MAKING THE CASE: Community-Based Alternatives to Youth Incarceration

The United States has the highest rate of youth incarceration in the industrialized world,¹ with a daily average of nearly 50,000 children in out-of-home placements.² In addition to over-incarceration, there are additional problems with the youth justice system, including racial disparities, increased recidivism, high costs, and a failure to address underlying factors, including previous trauma.

In 2016, Kansas took a strong first step toward improving its youth justice system. However, there is much more work to do. As the state continues working to reduce youth incarceration and redirect funding toward evidence- and community-based alternatives, legislators and practitioners will benefit from exploring best practices, both within Kansas and other states, to guide the development and implementation of programs geared to reduce youth interaction with the justice system.

August 2018
Five Steps Toward a Smarter, More Effective Youth Justice System

As Kansas works to reduce incarceration among youth and redirect those savings into more effective and community-based programs, lawmakers and practitioners should:

1. **CONTINUE TO INVEST**
   The initial grant funds provided by the state to judicial districts were a great first step in providing the additional resources needed to reduce incarceration through community-based efforts. As the reduction in youth incarceration continues to save Kansas money, further reinvestment into evidence- and community-based programs is essential to make progress in reducing incarceration and recidivism, strengthening communities, and working with youth to maximize their potential. For fiscal years 2017 and 2018, reinvestment funding was capped at $8 million. As the cap is lifted, reinvestment funds should also flow to community organizations, not just judicial districts, to allow for a holistic approach to community-based interventions not directly tied to the judicial system.

2. **INVOLVE AFFECTED COMMUNITIES**
   When identifying the needs facing communities and making decisions about reinvestment, more work should be done to ensure that affected communities have their voices heard. These communities, including youth with involvement in the justice system and their families, can shed light on needed resources and approaches that can reduce entry and recidivism into the justice system. In Kansas, there are organizations such as Progeny, a group that consists exclusively of young people who are either formerly incarcerated or formerly justice involved, engaging in youth justice reform. Youth and families with direct experience with the justice system should be included in decision-making opportunities, including serving as participants on the Juvenile Justice Oversight Committee or subcommittees.

3. **ADDRESS RACIAL DISPARITIES**
   While youth incarceration has decreased substantially in Kansas and the nation, racial disparities in the youth justice system have increased. In Kansas, between 2001 and 2015, there has been a 12 percent increase in the disparity between the rate of Black and white young people who are incarcerated. More work needs to be done to address racial disparities in the youth justice system at all stages, including arrests, sentencing, and detention. For example, the Johnson County Department of Corrections contracted with the Burns Institute and United Community Services of Johnson County to reduce disproportionate minority contact in the juvenile justice system by improving its capacity for data-driven evaluation of current practices and policies disproportionately affecting youth of color and implementing system changes to reduce identified barriers.

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CREATE PROGRAMS BASED ON BEST PRACTICES

Programs need room and resources to foster innovation. However, it is important to, when possible, develop new programs based on effective and time-tested methods. Other states have established distinct programs, targeting different populations, that have been effective in reducing recidivism and providing helpful services to youth involved in the justice system. Kansas and its judicial districts should study these programs and the accompanying research to create programs that have high likelihood of success and are applicable to Kansas’ needs. The Department of Corrections should fund judicial district programs based on best practices and committed to data collection and evaluation.

DEVELOP METRICS AND EVALUATE

While programs should be based on best practices, they must also have mechanisms for tracking progress, developing metrics, and constantly evaluating performance. While it does take time for programs to become established enough to be measured, ineffective programs should be discontinued or reworked to ensure success. To ensure proper oversight and evaluation, all funds from the Juvenile Justice Evidence-Based Reinvestment Fund should be monitored and approved by the Juvenile Justice Oversight Committee.

Kansas has taken important steps to improve its youth justice system

In Kansas, lawmakers saw the opportunity for further youth justice improvements and savings. Pew Charitable Trusts, a Washington, D.C., based nonprofit organization, and the Kansas Department of Corrections (KDOC) began a yearlong review of the current system and potential youth justice reforms, with bipartisan support from the Kansas legislature. This review led to Senate Bill 367, which was passed in April 2016 and implemented July 1, 2016.

SENATE BILL 367 INFORMED MANY CHANGES TO THE YOUTH JUSTICE SYSTEM, INCLUDING:

- **Closure**: The state closed the Larned Juvenile Correctional Facility on March 3, 2017. The girls’ facility in Beloit was also closed, and the girls were moved to the Kansas Juvenile Correctional Complex in Topeka.

- **Population Decline**: As a result of the reforms, the population of Kansas youth in custody “declined more than 40 percent between January 2016 and January 2017.” While some aspects of the law will not be implemented until 2019, it is estimated that by 2021 the legislation will continue to “reduce the number of youth sent to out-of-home placements by about 60 percent.”

- **Increase in Evidence-Based Services**: Savings created by the reduction of out-of-home placements have begun to be reinvested into evidence-based programs.

- **Consideration of Youth as Adults**: Young Kansans who are 12 and 13 can no longer be prosecuted as an adult.
The overall goals of the legislation were to reduce long-lasting harm to Kansans involved in the youth justice system, especially those at low risk of reoffending. Research shows most young people (70 to 80 percent) involved in the justice system are not likely to commit crimes as adults, but rather temporarily act out as part of adolescent development.9

To fund these changes, legislators transferred up to $8 million from the Department of Corrections to the Juvenile Justice Evidence-Based Reinvestment Fund in the State General Fund during fiscal years 2017 and 2018 to develop and implement new community placements as institutional placements declined, and also permitted the state Department of Corrections (KDOC) to invest $2 million in fiscal year 2017 to jumpstart these reforms.10 Savings created went into a fund to be reinvested in community-based programs that work with young Kansans.

REINVESTMENT IN EVIDENCE-BASED PROGRAMS
For justice-involved young people to grow and thrive, the system must pivot from a focus on punishment to rehabilitation and support. However, many programs and components of the youth justice system are not measured to determine whether they contribute to rehabilitation and prevent recidivism. Kansas’ reforms include a request for proposals (RFP) from local jurisdictions interested in creating evidence-based programs and developing metrics to determine best practices for youth in the state.

In the summer of 2017, KDOC announced the RFP for two grants designed to assist local programs develop and implement evidence-based programs for youths involved in the criminal justice system and their families.11 One of the grants is for individual judicial districts, while the second grant is designed to encourage regional and inter-branch collaboration among
judicial districts. Boards of county commissioners applied for these grants to assist youths involved with community supervision offices, with priority given to jurisdictions with disproportionate numbers of out-of-home youths and those in need of community-based alternatives. More than $4 million was available for the grant requests. To move funds from incarceration to community-based alternatives, local communities will build programs and institute practices to best help youths. The second grant, by funding inter-branch and regional collaboration, emphasizes the importance of local and state agencies communicating with each other, especially as reforms begin.

At the beginning of 2018, KDOC announced it had awarded 29 grants, including two regional collaboration grants, totaling $3,556,661. The amount of the grants ranged from $14,804 to $614,028. The programs are estimated to serve approximately 2,214 young Kansans with:12

- Parenting classes,
- Wraparound case management services for families,
- Enhanced cognitive-behavioral programs for youth,
- Partnerships with local school districts to strengthen engagement with youth,
- Job readiness programs, and
- Vocational scholarships.

Reinvestment Grant Distribution by Judicial District

![Reinvestment Grant Distribution by Judicial District](https://www.doc.ks.gov/juvenile-services/grants/FY18_Summary/view)

Total funds awarded: **$3,556,661.29**
Total number of projected youth served: **2,214**

- **4th, 5th, 7th, 10th, and 29th JDs**
  - Regional Collaboration Grants
  - $104,500
- **9th, 13th, 18th, 19th, and 30th JDs**
  - $250,000

In addition, there was approximately $12 million available in 2017 for reinvestment, with $7.5 million committed. That leaves substantial remaining funds to invest in best practices to reduce youth involvement in the justice system.13 While the reinvestment grants are a step in the right direction, judicial
districts have additional needs. For example, the 21st judicial district, covering Clay and Riley counties, received $67,230 through the grant funding – less than half of the need that district had identified to implement programs and practices to reduce out-of-home placements and improve the recidivism rate. The 28th judicial district, covering Ottawa and Saline counties, estimated it needed more than $2 million to implement needed programs in 2016, but received less than a tenth of that – only $157,253 – in grant funding.

With the remaining reinvestment funds, KDOC should continue to work with judicial districts, service providers, and others to identify programs that can further serve Kansas children. KDOC can also leverage the reinvestment money to apply and receive federal and foundation support for these programs. Judicial districts have provided estimates of program and funding needs. In many cases, there are wide disparities in those estimates and the amount of grant funding received. While KDOC provided more than $3.5 million in funds through the grants, in 2016 the judicial districts estimated needing more than double that amount of additional funding to fully implement programs. This highlights the need for further investment in incarceration alternatives. KDOC itself has suggested potential priorities for further investment, including behavioral health care and anti-trafficking programs.

Lessons Learned: What is Working in Other States?

Like Kansas, other states have reformed youth justice systems and reinvested at the local level. For example, in 1996 California “required counties to cover a share of the cost of committing local youth to state facilities and appropriated $33 million to support local youth justice programs to provide counties with more options.” While the reduction of youth incarceration is important, it is also important to reinvest the money saved to programs proven to be effective to reach youth and prevent recidivism. But what approaches and programs have been successful?

PRE-TRIAL DETENTION
The Juvenile Detention Alternatives Initiative (JDAI) program works to reduce the number of youth detained before trial. The program began with five pilot locations, but has since expanded to almost 300 areas, covering 39 states and the District of Columbia. Nearly a third of youth live in an area with JDAI. The sites have lowered their daily average detention population by 44 percent. The program used eight core strategies, including:

• Limit detention for youth with parole violations,
• Reform processes to move cases through the system faster,
• Use data collection and analysis to make decisions, and
• Encourage cooperation between different decision makers in the system (probation, prosecutors, schools, etc.).
**DIVERSION**

Diversion programs – limiting both contact with the justice system and harmful interactions with other at-risk youth – can be particularly helpful to reduce recidivism. Michigan State University created the Adolescent Diversion Project to shift youths from the traditional judicial sentencing process to community services. The program works to reduce recidivism by encouraging youth to maintain attachments to family and other positive individuals, as well as working to keep youth out of stigmatizing detentions.

Throughout the program, caseworkers spend six to eight hours a week with the youths. The 18-week program has two phases:

- The “active phase,” in which caseworkers provide direct assistance, identify resources, and improve skills related to family, school, employment, and extracurricular activities.
- The concluding phase, in which “caseworkers transition to the role of consultant, where they prepare youths to use the techniques and strategies they have learned following the end of ADP.”

ADP program analysis found participants in the program had lower rates of official delinquency (but similar rates of self-reported delinquency). One of the studies discovered that ADP participants were less likely to reoffend (22 percent), compared with those who went through diversion without the same services (32 percent) and youth who went through the formal judicial process (34 percent).

**FAMILY-FOCUSED TREATMENT**

Programs that involve the family of a youth involved in the justice system can be beneficial. Family involvement can reduce recidivism, which is why community-based programs that keep the youth and family close are important. One parent survey found “three-quarters faced significant barriers to visiting their children in secure confinement, including distance and transportation access.”

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MANY STATES HAVE IMPLEMENTED FAMILY-FOCUSED TREATMENT AND FOUND SUCCESS:

- **Colorado**: The state instituted a family advocacy program and, during the evaluation, only 10 percent of the participants (9 of 90) were convicted of additional crimes after enrollment. In addition, because the youth were high risk, the program proved to be cost-effective. “If sites were able to avert a single conviction for one youth in the program, estimated at a cost of $57,276, sites could offset nearly 99.7% of the average cost to run the entire program in the site.” In several jurisdictions, Colorado also implemented a Family Navigator program, in which families with experience in the youth justice system assist new families involved with the system.

- **Tarrant County, Texas**: More than 90 percent of youth who participated in family preservation services remained intact, and three-quarters did not have additional interaction with the youth justice system.

- **Virginia**: Functional Family Therapy, a type of family-focused treatment, has been used in Virginia and is particularly effective with moderate-risk youths. For participants, it has reduced recidivism rates from about 45 percent to about 25 percent. In addition, it is much cheaper than incarceration (about $3,300 per youth).

- **Kansas**: KDOC is considering implementing Functional Family Therapy, saying it is an evidence-based program that could be effective, particularly for rural areas, since the program is an “individualized intervention that can serve youth in their homes—it does not require a certain minimum capacity.”

For youths who do not have strong familial relationships, programs such as Treatment Foster Care Oregon can be effective. In the evidence-based program, “community families are recruited, trained, and closely supervised as they provide treatment and intensive supervision. Boys who participated in the program had fewer subsequent arrests, fewer days of incarceration, less self-reported drug use, fewer violent offense referrals, and fewer self-reported incidents of violence than did a control group.”

NON-RESIDENTIAL AND COMMUNITY-BASED

When possible, youth involved in the justice system should be in programs that are non-residential and community-based. This is important for several reasons. First, non-residential programs can help reduce recidivism. Research has shown “any intervention that places youths within a deviant group therefore risks exacerbating and consolidating their antisocial behavior.” Programs based in the community can help with school outcomes and help maintain family relationships. As one report suggests:

“**Youth and families can get the services they need and taxpayers can receive a meaningful return on investment: youth and families will be more connected to school, work and community resources and the family will be more stable, having developed and implemented the intervention in their homes amidst their real-life circumstances, rather than in a remote location and without one another’s support.”**
In the Fort Worth, Texas area, Tarrant County has been a leader in non-residential community services. “In the 1990s, Tarrant County leadership rejected dollars earmarked for construction of a new detention facility and instead used another source of local dollars to create and fund non-residential community services.”34 By 2000, nearly 1,000 young people had completed more than 19,000 hours of community service and contributed more than $65,000 in restitution.35

**OHIO’S RECLAIM PROGRAM HIGHLIGHTS THE SUCCESS OF NON-RESIDENTIAL PROGRAMS**

Ohio has also found success in non-residential programs, as “youth who were treated in non-residential programs had substantially lower recidivism rates than youth who were placed in either state youth prisons or local detention centers.”36 Ohio has been engaged in work to reduce youth detention for more than 20 years. In 1994, RECLAIM began in nine Ohio counties, including one county considered an “urban center.” The goals of RECLAIM were to promote youth system accountability, rehabilitate youth, use county-controlled data to craft a funding formula, and maintain local control.37 After the first year, youth incarceration in the nine counties had fallen by more than 40 percent.38 The RECLAIM program was evaluated most recently in 2014. The findings showed:

- While RECLAIM youth were more likely to be low-level offenders, RECLAIM youth were also less likely to reoffend than youth placed in CCFs or correctional facilities.
- Youth were more successful when placed in fewer programs.
- Some types of programs did not work as well as others. The evaluation found low-risk youth in both residential and day treatment substance abuse programs are more likely to re-offend than youth who have not received treatment.
- The length of the program also made a difference.
  - For low- and moderate-risk youth, programs that lasted between zero and three months had the lowest rates of recidivism.
  - For high-risk youth, longer programs less than 13 months long worked most effectively to reduce recidivism.39

RECLAIM, though it has showed some success, needs more work to be demographically representative. In Fiscal Year 2013, data showed that youth in the programs were more likely to be white, while youth of color comprised of a third of participants in RECLAIM and the Youth Services Grant, compared with nearly half (45 percent) of admissions to community correctional facilities and two-thirds (66 percent) of admissions to youth correctional facilities.40
NORMALIZED ENVIRONMENTS
Missouri has been a leader to create more “normal” environments for youths involved in the criminal justice system. Unlike Kansas, whose youth correctional facility is designed like an adult prison, Missouri has worked to make its facilities more homelike and, in the process, has reduced recidivism. Normalized environments can include:

- Small units,
- Family-style meals,
- Personal clothing or school uniforms,
- Sleeping quarters more like bedrooms than cells, and
- Homelike furnishings.

MENTORSHIP
The DC Credible Messenger Initiative is another program that matches youths involved in the criminal justice system with mentors who came from the same communities and have been involved in the justice system. The mentors have experience mentoring youth and emerged from the justice system to become productive citizens. Other programs in Richmond, California, and the South Bronx that use the Credible Messenger Initiative attribute a reduction in gun homicides and recidivism to the program.

Volunteer mentorship can work better when paired with paid mentorship, as most volunteers end their service within six weeks. To have a consistent, paid mentor can help supplement the transitions of volunteer mentors. Mentorship has been shown to affect absenteeism and behavioral problems, both risk factors for involvement in the justice system.

MENTAL HEALTH
Some youths involved in the justice system have specific needs related to mental health or problem sexual behaviors. Many youth involved in the justice system have mental health needs that would benefit from a trauma-informed approach. On average, 65 to 70 percent of youths arrested have a mental health disorder. Texas has done significant work to serve youths with mental health needs in its youth justice system. Through the Yes Empowerment Services (YES) Waiver, Texas funds community-based services for youths in need of mental health care. The YES Waiver, a Home and Community-Based Services Medicaid Waiver, “provides an array of intensive, community-based services in a wraparound model to youth, up to age 18, to reduce reliance on out-of-home placements.” The goal of the waiver is to reduce youth incarceration and hospitalization, and the probation system uses the waiver to help youth at home rather than in alternative placements.
SERVICES INCLUDED IN THE YES WAIVER CONSIST OF:

- Family supports,
- Adaptive aids and supports,
- Non-medical transportation,
- Transitional services, and
- Out-of-home respite and specialized therapies, such as animal-assisted therapy, art therapy and music therapy, among others.50

THE YES WAIVER IS AN EFFECTIVE FUNDING SOURCE, ESPECIALLY:

“For systems that wish to build out support for community services and reduce reliance on youth incarceration because it is limited to people who would be subject to institutional care without the waiver. Instead of detaining young people because of their delinquent behavior, the YES Waiver enables jurisdictions to look at the possibility that the underlying cause of the delinquent behavior may be related to mental health or substance use, and refer young people to appropriate services and supports in the community. In addition, the YES Waiver must be cost-neutral, meaning that the costs of the community program or service cannot exceed the costs of institutional placement.”51

Texas has also created a diversion program, called the Special Needs Diversionary Program (SNDP), for youths in the youth justice system who have mental health diagnoses. The program, which uses a wraparound
model, offers “mental health treatment in conjunction with specialized probation supervision to juveniles ages 10–17, who display low levels of conduct and mental health disorders, with the aim of rehabilitation and preventing them from subsequent delinquency.” The program can include community-based services that “provide individual and group therapy, life-skills training, mentoring, anger-management classes, parental education, and support.” A study of the program showed that youths involved in SNDP are less likely to be arrested within the first year of program completion. Compared with youths not involved in the program, “63 fewer arrests occurred per 100 youths served by the program. The results of this study suggest that mental health diversion can be used effectively to prevent or at minimum delay youth recidivism.”

**PROBLEM SEXUAL BEHAVIORS**

One program used to help youths with problem sexual behaviors is multisystemic therapy. Multisystemic therapy for youth with problem sexual behaviors (MST-PSB) works with youth found to have committed sexual offenses, in addition to exhibiting problem behaviors. The treatment, which can be carried out as pre-adjudication diversion or post-adjudication probation, is designed to reduce:

- Problem sexual behaviors,
- Antisocial behaviors, and
- Out-of-home placements.

MST-PSB focuses on socialization and interpersonal relationships. The program and its staff work with the youth, their family, and other community members (such as peers, teachers, or probation officers). There is an emphasis on parent empowerment to provide them “the skills and resources needed to raise their adolescent.”

When the program was evaluated, researchers found participants exhibited decreases in symptoms, self-reported delinquent behavior, and arrests and incarceration. At the same time, the youth had increases in adaptability and improvement in peer interactions.

**REINVESTMENT AND EVALUATION**

Kansas was able to work with policymakers across the state to put reform and reinvestment on the agenda and to pass legislation. The Department of Corrections has undertaken first steps to provide structure for community-based reinvestments through judicial district grantmaking. There are two primary next steps related to reinvestment. First, the state should continue to make community-based reinvestments informed by relationship building with affected communities. Second, the state should safeguard the reinvestment fund to ensure that it is not redirected for inappropriate uses.

In addition, policymakers should develop tools to calculate the savings generated. As Kansas continues to save money due to the reduction in youth
involved in the justice system, money that could be reinvested in community-based alternatives, it is important to estimate the amount. In South Carolina, legislators entrusted the Sentencing Reform and Oversight Committee to determine a methodology for calculating annual state savings from reform.59

Continuing on the path of youth justice reform

Kansas is on the path toward developing a more effective youth justice system. The 2016 legislation created the opportunity for additional community resources to help youth involved with the justice system. To continue to improve, Kansas lawmakers and practitioners should prioritize creating programs based on best practices, developing metrics and evaluation, continuing to invest in effective programs, addressing racial disparities, and involving affected communities.


