Principles for Kansas Juvenile Justice Reform

Kansans United for Youth Justice
Introduction

Kansas is rethinking our approach to kids who get in trouble. Our current juvenile justice system has become too reliant on incarceration and hasn’t done enough to support local programs that provide better outcomes for kids and our communities. If we shift our policies and our budgets away from incarcerating kids and towards local intensive rehabilitation programs, we will keep our communities safer, our kids healthier, and our funding stronger.

Each year, Kansas spends over $53 million to incarcerate kids or send them to out-of-home placements. Extensive national research shows prisons and out-of-home placements are in fact the most expensive and least effective ways to respond to offenses committed by children. Recent studies in Kansas have shown that our $53 million annual investment in youth incarceration does little to hold kids accountable and is likely increasing the risk of crime in our state.

We need a system that provides both accountability for kids when they commit an offense and rehabilitation so they can get back on the right path and won’t reoffend in the future. This brief issue paper highlights current problems in the Kansas juvenile justice system and offers three principles that can guide reform in Kansas: our youth justice system should be effective, our youth justice system should be consistent, and our youth justice system should be sustainable.

Kansas currently ranks 8th worst in the nation for confinement of youth. Although our youth incarceration rate remains higher than most other states, the youth crime rate in Kansas is actually lower than the national average and has fallen more than 50 percent in the past ten years. With strong reforms, Kansas can stop sending so many kids to prison and invest in effective community programs instead.
Reform Principle #1

Our youth justice system should be effective

The current juvenile justice system in Kansas is not effective. A 2014 study by the Kansas Department of Corrections found 54 percent of Kansas youth sent to out-of-home, non-secure juvenile justice facilities were not successfully discharged. A 2015 study by the Council of State Governments reported 42 percent of Kansas youth sent to a secure juvenile prison were incarcerated again within three years of release.

There are two main reasons why the current juvenile justice system in Kansas is not effectively addressing juvenile offenses: (1) Too many low-risk youth are sent to prisons and non-secure placements, and (2) Youth are staying in prison and out-of-home placements for too long.

Eighty percent of youth sent to juvenile justice placements in Kansas are only low or moderate risk. Many in-depth studies have shown incarceration and out-of-home placements of low- or moderate-risk youth actually increase the risk that youth will commit an offense in the future. Even for youth who commit very serious offenses, incarceration longer than three months does nothing to reduce the risk of future offenses. Unfortunately, youth in non-secure out-of-home placements in Kansas stay much longer than 3 months (on average, they stay 14 months), as do youth sent to prison in Kansas (91 percent of those youth stay longer than three months in prison; 48 percent stay longer than a year).

Local alternatives provide intensive rehabilitation more effectively than prison or out-of-home placements. Sixty local rehabilitation programs have earned model or promising status from the scientifically rigorous Blueprints program, meaning they have high intervention specificity, valid and reliable evaluation quality, proven sustained intervention impact, and documented success in more than one community. The US Office of Juvenile Justice and Delinquency Prevention has identified 200 effective and promising alternatives to incarceration for youth. In Kansas, Wyandotte County implemented an intensive local alternative called MultiSystemic Therapy in 2013 and reduced out-of-home placements by more than 25 percent.
To build a more effective juvenile justice system, reforms should:

- End the practice of sending low-and-moderate-risk youth to prison and out-of-home placements.
- End mandatory minimum prison sentences for youth and set sentences at shorter, more effective durations.
- Assess the individual risks and needs of youth as soon as possible after they enter the juvenile justice system.
Reform Principle #2

Our youth justice system should be consistent

A 2015 study by the Pew Charitable Trusts found out-of-home placement rates and other juvenile case outcomes vary widely among Kansas counties—creating justice by geography—and disproportionately large numbers of youth of color are punished at each step of the juvenile justice system in Kansas.\footnote{XI}

That study also found other significant inconsistencies in our juvenile justice system:

- Youth supervision officers in Kansas report a lack of uniformity in the factors guiding responses to technical violations of probation.
- Kansas youth are placed in detention facilities after arrest at a significantly higher rate than the national average.
- A third of youth on case management were sent to seven or more out-of-home placements.
- More than one-in-five entries into juvenile prisons in Kansas is a return admission due to a technical violation of conditional release.
- Although Kansas never sentences adults to prison for misdemeanor convictions, 35 percent of Kansas youth released from prison in the previous year had been convicted of misdemeanors only.\footnote{XII}

A 2015 study in Texas found girls there were confined significantly longer in local facilities than boys, even after controlling for other variables such as offense severity and prior record, and girls with histories of trauma were confined longer than boys for violating conditions of probation.\footnote{XIII}
A separate national study in 2015 found girls have increasingly made up a larger share of youth at every stage in the juvenile justice system over the past two decades.\textsuperscript{xiv} Unfortunately, Kansas has followed this national trend. As the incarceration rate for boys has fallen in Kansas over the past several years, an increasing share of the youth incarcerated in our state juvenile prisons are girls. At the end of July of 2015, girls were 8.1\% of all kids incarcerated in youth prisons in Kansas (20 girls). That’s compared to 4.7\% in July of 2014 (14 girls) and 5.7\% in July of 2010 (19 girls).

The National Disability Rights Network released a report in 2015 that found children with disabilities are also disproportionately punished in juvenile justice systems nationally and do not receive adequate and appropriate treatment and educational opportunities.\textsuperscript{xv}

When partnered with trauma-informed policies and adequate funding for appropriate programming, statewide structured decision making tools, including detention risk screening instruments and sanctions grids, provide greater consistency across geographies and demographics than the current juvenile justice system in Kansas.\textsuperscript{xvi}

Youth attitudes and family problems do not drive juvenile incarceration in Kansas. Only 11\% of youth in prison in Kansas have high-risk family problems, and only 6\% show a high-risk criminal attitude.\textsuperscript{xvii} In contrast, 69\% show a high-risk lack of positive leisure activities in their community, and 40\% show high-risk substance use.\textsuperscript{xvii} Nationally, 50 to 70\% of youth in the juvenile justice system have a mental health disorder and 60\% have a substance use disorder.\textsuperscript{xix} Research shows that past trauma is the largest predictor for how deep a youth will go into the juvenile justice system,\textsuperscript{x} and trauma-informed juvenile justice reforms can effectively divert these youth.\textsuperscript{xxi}
To build a more consistent juvenile justice system, reforms should:

- Implement standardized detention risk screenings and sanction grids across all jurisdictions
- Provide meaningful alternatives to prison and out-of-home placements for youth with mental health or substance use disorders
- Eliminate the disparate punishments of minority youth
- Implement specialized policies and programs to reduce the incarceration of girls
- Ensure youth with disabilities receive appropriate programs and requirements
- End the practice of sentencing youth who have been convicted of only misdemeanors to prison
- Implement trauma-informed policies and practices throughout the juvenile justice system

“After we removed misdemeanants from our state facilities, the judge who opposed the change came to me and said it was the best decision – it forced us to find better alternatives.”

— Jerry Madden, former Chair of Texas House Committee on Corrections, testifying to the Kansas House Corrections and Juvenile Justice Committee on January 21, 2014
Reform Principle #3

Our youth justice system should be sustainable

The high rate of incarceration and out-of-home placements in Kansas has shifted needed funding away from prevention and intensive community rehabilitation programs. More than two thirds of the state’s juvenile justice budget is spent on juvenile prisons or out-of-home placements. Less than one percent is dedicated specifically to evidence-based community rehabilitation programs. Only 2.3 percent is dedicated to programs that prevent juvenile offenses.\textsuperscript{XXII}

Intensive community rehabilitation programs for youth are more sustainable than juvenile prisons and out-of-home placements. Local programs are able to intervene more quickly when youth first get on the wrong path, reducing expensive incarceration in the future, and unlike rehabilitation programs offered in prisons or out-of-home placements, community rehabilitation programs are able to address problems in a youth’s family and peer networks at the same time that they address the youth’s own behavior and risks.\textsuperscript{XXIII}

Prisons and out-of-home placements are the most expensive and least effective ways to respond to offenses committed by children. It costs more than $240 per day to place a youth in one of Kansas’s juvenile prisons; it costs more than $130 per day to place a youth in other out-of-home facilities; but it costs only $16 per day to place a youth under intensive supervision probation in the community.\textsuperscript{XXV}

Intensive community interventions for juvenile offenders provide a more cost effective response to offenses committed by children: Functional Family Therapy would save the state over $13 dollars for every dollar invested, and Life Skills Training would save more than $25 dollars for every dollar invested.\textsuperscript{XXVI} Proven prevention programs reduce youth recidivism by 20 percent on average and save $2 to $10 for every $1 invested.\textsuperscript{XXVII}
To build a more sustainable juvenile justice system, reforms should:

- Create fiscal incentives for communities to reduce prison and out-of-home placements for youth.
- Shift funding away from incarceration and out-of-home placements towards local intensive rehabilitation programs for youth.
- Implement an annual study to track the implementation progress of reforms and the impact on juvenile offenses and rehabilitation.
- Report detailed data to the public monthly regarding the supervision and incarceration of youth at both the state and local level.
Conclusion

In an effective, consistent, and sustainable juvenile justice system, youth who commit offenses are held accountable for their actions and complete appropriate rehabilitation programs to prevent future crimes. The current juvenile justice system in Kansas relies too heavily on incarceration and out-of-home placements, which extensive research shows do not promote accountability or rehabilitation. Our current policies pull funding and focus away from local intensive rehabilitation programs that do a better job addressing juvenile offenses.

Our current juvenile justice system was created by the Kansas Legislature in the Juvenile Justice Reform Act of 1996. In the nearly two decades since that legislation, Kansas juvenile justice professionals have gained experience with the advantages and disadvantages of the Revised Kansas Juvenile Justice Code; national juvenile justice research has significantly expanded our understanding of what works best for kids in trouble; and many other states have paved the way with successful juvenile justice reforms in their communities.

States that have already implemented reforms to minimize incarceration and increase funding for local intensive rehabilitation programs are faring better than Kansas. Since 1997, 28 other states have reduced confinement of children more than Kansas, and those states continue to see falling juvenile crime rates.

Polls consistently show strong, bipartisan support for juvenile justice reform. Together we can shift Kansas’s approach towards proven, lower-cost alternatives to youth prisons that will give our youth a brighter future, make our communities safer by providing true accountability, and build justice that lasts.
Sources

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