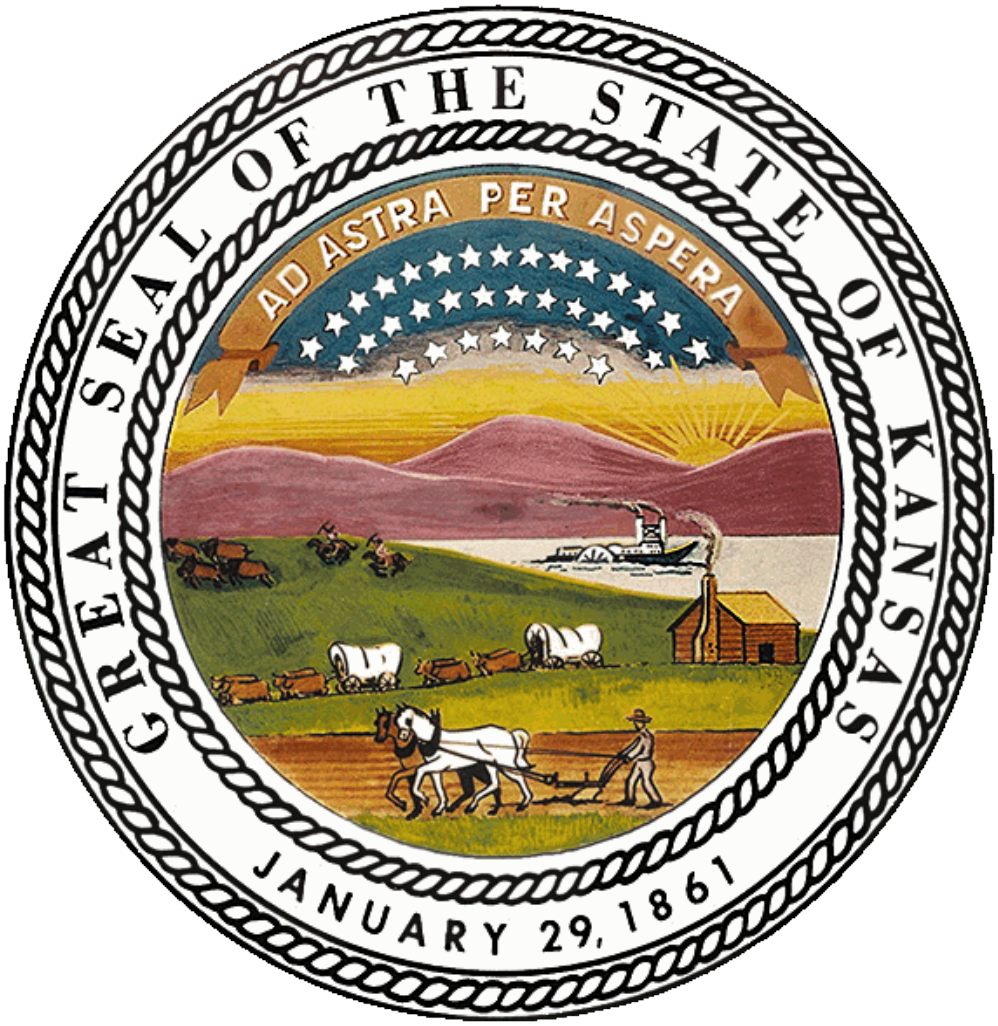
Kansas Juvenile Justice Workgroup

Final Report



November 2015

Summary

Two recent reports called attention to the high costs and unsatisfactory outcomes of Kansas's juvenile justice system. A March 2015 report found Kansas can do more to align its juvenile justice practices with research-based principles for improving recidivism and other outcomes. In a similar vein, a January 2015 Kansas Department of Corrections (KDOC) review of youth discharged from Youth Residential Center (YRCII) group homes found that a majority were still in an out-of-home placement six months later.

To address these and other concerns, Governor Sam Brownback, Chief Justice Lawton Nuss, Senate President Susan Wagle, Senate Minority Leader Anthony Hensley, House Speaker Ray Merrick, and House Minority Leader Tom Burroughs charged the Kansas Juvenile Justice Workgroup with developing policy recommendations that advance three goals:

- Promote public safety and hold juvenile offenders accountable;
- Control taxpayer costs; and
- Improve outcomes for youth, families, and communities in Kansas.

Beginning in June 2015, the Workgroup conducted a comprehensive analysis of the juvenile justice system, reviewing key data from the Office of Judicial Administration (OJA), the Department of Children and Families (DCF), and KDOC, and gathering input from those who work on the front lines through more than two dozen roundtable discussions with stakeholders, including law enforcement, crime victims, judges, county and district attorneys, and service providers. The Workgroup also reviewed current research on reducing recidivism as well as effective policies and practices from states across the country.

The major findings of the workgroup include:

- **As crime falls, the juvenile justice system does not keep pace**: From 2004-2013, the decline in the KDOC out of home population (24 percent) was less than half the decline in the rate of juvenile arrests (52 percent). Instead of mirroring the reduction in crime, as has been the case with juvenile facility populations in many states across the country, Kansas's juvenile justice system is cycling youth through more out-of-home placements and holding them away from home longer than it did a decade ago.
- **Lower-level offenders make up most of juvenile justice system**: The vast majority of youth placed in state-funded residential facilities and under the most intensive level of community supervision are not chronic offenders adjudicated for serious offenses. Rather, youth with lower-level offenses and limited criminal histories make up a large proportion of the population placed out of home in state custody under Case Management, as well as on Intensive Supervision Probation (ISP).
- **Bed costs are high**: More than two-thirds (over $53 million) of KDOC's juvenile services budget is spent on out-of-home placements at a cost of as much as $89,000 per year per youth. That is more than 10 times the cost of probation.
- **Evidence-based services in the community are scarce:** The courts lack sufficient evidence-based alternatives to residential placement. The services that are available in the community are the same as those available to any non-court-involved youth, are generally not shown to reduce recidivism, and are not monitored for quality by the juvenile justice system.
- **Lack of standardization leads to disparate outcomes**: Throughout the system, decisions about how to handle youth are made without statutory guidance or standardized assessment of a

youth's risks and criminogenic needs, leading to geographically disparate use of out-of-home placements.

- **Data collection is insufficient and inconsistent**: A lack of comprehensive outcome data collection impedes the accountability necessary to incentivize better system performance.

In keeping with its charge from state leaders, the Workgroup issued 40 consensus-based recommendations that:

- Prevent deeper juvenile justice system involvement of lower-level youth through early response with targeted services and swift and appropriate sanctions;
- Protect public safety and contain costs by focusing system resources on the highest-risk youth; and
- Sustain effective practices through continued oversight and reinvestment in a stronger continuum of evidence-based services.

Adoption and implementation of these policies is expected to reduce the state's out-of-home population 62 percent from projected levels in 2021.[1] The Workgroup recommended that the costs averted be invested in evidence-based practices and programs in the community that will help Kansas youth become law-abiding and productive citizens of the state.

The Kansas Juvenile Justice Workgroup

The bipartisan, inter-branch Workgroup consisted of 17 representatives from all parts of the juvenile justice system, including judges, district/county attorneys, law enforcement, public defenders, and KDOC, as well as legislators from both parties and chambers (see page 20 for full list of members). The Workgroup received technical assistance from the Public Safety Performance Project of The Pew Charitable Trusts (Pew) as well as the Crime and Justice Institute at Community Resources for Justice, organizations that have provided juvenile justice policy assistance to states from Kentucky and Georgia to Hawaii.

State leaders charged the Workgroup with developing policy recommendations to:

- Promote public safety and hold juvenile offenders accountable;
- Control taxpayer costs; and
- Improve outcomes for youth, families, and communities in Kansas.

The Workgroup met monthly from June through November 2015, beginning with a comprehensive, data-driven assessment of Kansas's juvenile justice system. The Workgroup reviewed and discussed analysis showing how cases are processed through and exit the juvenile justice system at key decision points, including complaint, intake, filing, adjudication, and disposition. Information reviewed by the Workgroup was collected from OJA, the Juvenile Services Division of KDOC, and DCF. Data included arrest rates; admissions to and lengths of stay on both Court Services probation (administered by OJA) and ISP (funded by the state but administered by the county); commitments to out-of-home placements

[1] Compared to baseline projection, policy changes will reduce out of home population by more than 400 beds assuming a fully effective date of May 2017 (409 bed reduction; 62 percent from baseline projection in FY 2021; 67 percent from FY 2016 date).

under DCF and KDOC custody; and demographic data for youth in the juvenile justice system. The members of the Workgroup conducted a broad assessment of Kansas's juvenile justice system, analyzing statutes, policies, practices, and programs. Much of the information was analyzed both on a statewide level and by judicial district.

The Workgroup conducted over two dozen roundtable discussions across the state with key system stakeholders including judges, law enforcement, crime victims and victims' advocates, prosecutors, educators, Juvenile Intake and Assessment Services (JIAS) staff, diversion staff, Community Corrections, Court Services, Juvenile Correctional Facility (JCF) staff, YRCII staff, Juvenile Detention Center (JDC) staff, service providers, juvenile offenders, youth found to be Children in Need of Care—Non-Abuse and Neglect (CINC-NAN), youth advocates, and parents and families. Staff from KDOC, DCF, Court Services, the judiciary, the legislature, and other agencies also provided information through interviews. The Workgroup conducted surveys of Court Services Officers (CSOs) and Community Corrections Officers (CCOs), gathering 99 CSO responses from 23 judicial districts and 155 CCO responses from 83 counties. This valuable input from stakeholders helped build a more complete picture of the juvenile justice system and informed the Workgroup's discussions, findings, and recommendations.

Equipped with insights from the data, system assessment, and the experience of a diverse range of stakeholders, the Workgroup reviewed research and heard from leading experts in the field on effective approaches to reducing delinquency, including peer-reviewed empirical studies about community-based practices and efficient and appropriate use of secure facilities and other out-of-home placements.

To more closely examine specific issues and develop policy recommendations, Workgroup members formed subgroups in three areas:

- Pre-Adjudication Decision-Making;
- Disposition, Supervision, and Placement; and
- Evidence-Based Practices and Programming: Investment and Oversight.

The subgroups met at least four times each and developed recommendations based on national research, Kansas-specific data, and state examples of best practices. Subgroup members presented these policy recommendations to the full Workgroup for consideration in October, and the recommendations were further discussed and refined by all of the Workgroup members. By consensus, the Workgroup submitted this report and the recommendations contained herein.

Key Findings

The Workgroup's analysis of juvenile populations in KDOC and DCF custody and under court supervision led to the following set of key findings that were used to develop policy recommendations.[2]

As crime falls, the juvenile justice system does not keep pace

The Workgroup reviewed a body of juvenile justice research demonstrating that out-of-home placements do not improve outcomes for most youth and can increase the likelihood of offending for

[2] Unless otherwise cited, all analyses in this report were conducted by The Pew Charitable Trusts and the Crime and Justice Institute at Community Resources for Justice using data provided by the Kansas Department of Corrections, the Kansas Office of Judicial Administration, and the Kansas Department for Children and Families.

some.[3] In addition, research shows that there is no clear evidence that longer lengths of stay in out-of-home placements reduce recidivism; one recent study of serious offenders found no change in re-arrest rates for youth staying more than three months out of home.[4]

The data reviewed by the Workgroup showed that while the juvenile arrest rate in Kansas dropped more than 50 percent from 2004 to 2013,[5] the state's community supervision and residential commitment populations have not fallen at the same rate. In particular, between 2004 and 2013, the out-of-home placement population did not mirror the drop in the juvenile arrest rate, declining by roughly half as much (24 percent).

The Workgroup found that youth spend more time on supervision, cycle through a greater number of facilities, go missing from facilities at a higher rate, and remain out of home longer than they did a decade ago:

- Youth are spending more time on supervision overall
    - ISP youth stayed on supervision for an average of 19.3 months in 2014, a 33 percent increase from a decade before
    - Overall supervision length for Case Management youth averages two years, up 23 percent since 2004
- Youth are cycling through more placements
    - Between 2004 and 2014, the average number of placements over the course of a case, including detention, increased 25 percent to 6.2 for youth on Case Management and 42 percent to 8.3 for JCF youth
- More youth are going AWOL from out-of-home placements
    - More than a third (36 percent) of Case Management youth went AWOL at least once in 2014—up from 26 percent from 2006—which translates to more than 100 AWOL youth on a given day. 41 percent of AWOL events are one month or longer.
- Youth are staying out of home longer
    - The average length of stay in the JCF in 2014 was 15 months on average—up 30 percent in the last 10 years

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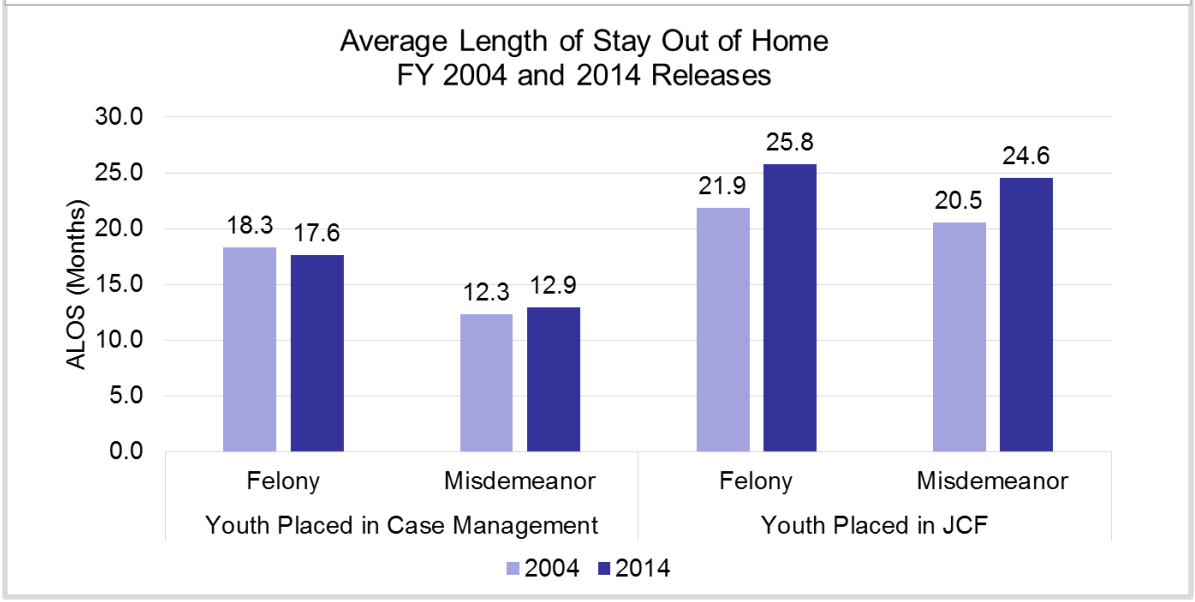
[3] Edward P. Mulvey, et al., "Longitudinal offending trajectories among serious adolescent offenders," Development & Psychopathology 22 (2010): 453–475; Daniel S. Nagin, Francis T. Cullen, and Cheryl Lero Jonson, "Imprisonment and reoffending," in Crime and justice: A review of research, ed. Michael Tonry. (Chicago: University of Chicago Press, 2009), 115–200; Patrice Villettaz, Martin Killias, and Isabel Zoder, "The effects of custodial vs. noncustodial sentences on re-offending: A systematic review of the state of knowledge," (Oslo, Norway: The Campbell Collaboration, 2006); Christopher T. Lowenkamp and Edward J. Latessa, "Evaluation of Ohio's RECLAIM funded programs, community corrections facilities, and DYS facilities," (Cincinnati, OH: University of Cincinnati, 2005); Paula Smith, Claire Goggin, and Paul Gendreau, "The effects of prison sentences and intermediate sanctions on recidivism: General effects and individual differences," (Ottawa, Ontario, Canada: Solicitor General of Canada, 2002).

[4] Loughran, T. A., Mulvey, E. P., Schubert, C. A., Fagan, J., Piquero, A. R., & Losoya, S. H. (2009). Estimating a dose-response relationship between length of stay and future recidivism in serious juvenile offenders. Criminology, 47, 669-740.

[5] Kansas Bureau of Investigation, Juvenile Arrests by Agency, 2003-2014, http://www.accesskansas.org/kbi/stats/stats_crime.shtml

- The total time spent out of home for misdemeanants on Case Management and in the JCF grew five percent (to almost 13 months) and 20 percent (to more than two years), respectively since 2004 (see chart 1)

CHART 1: INCREASES IN LENGTH OF STAY FOR MISDEMEANANTS ON CASE MANAGEMENT AND THOSE IN JCF, AND FELONS IN JCF



In short, while juvenile crime fell tremendously over the past decade, the corollary reduction in out-of-home placement that should have occurred was instead largely offset by an expansion in the amount of time youth spent under supervision and in custody.

Supervision caseloads and out-of-home placements are filled with lower-level youth

Research reviewed by the Workgroup showed that juvenile justice systems achieve the greatest public safety returns by targeting supervision and services to the highest-risk, most serious offenders. Research demonstrates that adolescents who have committed serious offenses are not necessarily on track for adult criminal careers, and over-involvement with the juvenile system can make things worse for low-risk youth.

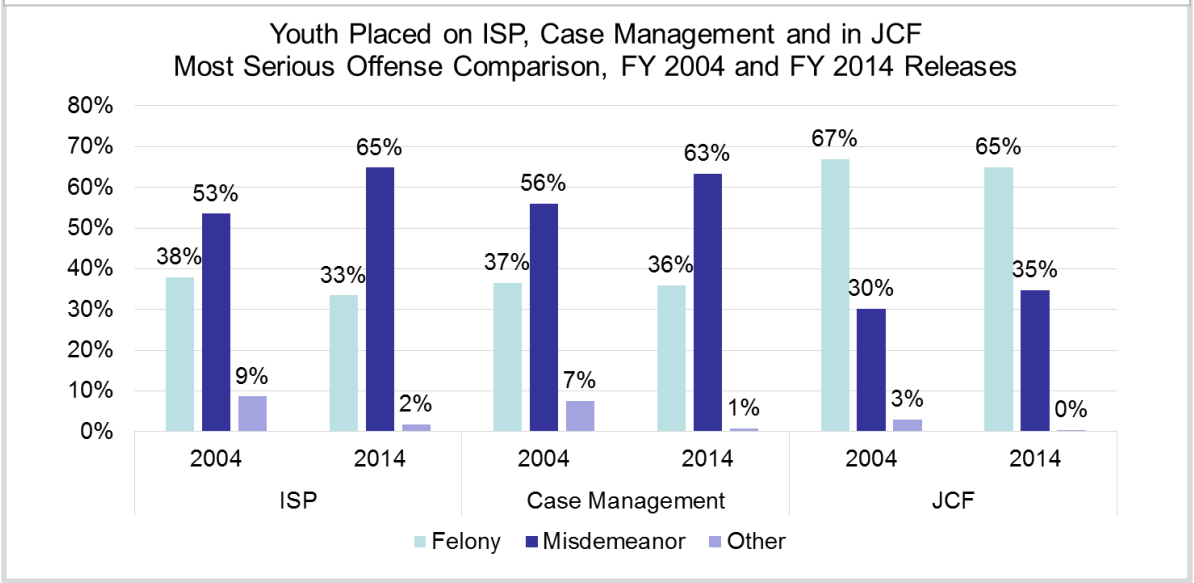
In Kansas, however, the data show that lower-level youth account for a large and growing share of both community supervision caseloads and residential beds:

- Community supervision
  - While juvenile offenders on Court Services supervision have declined (34 percent), the number of CINC youth placed on Court Services supervision increased 12 percent from 2004 to 2014
  - The share of misdemeanants on ISP grew from 53 to 65 percent from 2004-2014, while the share of felons fell from 38 to 33 percent
  - More than 90 percent of ISP youth had two or fewer prior adjudications
- Out-of-home placements
  - For the population of youth placed out of home on Case Management and in the JCF, the share of misdemeanants grew and the share of felons fell between 2004 and 2014

(see chart 2). Misdemeanants account for roughly two-thirds of youth placed in Case Management and one-third of youth placed in the JCF

- Seven out of the 11 top initial Case Management disposition offenses in 2014 were misdemeanors[6]
- More than 90 percent of Case Management and JCF youth had two or fewer prior adjudications
- More than 400 youth per year are removed from their homes primarily for truancy, running away, or behavior problems—and not parental abuse or neglect.[7]

CHART 2: INCREASING PROPORTION OF MISDEMEANANTS IN KDOC SYSTEM



The Workgroup reviewed research showing that over-involvement in the juvenile justice system can increase recidivism for low-risk youth and that pre-court diversion improves public safety and is cost-efficient relative to traditional juvenile justice processing.[8] However, a wide range of stakeholders, including law enforcement and CCOs, reported that swift, early interventions and sanctions to divert youth from the system are not consistently available across the state. The Workgroup found that judicial districts are not required to offer diversion and where it exists, there are no standard criteria guiding decisions about which youth are eligible, how many times they can be referred, how long diversion lasts, who runs the diversion programs, and how much it costs a youth or their family. In addition, the state does not have standards, guidelines, or best practices regarding how school officials and school resource officers can handle negative youth behaviors and which behaviors should be referred to the juvenile justice system.

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[6] The top 11 offenses are: Misd. Battery, Misd. Theft, Felony Burglary, Misd. Criminal Damage to Property, Misd. Unlawful Possession of Controlled Substances, Misd. Disorderly Conduct, Felony Indecent Liberties with a Child, Misd. Unlawful Possession of Drug Precursors or Paraphernalia, Felony Criminal Threat, Misd. Assault and Felony Theft. 11 offenses are reported because two offenses were tied for 10th.

[7] Kansas Department for Children and Families, Children Placed in Out of Home Placement by Primary Reason for Removal, http://www.dcf.ks.gov/services/PPS/Pages/FosterCareDemographicReports.aspx

[8] Mark Lipsey and Ed Mulvey, Presentation to the Kansas Juvenile Justice Workgroup, September 8th 2014.

Bed costs are high compared with probation and evidence-based community programs

Data show youth placed on Case Management and those on ISP are nearly identical in terms of offense types and prior history, yet the annual cost of Case Management out-of-home placement is over $50,000 per youth, more than eight times than the annual cost of ISP. The annual cost of placement at the JCF is over $89,000 per youth. More than two-thirds (over $53 million) of KDOC's juvenile services budget is spent on out-of-home placements, while less than a quarter is spent on community supervision. The Workgroup found that evidence-based community programs cost significantly less than out-of-home placement.

Lack of standardization leads to disparate outcomes

The Workgroup reviewed data that demonstrated wide variation among counties and judicial districts in how youth flow into and through the system (see Chart 3). Data showed variation across counties in their share of the KDOC out-of-home population, compared to their proportion of juvenile offense dispositions and their proportion of the state juvenile population. Stakeholders reported in roundtable discussions that disparate dispositional outcomes for youth may result in part from a lack of services and alternative sanctions available to judges in certain jurisdictions, particularly more rural areas of the state. Supervision levels, service referrals, and graduated sanctions and incentives are not guided by objective structured assessment and decision-making tools.

CHART 3: COUNTIES VARY IN PROPORTION OF KDOC OUT-OF-HOME POPULATION, COMPARED TO JO DISPOSITIONS AND THE JUVENILE POPULATION

Top 10 Counties with Largest Share of KDOC Out-of-Home Population	% KDOC Out-of-Home Population July 1 2014	% JO Dispositions FY 2014	% Kansas 10-17 Yr. Old Population 2013[9]
Sedgwick County	18.1%	13.3%	18.2%
Wyandotte County	11.5%	7.6%	5.8%
Shawnee County	9.9%	5.2%	6.1%
Johnson County	7.4%	20.8%	20.6%
Saline County	4.4%	5.4%	1.9%
Montgomery County	3.9%	1.9%	1.1%
Finney County	3.3%	1.7%	1.5%
Reno County	2.9%	3.6%	2.1%
Lyon County	2.3%	1.5%	1.0%
Leavenworth County	2.2%	2.4%	2.7%

The Workgroup reviewed research showing that matching placement, supervision, and treatment to a youth's risk level and criminogenic needs improves outcomes and reduces recidivism.[10] However, data

[9] Puzzanchera, C., Sladky, A. and Kang, W. (2014). "Easy Access to Juvenile Populations: 1990-2013."

[10] Tracey A. Vieira, Tracey A. Skilling, and Michele Peterson-Badali, "Matching court-ordered services with treatment needs," Criminal Justice and Behavior 36, no. 4 (2009): 385–401; D.A. Andrews, James Bonta, and J.

indicate that youth placed out of home on Case Management were nearly identical to those youth who remained at home on community supervision across characteristics such as offense type and prior history.

The Workgroup found that many states match youth to appropriate levels of supervision and services by requiring the use of a validated risk and needs assessment—a tool for identifying factors that correlate with the likelihood of recidivism—to identify high-risk youth, hold youth accountable, and improve public safety.[11]

In Kansas, however, statute only requires a risk and needs assessment to be conducted in some circumstances prior to certain dispositions, and the tool has not been validated on the state's juvenile justice population. As a result, judges, probation officers, and other juvenile justice stakeholders lack important information that should guide decisions on level of supervision or service referrals.

The Workgroup also found uneven use of assessment tools and criteria for pre-adjudication detention and temporary custody across jurisdictions. Intake data showed that nearly one-third (30 percent) of intakes in 2014 resulted in detention, a proportion higher than the national estimates of 21 percent.[12] In roundtable discussions, JDC staff reported that a lack of alternatives to detention has led to a counterproductive mixing of low-level youth with more serious offenders in detention facilities.

There are no statutory restrictions on placing youth indeterminately in temporary custody prior to adjudication. Youth placed in temporary custody are placed out of home alongside more serious adjudicated youth in the same state-funded non-secure residential facilities as Case Management, such as YRCIIs and foster homes. While the number of youth placed in temporary custody dropped 17 percent overall between 2004 and 2014, the reduction trailed declines in juvenile offense filings (42 percent). 140 youth were placed in indeterminate KDOC temporary custody in 2014, more than half of whom were lower-level youth eventually adjudicated for misdemeanor offenses. Stakeholders report that youth in some judicial districts often spend extended periods of time in temporary custody prior to adjudication only to have their case dismissed or to be disposed to community supervision.

Additional research showed the public safety benefit of using a system of graduated responses to hold youth accountable for technical violations of probation. The Workgroup's analysis found that one driver of the population of youth in KDOC custody is admissions due to revocations: one quarter of new KDOC placement admissions are revocations of youth under Court Services' supervision. In exploring the underlying reasons for this, the Workgroup found that there are limited standards, structures, or statutory guidance on supervision practices and revocation decisions from Court Services, ISP, and Case Management. There is also no requirement that CSOs, CCOs, and Case Management officers use a uniform, system-wide set of graduated responses to provide clear sanctions for technical violations and to incentivize compliance.

Stephen Wormith, "The Recent Past and Near Future of Risk and/or Need Assessment," Crime & Delinquency 52, no. 1 (2006): 7-27.

[11] Christopher T. Lowenkamp and Edward J. Latessa, "Evaluation of Ohio's RECLAIM funded programs, community corrections facilities, and DYS facilities," (Cincinnati, OH: University of Cincinnati, 2005); D.A. Andrews, James Bonta, and J. Stephen Wormith, "The Recent Past and Near Future of Risk and/or Need Assessment," Crime & Delinquency 52, no. 1 (2006): 7-27.

[12] Sickmund, M., Sladky, A., and Kang, W. (2015). "Easy Access to Juvenile Court Statistics: 1985-2013." Online. Available: http://www.ojjdp.gov/ojstatbb/ezajcs/

The Workgroup also found that there has been a 27 percent increase in the KDOC post-adjudication detention population over the last decade. In Kansas, detention is used as a response to technical violations, and stakeholders commented during roundtable discussions that the use of post-adjudication detention may be driven, in part, by the absence of a system for community-based graduated responses as well as the lack of written guidelines for the use of detention post-adjudication and too few services in the community.

Lastly, a statutory review and surveys of CSOs and CCOs revealed broad criteria for Extended Jurisdiction Juvenile (EJJ) prosecution and adult transfer. With both EJJ and adult transfer, the juvenile is presumed to be an adult and the burden is on the juvenile to rebut the presumption. An EJJ sentence results in a youth receiving both a juvenile sentence and an adult sentence with the adult sentence suspended barring a revocation from the juvenile system. If the juvenile violates the terms and conditions of the sentence in any way, including through a technical violation, the adult sentence is automatically imposed and the juvenile is transferred to the adult system. Surveys of CSOs and CCOs revealed a lack of uniform guidelines for reporting these EJJ violations.

Evidence-based services in the community are unavailable for court-involved youth in most jurisdictions

The Workgroup reviewed research demonstrating that the provision of evidence-based programming for youth in the community that is monitored for quality and ensures appropriate treatment intensity improves outcomes while simultaneously reducing costs.[13] In Kansas, however, the services available to youth in out-of-home placement are the same services available to any non-court-involved youth, are generally not evidence-based for reducing recidivism, and are not monitored for quality by the juvenile justice system. While the majority of the Case Management population is in YRCII group homes, a recent study by KDOC showed that most YRCIIs do not provide in-house services.[14] Instead, youth in Kansas are referred to the same services in the community regardless of whether they are on community supervision or in a non-secure placement through DCF custody or KDOC Case Management, and these services are not monitored to ensure that they are evidence-based for reducing recidivism.

Community supervision officers reported that there are not enough services in the community and that services are too costly and have long waitlists. Stakeholders at the roundtables discussed difficulty in accessing services due to transportation barriers.

Kansas has taken recent steps to increase evidence-based programs in the community, and the results have been promising. For the past two years, Wyandotte County has piloted a structured decision-making tool for referring youth on ISP to Multisystemic Therapy (MST). This combination of structured decision making and evidence-based programming, among other factors, has contributed to a 26 percent decrease in out-of-home placements over two years, at a cost to the state of just over $7,700 per youth per year.

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[13] Christopher T. Lowenkamp and Edward J. Latessa, “Evaluation of Ohio's RECLAIM funded programs, community corrections facilities, and DYS facilities,” (Cincinnati, OH: University of Cincinnati, 2005).

[14] Kansas Department of Corrections, “Cost Study of Youth Residential Centers for Juvenile Offenders- Pursuant to Senate Substitute for House Bill 2588,” January 15, 2015.

Information sharing is insufficient and inconsistent

Stakeholders report that information sharing is not uniform across the state or among different system stakeholders. As a result, services and supervision are duplicated, youth do not get credit for time they have served in detention, case plans are not coordinated across different types of supervision, and prosecutors reported not being able to access information about a youth's prior history without calling colleagues across the state.

While the Workgroup reviewed extensive quantitative information from across the system, several data elements were not available. No recidivism data is collected and reported other than for youth released from the JCF, and that data is limited. Data is not collected or entered uniformly, as the court, DCF, and KDOC data systems do not interact. Revocation and supervision violation data is very limited, and individual level data on court filings is sparse. Court Services does not maintain statewide individual-level data or break out the cost of court services supervision for youth. Under these conditions, holding government accountable by managing for performance becomes difficult.

Policy Recommendations

Grounded by the findings described above, and guided by the charge provided by state leadership, the Workgroup forged consensus on a set of 40 policy options that will reduce recidivism and enhance accountability by: preventing deeper juvenile justice system involvement of lower-level youth through early responses with targeted services and swift and appropriate sanctions; protecting public safety and containing costs by focusing system resources on the highest-risk youth; and sustaining effective practices through continued oversight and reinvestment in a stronger continuum of evidence-based services. Collectively, the Workgroup's recommendations are projected to reduce the average daily out-of-home population by at least 62 percent from projected levels in 2021, creating $81 million in funds available for reinvestment over the five years following the legislation effective date.

The Workgroup recommends that the state make targeted reinvestments from these anticipated reinvestment funds to strengthen community supervision, provide evidence-based services in the community, and reduce recidivism. An investment now will produce significant returns through reduced reoffending, stronger families and communities, and more youth on a path to productive, law-abiding lives.

Prevent deeper juvenile justice system involvement

Recommendation: Reduce school referrals

Policy 1. Schools must develop a memorandum of understanding (MOU) with the goal of reducing the number of school-based referrals for disciplinary action to law enforcement or the juvenile justice system. Relevant stakeholders should collaborate to develop this MOU, establishing guidelines for how and when school-based behaviors are referred to law enforcement or the juvenile justice system.

Recommendation: Provide more options for law enforcement at initial contact

Policy 2. Establish statewide criteria for an optional notice to appear (NTA) program wherein law enforcement officers, upon responding to an initial complaint, may issue an NTA citation rather

than bringing youth directly to Juvenile Intake and Assessment Services (JIAS). All youth would be required to contact JIAS and schedule an appointment with a JIAS worker within 48 hours to conduct an intake assessment, to determine eligibility for diversion, and, if diversion is offered, to develop and sign a diversion plan. The youth must appear at the appointment with his or her parent or guardian. Failure to appear would result in a referral to county or district attorney.

Recommendation: Reduce use of pre-adjudication detention and eliminate temporary custody for certain offenders

Policy 3. Require that KDOC, in conjunction with OJA, adopt a statewide validated detention risk assessment instrument and establish cutoff scores for determining eligibility for detention. Require that every youth considered for detention receive a detention risk assessment from a Juvenile Intake and Assessment Services (JIAS) worker and that the assessment is used to guide eligibility for detention or referral to a community-based alternative. Overrides of the detention risk assessment must be documented and explained by the JIAS worker. Alternatives to detention must be developed and used, including but not limited to release on the youth's promise to appear; release to parents, guardian or custodian upon their assurance (written or otherwise) to secure the youth's appearance; release to a community supervision program; or release to an electronic monitoring program. Detention due to a lack of more appropriate supervision or service options or a parent avoiding his or her legal responsibility shall be prohibited.

Policy 4. Require the court to hold a review hearing every seven days that a youth is in detention to determine if the youth should continue to be held in detention.

Policy 5. Prohibit the placement of CINC in detention with no exceptions.

Policy 6. Eliminate Temporary Custody for juvenile offenders.

Recommendation: Enhance and standardize pre-court and post-file diversion to provide early interventions

Policy 7. Require a consistent two-step pre-file diversion for low-level offenders

a. Step one: When a youth reports or is brought by law enforcement to the JIAS, the intake worker must accept into diversion first-time misdemeanants and youth charged with the felony of unlawful voluntary sexual relations, and may accept any other youth. Eligible youth will then be ordered to complete a mutually agreed upon diversion plan that may be either supervised or unsupervised. The plan must not last longer than four months unless the youth is completing a community-based mental health or substance abuse program that extends beyond the four-month period, in which case the plan may be extended up to two additional months.
b. Step two: If a youth is unsuccessful on the original diversion plan, the case is referred to a multidisciplinary team of professionals such as clinicians, school administrators, and mental health case managers and counselors. The team will review the case and makes revisions to the plan indicating additional services or supports. The multidisciplinary team may extend the diversion plan up to an additional four months if the youth is in need of additional services or supports. If the youth is unsuccessful in completing the

revised plan, the intake worker must notify the county or district prosecutor, who can decide to file a petition.

Policy 8. Require the county or district attorney to review each filed petition to determine if an offer of diversion should be extended to any youth with zero or one prior adjudication in lieu of adjudication. The county or district attorney must consider the recommendation of the JIAS worker.

Policy 9. Require that all pre-file and post-file diversion programs adhere to standards and procedures for diversion developed by KDOC and based on best practices. Standards shall include but are not limited to: contact requirements, parent engagement, violations and revocation requirements, and process and quality assurance. Prohibit barring a youth who is eligible for diversion from receiving it due to an inability to pay fees or other associated costs.

Protect public safety by focusing system resources

Recommendation: Tailor eligibility for removal from the home

Policy 10. Tailor supervision and placement

a. Any youth placed on probation shall be supervised according to the youth's risk and needs as determined by a validated risk and needs assessment.[15]
b. To be placed out of home in the JDC post-adjudication, a youth must pose a significant risk of harm to another; score as detention-eligible on a standardized detention risk assessment instrument; be charged with a new felony offense; or be in violation of conditional release.[16]
c. To place a youth in the JCF rather than the community, the court must first make findings of fact and enter into the written record that the youth poses a significant risk of harm to another person. The court must also find that the youth is eligible according to the revised JCF Matrix (see Exhibit A).[17]
d. If crisis intervention or short-term stabilization is necessary, allow the court to hold a youth no more than 72 hours in a non-incarcerative setting such as emergency shelters or other respite care.

Policy 11. Require KDOC to develop reentry plans for youth placed in the JCF that address services, supervision, education, and any other elements necessary for a successful transition. Establish a

[15] Specialized training will be provided to designated officers responsible for the supervision of juvenile sex offenders.

[16] The JDC may not be used post-adjudication as a direct sentence at disposition; for technical violations of probation; for contempt; on a violation of a valid court order; to protect from self-harm (for issues such as mental illness, developmental disability, running away from home, substance use, or truancy); or due to any state or county agency failing to find adequate alternatives.

[17] Eligibility under the revised JCF Matrix is limited to the following: a juvenile offender who is adjudicated for an off-grid crime, a 1-6 person felony, a 1-3 drug felony; or a juvenile offender who has been as assessed as high risk according to the results of a validated, uniform risk-assessment tool and is adjudicated for a level 7-10 person felony (with one prior felony adjudication), a level 4 drug felony (with two prior felony adjudications), or a present non-person felony (with two prior felony adjudications).

presumption that youth will return directly home following release. Conditional release may be ordered for any youth but will no longer be required.

Policy 12. Eliminate the use of Case Management and group home placement (specifically YRCIIs and Transitional Living Programs for juvenile offenders) as a disposition option. In the event that a youth has been adjudicated for a sex crime in which the victim resides in the home and an adequate safety plan cannot be developed to keep the juvenile in the home, short-term alternative placement options such as emergency shelters, CIP independent living programs, and Therapeutic Foster Care can be ordered by the court.

Policy 13. If a youth requires acute inpatient mental health or substance abuse treatment, the court shall have authority to compel an assessment by the Secretary of the Kansas Department for Aging and Disability Services (KDADS) as part of the dispositional process. The court may use the results to inform a treatment and payment plan according to the eligibility processes used for non-court-involved youth.

Policy 14. Ensure that youth receive protections from the child welfare system when there are concurrent juvenile offender and CINC cases, by either redirecting a case to DCF, or running a CINC case concurrently to the juvenile offender case where abuse/neglect is established. In concurrent cases, DCF staff will be obligated to address issues of abuse and neglect by parents and prepare parents for the child's return home (in the case of DCF removal), while Court Services, Community Corrections, and KDOC will be obligated to address criminogenic risk and needs of the youth. [18]

Recommendation: Target resources toward serious offenders by limiting length of time spent out of home and overall case time

Policy 15. Require a case length limit (limit of the court's jurisdiction) defined by risk level and offense type, and create a presumptive length for each level of supervision subject to the overall case length limit. The case shall be terminated once the case cap expires and it may not be extended.[19]

a. Limit JO case length to:
    1. Up to 12 months for misdemeanants
    2. Up to 15 months for felons assessed at low and moderate risk (except off-grid crimes and level 1-3 person felonies),
    3. Up to 18 months for felons assessed at high risk (except off-grid crimes and level 1-3 Person felonies),
    4. Up to 30 months for level 1-3 person felonies
    5. The presumption of up to 42 months for designated very serious felonies (off-grid, murder 2, aggravated sodomy, forcible rape) or up to 66 months through a departure hearing

[18] When a juvenile offender needs a place to live and that juvenile has no abuse/neglect issue, is emancipated, or over age 17, the court should have the ability to fund/order placement in a CIP.

[19] In the event that monetary restitution is still owed, the restitution would become a judgement against the juvenile in accordance current statute KSA 38-2361(d)(2).

b. Presumptive lengths for each level of supervision will be defined as follows:
    1. Probation
        a. Up to 6 months for low- and moderate-risk misdemeanants and low-risk felons
        b. Up to 9 months for high-risk misdemeanants and moderate-risk felons
        c. Up to 12 months for high-risk felons
        d. Up to overall case cap for designated very serious felons regardless of risk level (off-grid, murder 2, aggravated sodomy, forcible rape)
        e. Extensions
            1. Extensions of probation supervision may only be granted by the court in accordance with the graduated response tool for the purposes of completing an evidence-based treatment program that the youth has already begun. Evidence-based treatment program will be clearly defined to describe a program tailored specifically to address a youth's criminogenic needs as identified by a validated risk and needs assessment. The court must enter into the written record a finding that the criteria for granting a probation extension have been met. Extensions of probation may be granted incrementally up to JO case length limit.
    2. Detention
        a. Use of detention post-adjudication will be limited to a maximum of thirty days over the course of a case.
    3. JCF
        a. JCF time will be limited consistent with the revised JCF matrix[20] to a maximum of 12 months, except:
            1. For off-grid, aggravated sodomy, forcible rape, and murder 2, youth may remain in JCF for a presumed 36 months (with the ability to depart up to 60 months)
            2. For 1-3 person felonies, youth may remain up to 24 months
            3. For 4-6 person felonies and 1-3 drug felonies, youth may remain up to 18 months
    4. Conditional release
        a. Conditional release will be limited to an optional period of 6 months.

Policy 16. Develop a standardized, consistent earned discharge policy for all youth to be applied across the state in order to incentivize compliance with the terms of probation and allow CSOs, CCOs, and JCF staff to focus on higher-risk youth.

Policy 17. Require that youth receive credit from the courts toward their sentences for time served in detention or under house arrest prior to disposition to a JCF or adult prison.

[20] See Exhibit A

Recommendation: Use a uniform risk and needs assessment to better inform decision-making throughout the juvenile justice system

Policy 18. A validated and uniform risk and needs assessment should be used in all cases post-adjudication to inform supervision level, referrals to programs and services, and case planning. The same tool should be used by Court Services, Community Corrections, providers, and KDOC. The risk and needs assessment should be validated on the Kansas population. Legislation should clearly indicate when and how the assessment should be used.

Recommendation: Strengthen the quality of supervision and treatment by reducing system inefficiencies and targeting sanctions and services to youth's risk and needs

Policy 19. Standardize criteria for extensions, responses, and violation procedures across the state. A statewide system of structured, community-based graduated responses should be developed by system stakeholders through court rule and should include responses that are swift and certain; that provide for a continuum of rewards and sanctions for positive and negative behaviors; and that are targeted to the youth's criminogenic risk and needs and to the severity of the violation. Community supervision officers should use graduated responses and should only bring technical violations forward to court if there is a pattern of violations and failed responses.[21] Unless a youth poses a significant risk of physical harm to him/herself or another, community supervision officers should issue a summons on a technical violation rather than a warrant or an arrest and detain.

Policy 20. Improve uniform case planning in order to hold youth accountable; increase standardization and information sharing; reduce inefficiencies and undue burdens on families; and streamline service referrals to target criminogenic risks and needs. A single, uniform case plan informed by a risk and needs assessment should be developed for all juvenile justice youth and shared throughout all parts of the system, from community supervision to out-of-home placement, evolving as necessary. The case planning process should involve youth and their families, as well as schools and DCF when appropriate. The roles of each agency/branch should be clearly defined.

a. When placed in the JCF, JCF staff, the youth, the community supervision officer, and the family should begin integrated planning for release immediately upon or very soon after admission.
b. Notification of pending release should be provided to relevant local community stakeholders and the crime victim, if applicable.

Policy 21. Eliminate the ability of the court to order Court Services supervision of CINCs and CINC-NANs where the youth is simultaneously in DCF custody and has no corresponding JO case.

Policy 22. Streamline supervision of youth by prohibiting simultaneous supervision by Court Services and Community Corrections; and terminating juvenile offender supervision (the court's jurisdiction over the juvenile case) when a youth is sentenced on an adult crime.

[21] All violations and responses should be documented in the youth's case plan, including the type of violation, the response, and the result.

Recommendation: Transfer only the most serious juvenile offenders to the criminal justice system

Policy 23. Specifically for youth being transferred to the criminal justice system:

a. Require the court to offer a preliminary hearing to all youth transferred to adult court for prosecution;[22]
b. Revise the burden of proof in adult prosecution proceedings to ensure that youth are never presumed to be adults; and
c. Revise the age of eligibility for adult prosecution from a minimum of 12 years to a minimum of 14 years.

Policy 24. Eliminate the use of extended jurisdiction juvenile prosecution.

Sustain effective practices through oversight, reinvestment

Recommendation: Reinvest in evidence-based practices in the community

Policy 25. Costs averted from reduced out-of-home placements shall be reinvested into evidence-based practices and programs in the community for use by intake, diversion, probation, and conditional release. Priority reinvestment areas will target criminogenic needs including: cognitive-behavioral and family-centered therapies, substance abuse, and sex offender therapy. Evidence-based practices should be defined.

Policy 26. Invest in effective pre- and post-file diversion programs that provide appropriate accountability while reducing court referrals and adjudications. Provide fiscal incentives for counties to develop immediate intervention and diversion programs that adhere to the standards and procedures developed by KDOC and effectively divert youth from further juvenile justice system involvement.

Policy 27. Require that KDOC develop and fund a plan to incentivize the creation and use of appropriate community-based alternatives to detention, including but not limited to house arrest and other alternatives run through JIAS, Court Services, or Community Corrections. A youth eligible for alternatives to detention shall not be prevented from receiving an alternative due to inability to pay associated costs.

Recommendation: Require training for juvenile justice professionals

Policy 28. Comprehensive training on evidence-based practices and the juvenile offender population should be a priority reinvestment area and should be required for all Court Services, Community Corrections, providers, JIAS, and KDOC staff working with diverted or adjudicated youth. Training should be consistent for staff members who work with youth on community supervision and youth who are placed out of home. Court Services, Community Corrections, and KDOC should collaborate to provide uniform training to all staff on a semi-annual basis.

[22] Repeal or revise KSA 38-2347(g).

Policy 29. Require that any law enforcement officer primarily assigned to a school and school administrators receive skill development training developed by the Kansas Law Enforcement Training Center and the state Board of Education for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system. SRO training must include: information on adolescent development, diversity, mental health, risk assessment, youth crisis intervention, substance abuse prevention, trauma-informed responses, and other evidence-based practices in school policing to mitigate student juvenile justice exposure.

Policy 30. Require that JIAS workers receive appropriate training in juvenile justice-specific areas including but not limited to: risk and needs assessments, individualizing diversions based on needs and strengths, graduated responses, family engagement, trauma-informed care, substance abuse, mental health, and special education needs.

Policy 31. Recommend a model training protocol for judges, district or county attorneys, and defense attorneys. The Workgroup recommends that judges, district or county attorneys, and defense attorneys complete the model training protocol in order to work in juvenile court.

Recommendation: Improve the quality of juvenile defense

Policy 32. Improve the quality of the juvenile defense bar by creating a system that encourages specialization in juvenile justice matters and provides oversight and juvenile-specific training statewide.

a. Create or designate a state-level entity to oversee juvenile defenders.
b. Improve the structure of the juvenile defender system.
c. Create a payment structure that encourages specialization.

Policy 33. Designate a position through the Supreme Court to be responsible for oversight and training of juvenile judges and court staff.

Policy 34. Encourage the Legislature and the Supreme Court to consider expanding juvenile due process protections by extending preliminary hearing and speedy trial rights to all juvenile offenders

Recommendation: Enhance oversight

Policy 35. Establish a statewide entity (similar to the Kansas Juvenile Justice Workgroup) tasked with oversight of adopted reforms. Responsibilities of the oversight entity should include: designing, reviewing, and publically reporting performance measures and outcomes related to each policy area contained in the reforms; ensuring system integration and accountability; monitoring fidelity of implementation of reforms and training efforts; reviewing averted costs and making recommendations for reinvestment; meeting quarterly; and reporting annually to all three branches of government. The oversight entity should examine and consider additional policy changes to the juvenile justice system, including but not limited to: addressing issues surrounding the confidentiality of juvenile records; reducing the financial burden on families involved in the juvenile justice system from fees and other costs; and striving to improve conditions of confinement for youth. The Workgroup recommends that the oversight entity work with DCF to examine and address the removal of CINC-NAN youth from the home primarily

for truancy, running away, or other child behavior problems when there is no court finding of parental abuse and neglect.

Policy 36. The Juvenile Correctional Advisory Boards (JCABs), which provide oversight of juvenile justice in each of the state's 31 judicial districts, should include a juvenile defense attorney among their membership. The JCABs' purpose should also be further clarified in statute.

Recommendation: Increase data collection and information sharing

Policy 37. There should be increased information sharing across all parts of the juvenile justice system, especially when a youth is transferred from one type of supervision to another. Performance measures should be established to track outcomes of individual policy reforms. A plan should be developed by Court Services, Community Corrections, DCF, and KDOC for increased data collection and performance measurement, and this plan should be presented at the first meeting of the oversight entity for approval and action. The Workgroup recommends consideration of the Kansas Criminal Justice Information Systems (KCJIS). Areas where there should be increased data collection include but are not limited to:

a. Individual level data about youth on standard probation supervision and the associated costs
b. Individual level data regarding youth filings for both JOs and CINC-NAN youth, along with associated costs of CINC-NAN placements
c. YLS-CMI override data
d. Recidivism data, including tracking youth into the adult system
e. Revocation violation data consistently tracked for ISP
f. Program outcomes, including recidivism and education outcomes

Policy 38. Require school districts to collect data on student misconduct for each school in the school district during the academic year. School districts must report this data to the state Department of Education. The data must include analysis according to race, gender, and any other relevant demographic information as determined by the relevant state agencies. The data collected must include but is not limited to:

a. The number of arrests made and referrals to law enforcement or JIAS
b. The number of out-of-school suspensions and expulsions issued

Policy 39. Require JIASs and the courts to collect, enter into the Juvenile Justice Information System, and report data, including but not limited to:

a. Number of youth diverted at point of initial law enforcement contact, pre-file intervention, and post-file diversion
b. The number of notice-to-appear citations issued and the number of school-based notice to appear citations issued in each school district
c. Three-year rates of rearrest and rates of adjudication for youth who participate in pre- and post-file diversion
d. The types of pre-file and post-file diversions available
e. The length of supervision for all types of pre-adjudication interventions or diversions
f. Rates of successful diversion and failed diversion
g. Reason for failure of diversion
h. Number of youth diverted who are not statutorily required to receive diversion

Policy 40. Require the state to collect and report data regarding the use of detention risk assessment instruments. The state must analyze the data to determine if any disparate impacts exist at each stage of the juvenile justice system based on race, sex, national origin, and economic status regarding the use of the instrument.

Conclusion

Kansas has taken great strides to improve its juvenile justice system and the Workgroup's recommendations identify opportunities for further reform to better align the system with research on what works to improve public safety. The type of youth under KDOC supervision and in out-of-home placements are largely low level and case length has increased dramatically in the last decade. Youth in out-of-home placements are similar in offense type and history to those placed on ISP.

The Workgroup analyzed data that revealed the flow of youth throughout the system and used this data to develop policy recommendations that allow the juvenile justice system to more efficiently protect public safety by putting youth in the right placements at the right time and diverting youth out of the system with targeted interventions when appropriate. These recommendations will provide front-end interventions to keep low-level youth out of the juvenile justice system and focus costly out-of-home beds on youth who pose the greatest risk to public safety.

The Workgroup sought to ensure that every dollar spent on juvenile justice and each segment of the system is targeted to protecting public safety, generating the best outcomes for youth, and strengthening Kansas's families and communities. The reinvestment dollars that will be produced by the Workgroup's recommendations should be reinvested into the identified priority areas to expand the availability of evidence-based supervision and services across the state. These recommendations, once implemented, will provide communities with additional tools for reducing recidivism and maximizing system effectiveness and fairness.

The Kansas Juvenile Justice Workgroup recognizes that the juvenile offender and CINC systems are highly complex and that the safety and welfare of children, families, and the community require effective services delivered in a timely manner. System stakeholders have played a key role in developing these recommendations, through roundtables and their representation on the Workgroup, and must continue to be involved throughout the planning and implementation process in order to maximize the success of these reforms. The Workgroup encourages the development of a carefully constructed plan that considers the investment of time and money required of all stakeholders in order to successfully implement these recommendations.

The Kansas Juvenile Justice Workgroup recommends the package of policies included in this report to Governor Brownback, Chief Justice Nuss, Senate President Wagle, Senate Minority Leader Hensley, Speaker Merrick, and House Minority Leader Burroughs. The Workgroup recommends that state leaders introduce omnibus legislation based on these recommendations to meet the goals of promoting public safety and holding juvenile offenders accountable; controlling taxpayer costs; and improving outcomes for youth, families, and communities in Kansas.

Members of the Kansas Juvenile Justice Workgroup

Rep. John Rubin, District 18 (co-chair)

Sen. Greg Smith, District 21 (co-chair)

Rep. Gail Finney, District 84

Sen. Pat Pettey, District 6

Judge Thomas Foster, 10th Judicial District

Judge Mary Thrower, 28th Judicial District

Judge Delia M. York, 29th Judicial District

Mark Gleeson, Office of Judicial Administration

Stephanie Springer, Chief Court Services Officer, 27th Judicial District

Secretary Ray Roberts, Kansas Department of Corrections

Terri Williams, Deputy Secretary for Juvenile Services, Kansas Department of Corrections

Randy Bowman, Director of Community-Based Services, Kansas Department of Corrections

Melody Pappan, Administrator, Cowley County Youth Services

Jaime Rogers, Deputy Secretary, Kansas Department for Children and Families

Trent Wetta, Attorney, Kansas Legal Services

Karen Griffiths, Assistant County Attorney, Norton County

Ed Klumpp, Kansas Association of Chiefs of Police and Kansas Sheriffs Association

EXHIBIT A

REVISED JCF PLACEMENT MATRIX

Offender Type	Eligibility by Offense	Limit on Length of Stay in JCF	Term Limit of Optional Conditional Release***	Overall Case length Limit
Violent I	Off-grid	36/60 months	6 months	42/ Depart up to 66
Violent II	1 – 3 Person felony	36/60 months (for forcible rape, aggravated sodomy, murder 2) 12-24 months (all others)	6 months	42/66 (for forcible rape, aggravated sodomy, murder 2) 30 months (all others)
Serious I	4 – 6 Person **OR** 1 – 3 Drug Felony	9-18 months	6 months	18 months
Serious II**	7 person felony + 1 prior felony adjudication	6-12 months	6 months	18 months
Serious III**	8 – 10 person felony + 1 prior felony adjudication	6-12 months	6 months	18 months
Chronic I Chronic Felon**	Present non-person felony **OR** level 4 drug felony + 2 prior felony adjudications	6-12 months	6 months	18 months

*Juvenile offenders may only be committed to a juvenile correctional facility if the judge finds that the youth poses a significant risk of harm to another

** Offenders in these categories may only be committed to a juvenile correctional facility if they are assessed as high-risk on a uniform, validated, risk-assessment tool

*** Up to 30 days JDC available over course of case, may be used as sanctions for violation of conditional release