that he hopes the current session will produce a budget, and that it will include money for KASPER.

Dr. Emery Wilson, dean of the University of Kentucky medical school and a member of the Kentucky Board of Medical Licensure, said KASPER should be made even more vigilant.

He proposes software that would constantly survey the database and automatically "identify people who are out of bounds" in terms of prescriptions used, written or delivered. At that point, investigators would check whether the prescriptions were justified.

He conceded that a new law would be needed to achieve that level of scrutiny. Such a proposal would almost certainly trigger opposition on the grounds of patient privacy.

But Wilson called drug abuse "a new disease, if you will, that many physicians aren't prepared to tackle."

Reach staff writer Charles B. Camp at (859) 231-3256 or ccamp@herald-leader.com.

Fake MRI reports get drugs for many

PATIENTS BUY DOCUMENTS TO SUPPORT PAIN STORIES

Originally published Feb. 16, 2003

By Lee Mueller

EASTERN KENTUCKY BUREAU

SOUTH SHORE — Donna Sue Hurt Webb was sitting in the waiting room of a small medical clinic early last year, she said, when a fellow patient told her how to get an MRI report:

Go outside to the parking lot, Webb said she was told. Give a large man in a parked car 50 bucks.

Webb, 59, said she did as she was told. And in return she got a bogus MRI report substantiating that she had the kind of injury a doctor should treat with painkillers.

Like any thriving business, the booming illegal trade in prescription drugs in Eastern Kentucky has spawned a satellite industry: trafficking in bogus MRIs and other fake medical records. Investigators say the emergence of such counterfeit documents shows the problem is becoming both more organized and more sophisticated.

MRI is an acronym for magnetic resonance imaging, a kind of X-ray that shows damage to soft tissues. Doctors often use written reports of MRIs, which generally cost about \$2,700 at hospitals and clinics, to diagnose and treat back injuries or other infirmities, frequently with pain-killing narcotics.

It's difficult to judge just how mature the trade in bogus MRIs has become, investigators say. But there are troubling signs:

■ Webb, of Johnson County, and Michael S. Slone, 39, of Bevinville in Floyd County, have been indicted in Greenup County on charges of obtaining prescriptions by fraud, a Class D felony. Both were using bogus MRIs, according to the indictments.

■ Greenup County Sheriff Keith Cooper said officials at Tri-State Health Clinic in South Shore have referred other reports of fake MRIs to him.

■ A Paintsville hospital official said she had received about 20 reports that people were manufacturing MRI reports on the hospital's letterhead, the first of which came from a Martin County librarian.

■ A local prosecutor thinks the counterfeit reports might be the work of a syndicate.

Six months of painkillers

In an interview, Webb said her bogus MRI report, which came complete with her name, age and Social Security number, was convincing enough that over a six-month period, physicians working at the Tri-State clinic prescribed a variety of pain pills for her, from Lorcet to Valium.

"I don't know who the guy was, but right out in the parking lot, they were selling MRIs," she said. "There are fake MRIs all over South Shore, I know that."

In July, however, clinic employees questioned the completeness of Webb's MRI report and investigators from the FIVCO Area Development District (FADE) drug task force arrested her.

In their report, FADE detectives Kenny Diamond and James Sparks said Webb told them "a friend introduced her to an unknown (person) in Paintsville who produces the bogus reports. ... She advised there are several patients at this clinic that had obtained falsified reports from the same individual in Paintsville."

In an interview, however, Webb said she does not think the reports were produced in Paintsville. "In fact, I know they aren't," she said, but declined to elaborate.

A week after Webb was arrested on July 5, the task force arrested Slone on the same charge. A doctor noticed that the MRI reports submitted by both Slone and his mother were identical, except for the names and birthdays, court records said.

Slone confessed his report was based on his mother's MRI report, which also was false, court records said.

Both Slone and Webb were indicted on Sept. 19. Webb is scheduled for trial Feb. 27, but no trial date has been set for Slone, who has not been served with an arrest warrant and is considered a fugitive, court officials said.

Webb appeared angry at clinic workers who, she said, accepted her \$120 office fee before turning her over to police.

Cooper, the sheriff, said Tri-State clinic,

which opened in 2001 and charges up to \$250 for first-time office visits, is under investigation.

But both he and Commonwealth's Attorney Cliff Duvall said clinic operators have cooperated with investigators and frequently report suspicious patients.

"We turn them in," said Tri-State office manager Alice Jewett. "We're a legal business; that's why we're still open."

Jewett is a former employee at a South Shore clinic owned by Dr. David Procter, who was one of several doctors with ties to South Shore indicted in recent years on charges of illegally prescribing controlled drugs.

Jewett's mother, Denise Huffman, is listed as the Tri-State clinic's operator. A former patient of Procter's, Huffman is on a list of potential witnesses for Procter's trial on April 23, court records show.

Signs of organization

Duvall, the prosecutor, said he has not sought additional indictments on fake MRI charges because the Tri-State clinic has had several temporary physicians, and he would have trouble contacting them to testify in court.

To Duvall and others, however, the faked reports are evidence that Eastern Kentucky's prescription-drug problems are more organized than the recent arrests of loosely linked doctors suggests.

"I call it a syndicate," Duvall said. "I believe somebody is paying people to go into doctors' offices armed with these false medical records."

Many doctors say they generally trust patients who claim to be suffering from pain, but the fake medical records serve the patients' needs and help protect the physician, Duvall said.

"The doctor feels better about writing a prescription because he's got something in his file that says this patient is in pain," he said.

Some investigators agree.

"I can't blame it on a specific doctor or a specific clinic," said Diamond, of the FADE effort, "but these fake MRIs provide cover for everybody — the clinic and doctors, particularly — except the patients who get caught."

No one has yet been charged with selling counterfeit MRI reports, said Diamond, who is

no longer assigned to the task force.

But he said investigators know, "without a doubt, that some people ... are dealing them," Diamond said.

Diamond's former partner, James Sparks, said many bogus reports are coming from across the Ohio River in Portsmouth.

A Paintsville connection

Investigation reports accompanying indictments in Greenup Circuit Court said Slone's allegedly fake MRI report appeared written on letterhead paper from Paul B. Hall Regional Medical Center in Paintsville.

Webb's MRI report appeared to have been prepared by Pikeville Radiology, although the firm does not even possess MRI equipment, the investigation report says.

Deborah Trimble, administrator of the Paintsville hospital, said she received inquiries from police in southern Ohio and the Tri-State clinic concerning at least 20 MRI reports, most of which were fraudulent.

"They were signed by radiologists who have never worked here," Trimble said.

Trimble said the first reports of her hospital's name being used on the bogus reports came from Martin County librarian Janet Copley in April.

"She became suspicious and found out what they were doing," Trimble said. "She said they were using their computers and printers to turn out these fake MRIs."

Copley said two men left behind a botched copy in a wastebasket.

Pikeville Radiology employee Sherry Carte said she was not aware of any other bogus MRI reports involving the company.

Webb's report contained a fake patient identification number and the name of a doctor who never worked at the Pikeville firm, an investigation report said.

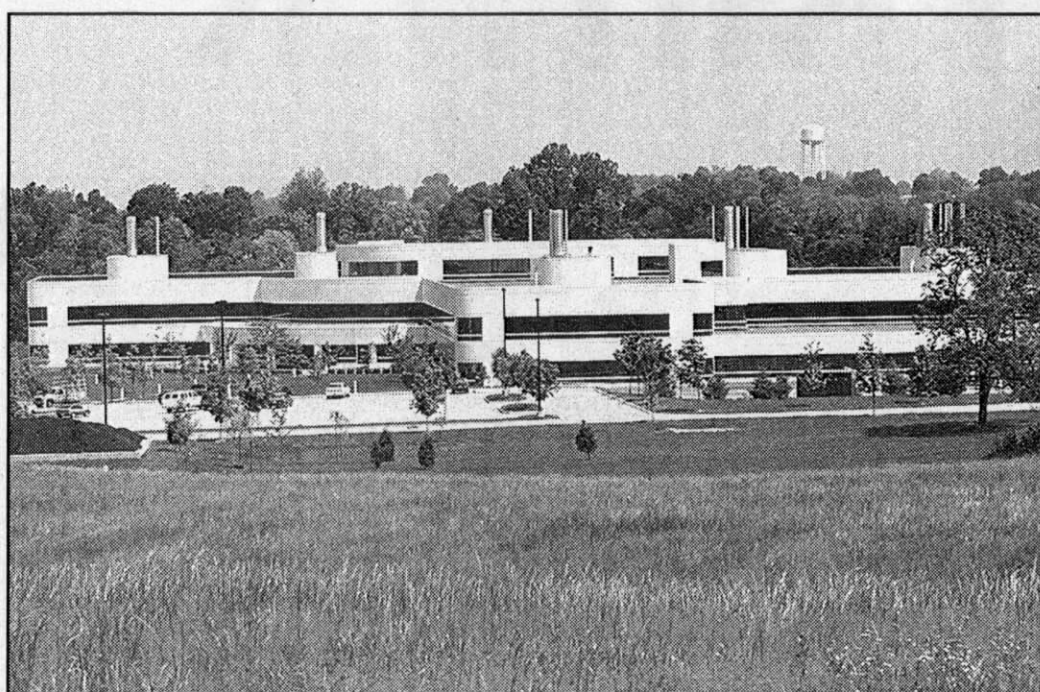
Duvall said he thinks doctors' "sensitivity to this problem needs to become much greater."

Doctors can always demand to see the actual MRI film instead of written reports, said Trimble, the Paintsville hospital administrator. "But nobody ever asked for those," she said.

Reach Lee Mueller at 606-789-4800 or lmuel1@herald-leader.com.



ANTIDOTE FOR ADDICTION SITS ON SHELF



DAVID STEPHENSON | 1998 FILE PHOTO

The state police's crime lab in Frankfort is one of six around the state. The labs have a backlog of about 7,000 cases involving suspected drugs.

Crime lab staggers under load of cases

CRUCIAL EVIDENCE SUPPORTING DRUG CHARGES LANGUISHES AS LAWYERS WAIT MONTHS FOR RESULTS

Originally published Feb. 9, 2003

By Lee Mueller
EASTERN KENTUCKY BUREAU

LOUISA — His mother and her boyfriend were smoking marijuana in front of him, the juvenile said, so he called the Lawrence County sheriff's office, according to court records.

Deputy Sheriff Scott Randall found what he described in court papers as a "bag of green substance" that looked like pot, so he charged the boyfriend, James D. Mann Sr., with possession.

Last month, however, the misdemeanor charge against Mann, 49, was dismissed, after a prosecutor cited the Kentucky State Police Forensic Laboratory's "failure to analyze evidence."

The state-police crime lab, struggling under a backlog of about 7,000 cases that involve suspected drugs, is hampering drug-related prosecutions across Eastern Kentucky. In some counties, where drug-related DUI cases are outstripping alcohol-related cases, defendants have won dismissals because of delays in lab results.

State police do not maintain a separate budget for their half-dozen crime laboratories, but lab officials say they could make headway if the current General Assembly produces the extra \$1 million budgeted a year ago to pay for some new staff and equipment.

"I think it's a legislative problem at this point," said Rick Bartley, commonwealth's attorney for Pike County. "I don't blame the labs. It's the legislature's job to give us the funding to protect us from drug dealers."

But in the current General Assembly, that protection might be hard to come by.

House Majority Leader Greg Stumbo said it will be hard to find money for any program expansion during a budget crunch that has officials predicting a \$400 million shortfall in the next fiscal year.

"There's a real problem," said Stumbo, D-Prestonsburg. "I'm hopeful we'll be able to carve out that money. With the drug problems we have, the Kentucky State Police really need money across the board."

40,000 new cases a year

The crime lab's drug-case backlog involves pills, pot and powders that, in some instances, have taken chemists six months to a year to analyze and return to prosecutors.

State law does not specify the time in which the crime lab must return results to prosecutors, but the state Constitution guarantees defendants the right to a speedy trial. The state Supreme Court recommends that DUI cases be resolved in 90 days.

In Lawrence County, District Judge Susan M. Johnson agreed to dismiss the case against Mann after County Attorney Michael Hogan cited the lab's failure. The charge had been pending about 4½ months.

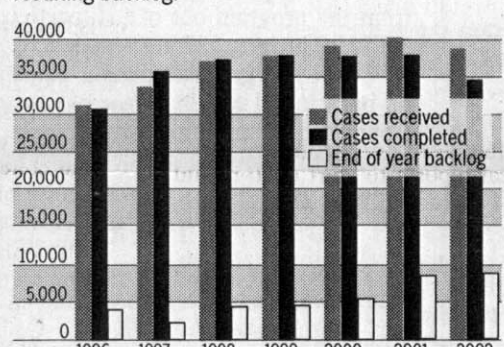
Johnson declined to discuss the case. But she said, speaking generally, "Six months is a reasonable length of time to have results back from the lab."

What's reasonable to judges, however, is not always possible.

The state police operate six crime labs — a large, central facility in Frankfort and five smaller regional labs. They handle criminal cases from every law-enforcement agency in the state, generally on a first-come, first-served basis, manager Jeff Warnecke said.

A growing backlog

The Kentucky State Police crime lab has seen steady growth in the number of cases it receives, and in the resulting backlog.



Source: The Kentucky State Police

CAMILLE WEBER | STAFF

In the past five years, the labs have been receiving about 40,000 new cases a year, about half of which have been drug-identification cases, agency charts show. The labs still have 9,000 overall cases left over from 2002, Warnecke said.

(The labs also deal with trace evidence from crimes; arson evidence; firearms examinations; lie-detector tests; and DNA analysis, although some of this is contracted to independent labs.)

At a time of nationwide budget deficits and rising drug problems, "lab backlogs are not unique to Kentucky," said Ralph Keaton, executive director of the American Society of Crime Laboratory Directors Accreditation Board.

Some state labs have tried to expedite results by such techniques as limiting the amount of evidence they examine in a particular case, Keaton said. Kentucky officials say they already try to work as efficiently as possible.

"Sometimes," Keaton said, "the only solution is to get more help."

Because of the backlog, it takes an average of four months to produce results from toxicology tests, which have increased 144 percent since 1998, state police say.

Help wanted

Currently, the state-police forensic labs have a total of 73 lab workers, including 37 in Frankfort, 11 in Louisville, six in London, nine in Madisonville, five in Campbell County and five in Ashland.

The 2002 General Assembly approved the hiring of 26 new lab employees over two years, but provided just \$500,000 to hire 11 workers before last year's job freeze.

Lt. Col. Linda Mayberry, a former post commander who now heads the agency's laboratory division, said the 15 unfilled jobs include five chemists, who could each process about 800 cases a year.

Excluding other positions, the salary and benefits for five new chemists would cost about \$31,800 each, or a total of \$159,000 a year, she said. Additional equipment would total about \$350,000 a year, she said.

"I think if we could be a full staff, that would make a significant impact on the backlog," Mayberry said.

The sooner the better, as far as some court officials are concerned.

"We've had other drug cases dismissed," said Hogan, the Lawrence County attorney who took office last month. "But we've been talking about how it may get worse, especially if there are more budget cuts."

DRUG-ABUSE TREATMENT OFTEN PROVES EFFECTIVE, BUT IT IS A LOW PRIORITY

Originally published Feb. 9, 2003

By Linda J. Johnson
HERALD-LEADER STAFF WRITER

Though drug abuse is raging out of control in Eastern Kentucky, a special commission says the state ranks 44th in the nation in spending for mental-health and substance-abuse treatment.

And although several studies show that Kentucky could *save* money by paying more to treat drug addicts, there appears to be little hope of changing a pattern of neglect, experts say.

The "Kentucky legislature has not determined that substance abuse is deserving of big dollars," said Louise Howell, the executive director of Kentucky River Community Care, a community mental health agency that serves eight counties in Eastern Kentucky.

A University of Kentucky study that's due to be released soon suggests that, as a result, the state is missing out on a way to ease the damage that drug abuse does to communities. The study followed 900 clients a year after substance-abuse treatment. It found:

- In the year before treatment, about 66 percent of the clients had committed crimes. In the year after treatment, only 21 percent did.

- The costs of the crimes committed, including injuries, property damage, the costs of arresting people and other expenses, were estimated at \$11.9 million in the year before treatment, and just \$3.4 million in the year after.

- The number of clients reporting daily use of drugs such as Lortab and OxyContin dropped 71 percent in the year after treatment.

- The number of clients who held full-time jobs increased 27 percent in the year after treatment.

Nearly every expert agrees that treatment is the best answer to Eastern Kentucky's drug problem — but it's clear that there's far too little.

Waiting lists are long at the 17 existing residential treatment centers for adults in Kentucky, five of which serve Eastern Kentucky.

The need is clear. Parts of Eastern Kentucky ranked the highest nationally per capita in distribution of narcotics from 1998 through 2001, according to an analysis of federal data by the Herald-Leader. Those narcotics begin as legal medicines, but many are diverted into illegal sales and abuse, according to the federal Drug Enforcement Administration.

People addicted to such narcotics are typically sicker on admission to treatment than people who abuse other drugs, said Scott Walker, director of substance abuse treatment for Mountain Comprehensive Care in Prestonsburg.

Such clients need long-term residential treatment, Walker said.

But "if you call today, you couldn't get in any program in the state," said Mike Townsend, who oversees Kentucky's public treatment centers for the state Department of Mental Health and Mental Retardation Services.

"That's a real problem for someone who's in dire need of treatment," Townsend said.

At Kentucky River Community Care, "the demand far exceeds the supply," said Howell, who estimated the center is treating about half the people who need it.

The state's substance abuse division has about \$40 million this fiscal year to spend on treatment. Of that, about two-thirds comes from federal block-grant dollars and Medicaid, Townsend said.

The rest comes from DUI fees and other sources, including clients' payments, which are determined by an income-based scale.

"We are going to need more revenue if we are going to keep the existing programs going," Townsend said. "We are not expanding programs right now. We are cutting back."

Back through the system

People convicted of minor drug crimes, such as possession of controlled substances, are frequently given probated sentences. But with few treatment options available, they become prime candidates for cycling back through the system.

Fred Yaden, a 20-year veteran who supervises state probation officers in 13 Eastern Kentucky counties, said he sees the same people all the time.

"Now I'm into their kids, and, in a few cases, grandkids," Yaden said. Treatment is needed, he said, "because we haven't won the war the other way, have we?"

There's a similar shortfall in the state prison system, where a lack of treatment for most offenders who need it helps create "a

never-ending cycle" of repeat crimes, said Rick Purvis, director of the division of mental health for the Department of Corrections.

Purvis estimated that 60 percent of the prisoners released in a given year need treatment, which would have been 4,220 inmates for the 12 months that ended last June. But only about 880 inmates got treatment, Purvis said.

Part of the reason for that disparity is that prisoners have to ask for such treatment, and few do — even though the state Parole Board frequently encourages inmates to use it. But the state is also hampered by a lack of beds for treatment, during which inmates are segregated from the rest of the prison population, Purvis said.

The prison program's total budget in fiscal year 2000 was \$822,222, mostly from the state General Fund, and Purvis estimated it has increased by 5 percent each year since.

Treatment has become a priority to Ishmon Burks, secretary of the state Justice Cabinet and formerly head of the state police.

Burks said he used to think the best response to the drug problem was to lock up offenders. He still favors that approach for dealers, he said.

But now he takes a broader view with regard to drug addicts, emphasizing education, community involvement and treatment.

"I think treatment plays a big part in all of that," Burks said.

It costs \$17,669.65 a year to incarcerate an inmate in a state prison. Residential treatment costs range from about \$2,400 to nearly \$2,800.

"The math is pretty simple on that," Burks said. "It's common sense."

Matching resources with needs

The Kentucky Agency for Substance Abuse Policy, or KY ASAP, was created in 2000 to help local groups in all 120 counties develop plans to reduce smoking and drug and alcohol abuse. One goal is to bridge the gap between communities' needs and resources.

"We do not have all the resources to fund all the needs of our communities," said Larry Carrico, executive director of KY ASAP. "Treatment needs are always more than we can provide."

KY ASAP has no money for building new treatment clinics. But local boards can get money to help prevention programs at schools, or to supplement a treatment program.

Through two funding rounds so far, certified boards covering 75 counties have been awarded \$3.2 million.

The funding agency is now working with 21 boards covering 29 counties but will not have the money this year to award funding to all 21.

Of its initial \$5 million in funding, the agency had to give back \$1.5 million because of the state budget shortfall, Carrico said.

Little likelihood for more money

A state commission that was set up in 2000 recommended that Kentucky increase the amount it spends on mental health and substance abuse. The panel of lawmakers and experts recommended raising Kentucky's spending enough to take it from 44th nationally to 25th over the course of this decade.

Sheila Shuster of the Kentucky Mental Health Coalition, a member of the commission, said that would take \$25 million a year for 10 years.

The good news is that after the 2002 General Assembly, spending on mental health programs was increased somewhat — though none of the commission's recommendations for substance abuse treatment were adopted, said Townsend, the treatment center director.

"There is no question that Kentucky spends too few state dollars on mental health and substance abuse programs," according to the commission's report.

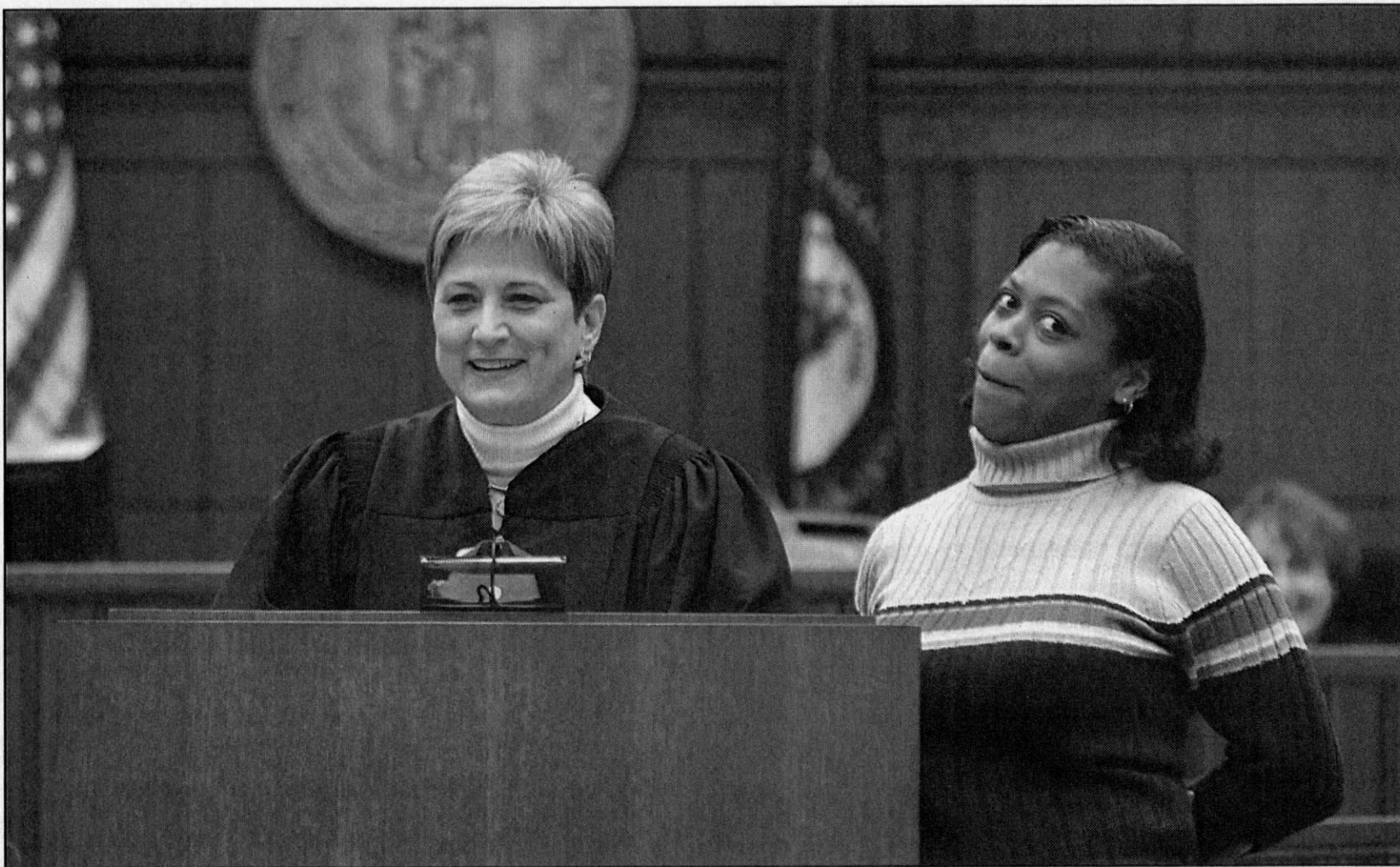
This year looks just as bleak, said State Rep. Mary Lou Marzian, D-Louisville.

It will be impossible to get new money in this General Assembly session "unless the legislators take a hard look at themselves," Marzian said, and raise the state cigarette tax, which is the second-lowest in the nation.

But Marzian said because the state has underfunded substance abuse treatment for 30 years, she's not optimistic.

"There's no long-term vision," Marzian said. Making hard choices and taking tough votes is "what we are supposed to do."

Staff writers Bill Estep and Tom Lasseter contributed to this article.



DAVID STEPHENSON | STAFF

Melanie Foster listened to Fayette Circuit Court Judge Mary Noble tell stories about Foster during graduation ceremonies for drug-court participants. Drug courts divert some non-violent drug addicts from the prison system into treatment designed to help them kick the habit and repair their lives.

DRUG COURT LEADS ADDICTS TO FREEDOM

ALTERNATIVE GIVES OFFENDERS A CHANCE TO AVOID PRISON AND REBUILD THEIR LIVES

Originally published Feb. 9, 2003

By Linda J. Johnson
HERALD-LEADER STAFF WRITER

Since 1993, almost 800 Kentuckians charged with drug crimes haven't gone to prison or jail — they have gone through drug court.

They followed a strict, life-changing program that state officials say helped them renew family ties. They bore 42 drug-free children. And they saved taxpayers more than \$11 million, according to Joanie Abramson, acting manager of the drug court program for the state Administrative Office of the Courts.

Drug courts divert some non-violent drug addicts from the prison system into treatment designed to solve the problems that landed them in court in the first place.

To graduate, they must hold jobs or take classes; pay restitution and child support if necessary; and attend meetings with judges who volunteer their time. They also undergo inpatient or outpatient drug counseling and, hardest of all, stay drug-free.

Drug court clients are required to have urine tests three times a week at the counselor's bidding over the course of their stay in the program — usually 18 months to two years. Those who register a "dirty" urinalysis or break any other rule of the program face sanctions that range from community service to jail time.

"It's not a get-out-of-jail-free card," Abramson said.

But it seems to help end a cycle of repeated crimes by drug offenders, according to a 2001 study of drug court participants in Jefferson, Fayette and Warren counties.

The study, which began analyzing data in 1999, found that a year after graduation, only 3.7 percent of graduates from the three programs had been convicted of felonies, compared with 11 percent of those who didn't complete the program.

"I think it's a great program," said T.K. Logan, an assistant professor in the University of Kentucky's department of behavioral sciences. "It gives people the opportunity. They can make a real difference in their lives."

But not every county has access to the program. Statewide, 2,842 people have participated in one of Kentucky's 20 drug court programs since Jefferson County began its program in 1993. A little more than a quarter have graduated. Today, there are 702 people enrolled in state drug court programs.

The 21 programs treat adults, juveniles or families in 42 counties. Only 11 of those counties are in Eastern Kentucky, where state health officials call drug abuse an epidemic. An analysis of federal data by the Herald-Leader last month showed that parts of Eastern Kentucky have more narcotics per person than anywhere else in the nation.

An additional 17 drug courts — representing 33 counties — are in the planning or pilot stages but haven't launched formal programs with full funding. It takes about a year to get a program up and running, Abramson said. Plus, grants and other sources of funding are needed.

New perspective in Perry

In Perry County, a pilot drug court program hasn't yet received federal funding. Everyone involved in trying to help 10 clients volunteers his or her time, from Circuit Judge Douglas C. Combs Jr. to a defense attorney, counselors and a probation officer.

Combs said he's gotten a new perspective from the closer supervision of drug offenders that drug court requires.

"They're no longer just a case number," Combs said. "I actually see them more as a person with real problems."

Perry Commonwealth's Attorney John Hansen, who has openly feuded with the circuit judge, resigned from the drug court program last year. But Hansen said recently that he's thinking of rejoining it. "I think it's a great program," Hansen said.

In nearby Knott County, plans are moving forward to launch a drug-court program in October.

Glenda Shrum, health department administrator and a member of a local drug abuse council, said the council has applied for federal funding to launch the program this year. It's not clear whether the group will get the grant, however.

Rural counties need the programs just as much as their urban counterparts do, Shrum said.

"The one thing that we do want to emphasize is that we feel that people in the mountains are as good as anybody else and deserve the same treatment," Shrum said.

Statewide, the programs are heavily funded through state, federal and local grants, totaling \$12.9 million since 1997. An additional \$2.4 million comes from the state General Fund, said AOC spokeswoman Leigh Anne Hiatt.

Abramson said the grants, which range up to \$500,000 each, are very competitive, and there's no guarantee any particular program will get funded.

"It looks really good if they make the next move and start a pilot program on a small scale to show the community is really behind them," Abramson said.

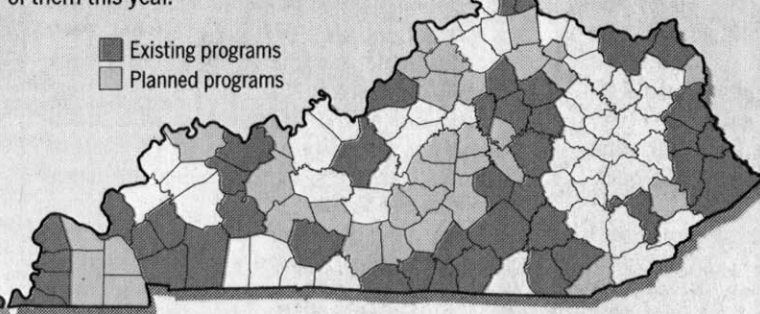
Abramson estimates the cost of running a drug court program including staff time and drug tests, is about \$7.20 a day per participant, which is far shy of the \$48.41 daily cost to house someone in a state prison.



Joanie Abramson oversees Kentucky's drug courts program.

Existing and planned drug courts

There are almost two dozen full drug court programs or pilot projects covering 42 counties. An additional 17 programs covering 33 counties are in the planning stages. Federal funding will be needed to get those programs going, but the funding might not be available for all of them this year.



Source: Administrative Office of the Courts

LINDA J. JOHNSON and CRAIG JOHNSON | STAFF

In Fayette County, 228 people have graduated from the program out of 670 participants since 1997. Right now, 127 are enrolled.

Of the 228 graduates, about 11 percent ended up back in jail within a year of graduation, said Connie Reed, program coordinator. That compares with an overall statewide recidivism rate of about 31 percent.

'I did it'

Twenty-one adults — young and not-so young, white and black, of varying education levels — graduated from Fayette County's drug court last month. It was the largest class since the program began in 1996.

Craig Frazier, 49, of Lexington, had 79 charges filed against him during his life. None were felonies, except the last one, when he got caught trafficking in cocaine. That meant prison, not jail.

"It was a great alternative," Frazier said of the chance to get into Fayette's drug court.

Without it, he said, he would still be in prison, serving his time and doing what he'd always done: "finding a way to hustle up money to get drugs."

Benji Sims of Wilmore spent two years in jail for stealing pills.

As soon as he got out, Sims just "started experimenting with drugs again," he said.

Sims was arrested for selling mushrooms in 2000. He was facing 10 years in prison, he said. Without the program, he'd still be in there. "I probably would have gotten killed there," he said, or killed someone else. "Prison or dead."

Today, he is learning about computers at Sullivan University.

"He always tried," said Circuit Court Judge Mary Noble. But he struggled. Sims spent three years in the program, in part because he was in residential treatment for eight months.

Plus, he was arrested on a DUI charge in 2001 while in the program.

"I don't want to leave this place," a tearful Sims told the judges and staff at his graduation.

"Thank you for putting up with me over and over and giving me a chance and giving me another chance," Sims said.

Noble said his strong, loving family helped. Building family ties and renewing lost relationships is a common theme among graduates.

Melanie Foster, 30, of Lexington, had a baby while she was enrolled in the program and is poised to get a daughter back whom she lost seven years ago.

"I did it," Foster said, fighting back tears. "It gave me my life back."

For Abramson, who took over running the program a few weeks ago but has been involved with it since its inception, graduation is a special night.

"I haven't been to a graduation where I haven't had a lump in my throat," Abramson said. "It's a wonderful feeling, and it's hard to describe."

The before and after pictures displayed at graduation say it all to Lexington police officer Chris Woodyard, who works full-time in the program.

"The eyes," he said. "Before, there wasn't any life."

Now, there is.

Staff writer Tom Lasseter contributed to this article.

ABOUT THE SERIES

8-month investigation, 500 interviews

After an Eastern Kentucky sheriff was killed in a drug-related shooting in 2002, a team of Herald-Leader reporters spent eight months researching the region's drug problem, work that led to the series Prescription for Pain.

An accused drug dealer and a former sheriff's deputy are charged in the shooting death of Pulaski Sheriff Sam Catron, an event that serves as a powerful statement of how drugs poison communities.

The newspaper's reporters found other such statements. They interviewed more than 500 people and examined about 900 documents from a dozen state and federal agencies, ranging from local district courts to the federal Drug Enforcement Administration.

The following Herald-Leader staff members contributed to the newspaper's reports:

Bill Estep, a Western Kentucky University graduate,



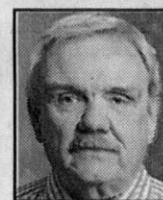
has been writing about rural Kentucky and state government for the Herald-Leader since 1985. He is the newspaper's South-central Kentucky Bureau reporter, based in Somerset.

Tom Lasseter, a graduate of the University of Georgia,



joined the staff of the Herald-Leader in 1999. He is the newspaper's South-eastern Kentucky Bureau reporter, based in Hazard.

Charles B. Camp, a graduate of Syracuse University,



joined the Herald-Leader staff in 2002 as an investigative reporter.

Lee Mueller, a graduate of Morehead State University,



has been the Herald-Leader's Eastern Kentucky Bureau reporter since 1980. He is based in Paintsville.

Linda J. Johnson, a graduate of the University of Colorado at Boulder,



began working for the Herald-Leader in 1997. She is the newspaper's computer-assisted reporting coordinator.

David Stephenson, a graduate of Eastern Kentucky University,



joined the Herald-Leader photography staff in 1997. He was

named newspaper photographer of the year in 2000 and 2002 by the Kentucky News Photographers Association.

Todd Van Campen, a graduate of Moody Bible Institute, joined the Herald-Leader staff as a religion reporter in 1996. He has been a copy editor since 2000.

Brian Simms, a graduate of Eastern Kentucky University, joined the Herald-Leader's design staff in 2001. He regularly designs the front page.

Chris Ware, a graduate of the University of Kentucky, joined the Herald-Leader staff 22 years ago. Ware does illustrations, caricatures and graphics.

John Voskuhl, a graduate of the University of Kentucky, joined the Herald-Leader staff in 1996. He has supervised the newspaper's investigative reporting since 1999.