Justice Reinvestment in Kansas

2nd Working Group Meeting

September 5, 2012

Council of State Governments Justice Center

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Anne Bettesworth, Policy Analyst
Council of State Governments Justice Center

- National non-profit, non-partisan, membership association of state government officials
- Represents all three branches of state government
- Justice Center provides practical, nonpartisan advice informed by the best available evidence
Justice Reinvestment Assists State Officials in Identifying Policies to Improve Public Safety

Justice Reinvestment

a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease crime and strengthen neighborhoods.
This Approach Focuses on Four Evidence-Based Strategies

1. Focus on the people most likely to commit crime
2. Use programs proven to work and ensure they are high quality
3. Deploy supervision policies and practices that balance sanctions and treatment
4. Target places where crime and recidivism rates are the highest
Justice Reinvestment Process

Bipartisan, bicameral, inter-branch working group

Phase I
Analyze Data and Develop Policy Options

• Analyze data to look at crime, court, corrections, and supervision trends
• Solicit input from stakeholders
• Map allocation of resources
• Develop policy options & estimate cost savings

Phase 2
Implement New Policies

• Identify assistance needed to implement policies effectively
• Deploy targeted reinvestment strategies to increase public safety
• Track the impact of enacted policies/programs
• Monitor recidivism rates and other key measures
The Next Several Months

Phase I  Analyze Data & Develop Policy Options

Collect and examine quantitative data
- Reported crime & arrests
- Court dispositions & sentencing
- Court services, community corrections & post-release supervision
- Prison admissions, population & releases

Develop and present a comprehensive analysis of the state’s criminal justice system

Engage stakeholders
- Law enforcement
- Judges
- County/district attorneys & defense counsel
- Victim advocates
- County officials
- Supervision agencies
- Behavioral Health Treatment Providers

Develop a framework of policy options that together would increase public safety and reduce/avert taxpayer spending

June - October

November - December
## Status Update on Requested Data

<table>
<thead>
<tr>
<th>Data*</th>
<th>Source</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Felony Sentences</td>
<td>KSC</td>
<td>Received</td>
</tr>
<tr>
<td>Court Services</td>
<td>Judiciary</td>
<td>Received</td>
</tr>
<tr>
<td>Community Corrections</td>
<td>DOC</td>
<td>Received</td>
</tr>
<tr>
<td>Prison Admissions, Releases, &amp; Annual Population Snapshot</td>
<td>DOC</td>
<td>Received</td>
</tr>
<tr>
<td>Parole/Post-Release Supervision</td>
<td>DOC</td>
<td>Received</td>
</tr>
<tr>
<td>Arrests</td>
<td>KBI</td>
<td>Withdrawn</td>
</tr>
</tbody>
</table>

* Denotes case specific records at person level. Court Services data are the exception as they were available only in aggregate form.
Prison Population to Grow 23% Over Next Ten Years

Kansas Prison Population

Cost of projected increase **exceeds** $125 M

Initial Findings & Subsequent Areas of Research

Declining volume of reported violent and property crime; increasing arrest totals
- Why are arrests rising while crime is falling?
- Are arrests up across the board or just for certain offenses?
- Have the number of law enforcement officers changed?

Increasing use of prison by the courts
- Are certain offenses driving the increase?
- Is there an increase in guilty dispositions or just case filings?
- Are specific counties pushing up the number by using prison more frequently than the rest?

Prison admissions are driven significantly by probation revocations for conditions violations
- Are revocations being driven by offenders across risk levels?
- Have the individuals had access to programming in the community?
- What are the violation histories of those being revoked?
## What We Have Learned Since Last Meeting

<table>
<thead>
<tr>
<th>Crime Down – Arrests Up</th>
<th>More Sentencing To Prison</th>
<th>Probation Revocations Drive Prison Admissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Arrests up across most offense types</td>
<td>▪ More cases ending as “guilty”</td>
<td>▪ Probation failures concentrated among higher risk clients with substance abuse and/or mental health needs</td>
</tr>
<tr>
<td>▪ Not leading to more criminal case filings</td>
<td>▪ Within allowed discretion, courts increasingly sentencing offenders to prison</td>
<td>▪ Probationers supervised much longer, regardless of outcome</td>
</tr>
<tr>
<td>▪ Impact on local jail populations (pretrial) to be determined</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Probation failures concentrated among higher risk clients with substance abuse and/or mental health needs.
Overview

Crime and Arrest Trends

Sentencing Trends

Probation Trends

Summary & Next Steps
Arrests Increase Across Offense Types

Adult Arrests, 2006 and 2010

- **Violent Index**
  - 2006: 385 (14%)
  - 2010: 3,712 (30%)
  - Driven by increase in aggravated assault.

- **Property Index**
  - 2006: 1,803 (24%)
  - 2010: 1,707 (16%)
  - Driven by increases in burglary and theft arrests.

- **Drug**
  - 2006: 1,803 (24%)
  - 2010: 3,712 (30%)

- **DUI**
  - 2006: 1,803 (24%)
  - 2010: 3,712 (30%)

**23% Increase in Adult Arrests Statewide**

Sources: Kansas Bureau of Investigation, Crime Statistics by Year.
Fewer Crimes Being Reported, But Increasing Number of Arrests

Reported Index Crimes

- Property
- Violent

Arrests* for Index Crimes

- Property
- Violent

% Change - Reported Crime

<table>
<thead>
<tr>
<th></th>
<th>2006 - 2011</th>
<th>2009 - 2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property</td>
<td>- 13%</td>
<td>- 1%</td>
</tr>
<tr>
<td>Violent</td>
<td>- 8%</td>
<td>- 9%</td>
</tr>
</tbody>
</table>

% Change - Index Arrests

<table>
<thead>
<tr>
<th></th>
<th>2006 - 2010</th>
<th>2009 - 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property</td>
<td>+ 24%</td>
<td>+ 8%</td>
</tr>
<tr>
<td>Violent</td>
<td>+ 14%</td>
<td>+ 6%</td>
</tr>
</tbody>
</table>

* Complete 2011 arrest data not yet available.

Sources: Kansas Bureau of Investigation, Crime Statistics by Year.
Increased Arrests Have Not Generated More Criminal Court Cases

Despite more than 20,000 additional adult arrests from 2006-10:

- Felony filings were flat, and
- Misdemeanor filings decreased.
- DUI filings were flat.

DUI filings increased from FY10-11, but may be due to methodology change.

Sources: Kansas Judicial Branch, Annual Reports.
Crime & Arrest Summary Diagnosis

Crime is down, but arrests have risen during same time period.

Arrest increases seen for most offense types

Criminal case filings have not increased

Uncertain how jails have been impacted?
Overview

Crime and Arrest Trends

Sentencing Trends

Probation Trends

Summary & Next Steps
Increase In Guilty Disposition Rate Has Yielded More Felony Sentences

Guilty dispositions as a percent of all felony filings increased from 76% to 82% from 2007 to 2011.

Sources: Kansas Judicial Branch, Annual Reports; Kansas Sentencing Commission, Felony Sentencing Case Data.
Increased Convictions Yielded As Many Sentences to Prison As Sentences to Probation

Greater “guilty” rates and shift towards prison as sentence has generated almost 600 additional prison sentences each year.

Sources: Kansas Sentencing Commission, Felony Sentencing Case Data.
Half of the Additional Sentences to Prison Are Due to Shifts in Sentencing Disposition Patterns

FY 2007 Felony Sentences
- 10,750
  - 2,312 - Prison (22%)
  - 691 - Jail (6%)
  - 7,747 - Probation (72%)

FY 2011 Felony Sentences
- 11,932
  - 2,887 - Prison (24%)
  - 775 - Jail (7%)
  - 8,270 - Probation (69%)

FY 2011 Felony Sentences (w/ FY07 sentencing distribution)
- 11,932
  - 2,625 - Prison (22%)
  - 716 - Jail (6%)
  - 8,591 - Probation (72%)

Difference of 262 sentences to prison

Represented 46% of the additional 575 annual sentences to prison.

Sources: Kansas Sentencing Commission, Felony Sentencing Case Data.
# Kansas Sentencing Grids (through FY 2012)

### Non-Drug Grid

<table>
<thead>
<tr>
<th>Type and Number of Priors</th>
<th>Offense Severity</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>1</td>
</tr>
<tr>
<td>B</td>
<td>2</td>
</tr>
<tr>
<td>C</td>
<td>3</td>
</tr>
<tr>
<td>D</td>
<td>4</td>
</tr>
<tr>
<td>E</td>
<td>5</td>
</tr>
<tr>
<td>F</td>
<td>6</td>
</tr>
<tr>
<td>G</td>
<td>7</td>
</tr>
<tr>
<td>H</td>
<td>8</td>
</tr>
<tr>
<td>I</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>10</td>
</tr>
</tbody>
</table>

**Presumptive Prison**

**Border Box (prison or probation)**

**Presumptive Probation**

### Drug Grid

<table>
<thead>
<tr>
<th>X = SB 123</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td>4</td>
</tr>
</tbody>
</table>

Both grids have the presumptive and border sections.
Large Increase in Number of Offenders Falling in Presumptive Prison Section of Grid

“Grid” Sentences
- Presumptive Prison
  - 25% of FY 2008 Grid Sentences
  - 29% of FY 2011 Grid Sentences
  - +577 offenders

- Presumptive Probation
  - 66% of FY 2008 Grid Sentences
  - 61% of FY 2011 Grid Sentences
  - -159 offenders

- Border Box
  - 9% of FY 2008 Grid Sentences
  - 11% of FY 2011 Grid Sentences
  - +185 offenders

Sources: Kansas Sentencing Commission, Felony Sentencing Case Data.
86% of Felony Sentences Fall on Grid

FY 2011 New Felony Sentences

11,932

Non-Drug: 6,984 (59%)
Drug: 3,219 (27%)
Non-Grid/Off-Grid: 1,729 (14%)

“Grid” Offenses (86%)

Sources: Kansas Sentencing Commission, Felony Sentencing Case Data.
Discretion Exists to Depart from “Presumptive” Sentence

FY 2011 “Grid” Sentences = 10,203

Criminal History

- 2,951 Presumptive Prison
  - 29% of All “Grid” Convictions
  - 65% to prison
  - 35% to probation

- 1,080 Border Box
  - 11% of All “Grid” Convictions
  - 18% to prison
  - 82% to probation

- 6,172 Presumptive Probation
  - 60% of All “Grid” Convictions
  - 12% to prison
  - 88% to probation

Sources: Kansas Sentencing Commission, Felony Sentencing Case Data.
More than One-Quarter of Prison Sentences Are Offenders Who Fall in Presumptive Probation

While 12% of “presumptive probationers” are sentenced to prison, they account for 26% of all new sentences to prison.

Sources: Kansas Sentencing Commission, Felony Sentencing Case Data.
90% of “Presumptive Probation” Sentences to Prison Involve Nonviolent Offenses

<table>
<thead>
<tr>
<th>Offense Type</th>
<th>FY 2011 Sentences of Offenders Falling in Presumptive Probation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total Sentenced</td>
</tr>
<tr>
<td>Total</td>
<td>6,172</td>
</tr>
<tr>
<td>Violent</td>
<td>730</td>
</tr>
<tr>
<td>Property</td>
<td>2,754</td>
</tr>
<tr>
<td>Drug</td>
<td>1,654</td>
</tr>
<tr>
<td>Other</td>
<td>1,034</td>
</tr>
</tbody>
</table>

- More than half of the “property” offenses are theft.
- The “other” offenses involve escape from custody, obstructing legal process, fleeing or eluding a law enforcement officer (2 or more priors of same), criminal threat, aggravated failure to appear...

Sources: Kansas Sentencing Commission, Felony Sentencing Case Data.
Recent Trends Demonstrate Shift in Discretion Towards More Prison Sentencing

Sources: Kansas Sentencing Commission, Felony Sentencing Case Data.
Felony Sentencing Summary Diagnosis

New sentences to prison have increased by almost 600 annually.

- Increase in “guilty” rates
- More offenders falling in “prison” section of grids
- Discretion shifting towards prison
Overview

- Crime and Arrest Trends
- Sentencing Trends
- Probation Trends
- Summary & Next Steps
Overall Probation Placements Are up 8%

- **Felony placements are up 7%.**
- **Misdemeanor placements are up 9%.**

Sources: Kansas Sentencing Commission, Felony Sentencing Case Data; Kansas Department of Corrections, Community Corrections Case Data; Kansas Judicial Branch, Court Services Aggregate Data.
Overall Placements to Court Services Are up 8%

- Felony placements to Court Services are up 3%.
- Misdemeanor placements to Court Services are up 9%.

Sources: Kansas Judicial Branch, Court Services Aggregate Data.
## Percent of Court Services Cases Revoked Has Remained Steady

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Cases</th>
<th>Misdemeanor</th>
<th>Felony</th>
<th>Revoked Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 2007</td>
<td>17,396</td>
<td>3,816</td>
<td>13,580</td>
<td>25%</td>
</tr>
<tr>
<td>FY 2011</td>
<td>18,959</td>
<td>3,744</td>
<td>15,215</td>
<td>24%</td>
</tr>
</tbody>
</table>

- Vast majority of Court Services felony revocations are to Community Corrections.

Sources: Kansas Judicial Branch, Court Services Aggregate Data.
Number Supervised on Court Services Has Increased 13% Since FY 2007

- The felony supervision population has increased by over 200 offenders (+6%).
- The misdemeanor supervision population has increased by over 1,700 offenders (+15%).

Misdemeanants represent 75-80% of the Court Services supervision caseload.

Sources: Kansas Judicial Branch, Court Services Aggregate Data.
Almost Two-Thirds of Felony Probation Sentences Are to Community Corrections

**FY 2007**
- New Felony Sentences: 10,750
  - Jail: 691
  - Pris: 2,312
  - Probation: 7,747
    - 4,624 (60%) Community Corrections
    - 665 Revs fr CS
    - 211 Other

= 5,500 Total Community Corrections Placements – FY 2007

**FY 2011**
- New Felony Sentences: 11,923
  - Jail: 775
  - Pris: 2,887
  - Probation: 8,270
    - 4,976 (60%) Community Corrections
    - 644 Revs fr CS
    - 65 Other

= 5,685 Total Community Corrections Placements – FY 2011

Sources: Kansas Department of Corrections, Community Corrections Case Data.
Placements to Community Corrections Have Been Stable Since FY 2007

<table>
<thead>
<tr>
<th>Source of CC Placement</th>
<th>FY 07</th>
<th>FY 08</th>
<th>FY 09</th>
<th>FY 10</th>
<th>FY 11</th>
<th>% Chg</th>
</tr>
</thead>
<tbody>
<tr>
<td>Direct from Court</td>
<td>3,267</td>
<td>3,468</td>
<td>3,572</td>
<td>3,512</td>
<td>3,920</td>
<td>20.0%</td>
</tr>
<tr>
<td>SB 123</td>
<td>1,357</td>
<td>1,326</td>
<td>1,197</td>
<td>1,098</td>
<td>1,056</td>
<td>-22.2%</td>
</tr>
<tr>
<td>Revoked from Court Services</td>
<td>665</td>
<td>624</td>
<td>602</td>
<td>561</td>
<td>644</td>
<td>-3.2%</td>
</tr>
<tr>
<td>Other</td>
<td>211</td>
<td>174</td>
<td>86</td>
<td>60</td>
<td>65</td>
<td>-69.2%</td>
</tr>
<tr>
<td><strong>Total CC Placements</strong></td>
<td><strong>5,500</strong></td>
<td><strong>5,592</strong></td>
<td><strong>5,457</strong></td>
<td><strong>5,231</strong></td>
<td><strong>5,685</strong></td>
<td><strong>3.4%</strong></td>
</tr>
</tbody>
</table>

Community Corrections placements have grown by less than 5% since FY 2007.

Sources: Kansas Department of Corrections, Community Corrections Case Data.
One-Third of Community Corrections Terminations Are Revocations

After a decline in revocation rates from FY07 to FY09, they have since risen by 14%.

Sources: Kansas Department of Corrections, Community Corrections Case Data.
More than Three-Quarters of High Risk Community Corrections Probationers Are Revoked

Of the mod/high risk revocations:

- Only 31% completed two or more behavioral health programming interventions.

Of the successful mod/high risk terminations:

- 57% completed two or more behavioral health programming interventions.

<table>
<thead>
<tr>
<th>Risk Level</th>
<th>Total</th>
<th>Revoked</th>
<th>Revocations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Risk</td>
<td>1,732</td>
<td>4%</td>
<td>67 Revs</td>
</tr>
<tr>
<td>Mod Risk</td>
<td>1,625</td>
<td>37%</td>
<td>605 Revs</td>
</tr>
<tr>
<td>High Risk</td>
<td>982</td>
<td>76%</td>
<td>748 Revs</td>
</tr>
<tr>
<td>UNK Risk</td>
<td>542</td>
<td>34%</td>
<td>184 Revs</td>
</tr>
</tbody>
</table>

Total Revocations: 1,604

Sources: Kansas Department of Corrections, Community Corrections Case Data.
Most Probationers Revoked to Prison Have Behavioral Health Needs

**Probation Revocation Prison Admissions Indicating BH Needs**

- **SA Score 4+**
  - SA Scores range from 0 to 9 and are based on nine questions within the substance abuse domain within the LSI-R risk assessment.
  - (A score of 4 means that four of the nine questions were answered in the affirmative.)

- **MH Score 3+**
  - MH Scores range from 1 to 7 and are based on a continuum of MH programming intensity.
  1. Not currently requiring MH
  2. Receives time-limited mental health services
  3. Receives on-going mental health services that may include medication management
  4. Receives special needs treatment monitoring
  5. Placed in mental health structured reintegration program at LCF-TRU
  6. Placed in intensive mental health placement at LCMHF or TCF-MHU
  7. Hospitalization at LSSH

**Of FY 2011 Probation Revocations**

- ✔ 58% had SA score of 4 or higher
- ✔ 17% had MH score of 3 or higher
- ✔ 12% had both

For comparison, only 16% of the successfully terminated CC probationers had an SA score of 4 or higher.

Sources: Kansas Department of Corrections, Prison Admissions and Inmate Assessment Case Data.
Probationers Are Spending Almost 20% Longer on Supervision

The increased length of supervision does not seem to be related to success or failure on probation.

- 19% increase in months on supervision FY07-11
- 20mos to 24mos

Sources: Kansas Department of Corrections, Community Corrections Case Data.
Community Corrections Caseloads
Up 7% Since FY 2006

Because placements have been stable since FY07 (+3%), the increased length of supervision (+20%) is driving the rising population.

But as demonstrated in previous slides, there hasn’t been a corresponding increase in success rates.

Sources: Kansas Department of Corrections, Community Corrections Annual Statistical Summaries.
## Probation Agencies Indicate Challenges to Providing Successful Supervision

### Standardization & Coordination Issues

- Communication between most Community Corrections and Court Services agencies is limited.
- Court Services does not conduct LSI-Rs uniformly across Judicial Districts.
- There is no standardized grid of progressive sanctions for responding to violations.
- Every offender is given an LSI-R upon placement in Community Corrections, even if Court Services already did one.
- Court Services does not use uniform LSI-R cut-off scores across the state.
- There are no contact standards or guidance on how to supervise low-risk offenders.

### System Inefficiencies

- Sanctions lack speed; too much time elapses between when a motion to revoke is filed and the hearing date.
- Officers spend excessive time in court due to continuances and postponements.
- Officers are unable to move an offender between Community Corrections and Court Services.
- Many agencies cannot impose a brief jail stay without going back to court.
- No way to track probationer violations electronically.
- Restitution-only cases comprise significant share of caseload; they still require officer face time.

**Sources:** Based on feedback from focus group meetings and web-based surveys to Court Services and Community Corrections Directors, as well as focus group meetings with District Court Judges and probation officers.
Effective Programs and Supervision Strategies Are Key to Maximizing Probation Effectiveness

- In FY 2011, offenders targeted by probation system accounted for 47% of all admissions to prison
  - 745 as “presumptive probation” sentenced to prison
  - 1,604 as probation revocations

- These offenders will spend approximately 1 year in prison
  - Most will be released back into community without supervision

- Identified obstacles to effective supervision
  - Need for more (and successful) programming
  - Lack of progressive sanctions model
  - Sanctions that aren’t timely responses to non-compliance

Sources: Kansas Department of Corrections, Prison Admissions and Releases Case Data.
Despite modest growth in placements, probation caseloads are rising and putting greater burden on officers.

- Increases in length of supervision
- Increases in need for programming resources
- Increases in recidivism
Overview

Crime and Arrest Trends

Sentencing Trends

Probation Trends

Summary & Next Steps
Summary and Proposed Analyses

Crime down, but rising arrests

- How is law enforcement allocating scarce resources?
- Have prosecutors changed practices regarding decisions to file?
- How have local jail populations been impacted to increased arrests?

Shift in sentencing from probation to prison

- What contributes to prison sentencing for “presumptive probationers”?
- Is prison or probation better at reducing recidivism rates for nonviolent offenders?
- Would strengthening probation provide better sentencing options?

Probation recidivism rates, caseloads and length of supervision increasing

- What are the obstacles to ensuring access to quality programs for higher risk probationers?
- How can Kansas recapture performance of prior years?
## Proposed Timeline

<table>
<thead>
<tr>
<th>Date</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>May-June</td>
<td>• Data Collection</td>
</tr>
<tr>
<td>June 6</td>
<td>• Bill Signing</td>
</tr>
<tr>
<td><strong>June 13</strong></td>
<td>• Working Group Meeting</td>
</tr>
<tr>
<td>July-October</td>
<td>• Detailed Data Analysis</td>
</tr>
<tr>
<td></td>
<td>• Stakeholder Engagement</td>
</tr>
<tr>
<td>September 5</td>
<td>• Working Group Meeting</td>
</tr>
<tr>
<td>October-November</td>
<td>• Policy Framework Development</td>
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<tr>
<td></td>
<td>• Stakeholder Consultation</td>
</tr>
<tr>
<td>October 23</td>
<td>• Working Group Meeting</td>
</tr>
<tr>
<td>November-December</td>
<td>• Policy Option Vetting</td>
</tr>
<tr>
<td>December 7</td>
<td>• Working Group Meeting</td>
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</tbody>
</table>
Thank You

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