Lessons Learned from Large Scale Reform

NASC 2016 Annual Conference
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August 8, 2016

Scott M. Schultz, Executive Director
Agenda

• Past
  – Partial Recent Reform History in Kansas
    • JRI I - Parole/Probation Reduction: 2007
    • JRI II – Probation Technical Revocation Reduction: 2012-2013

• Present

• Future
  – Lessons Learned and Future Use
JRI I - History 2004-2007
Parole/Probation Reduction

• **2004** – Kansas Criminal Justice Recodification, Rehabilitation and Restoration Committee developed a comprehensive strategy for reducing recidivism, including establishing the Kansas Reentry Policy Council and implementing two pilot programs targeting parolees at high risk of reoffending.

• State invested in **reentry initiatives** at the county level with local communities experiencing the highest rates of return from prison to connect parolees to housing and workforce development services.

• Intensive training with parole was employed to strengthen supervision strategies to connect offenders to community-based treatment services.

• **2007** - SB 14 created a performance-based grant program for community corrections agencies to design local strategies to **reduce revocations** by 20%. It also established a 60-day earned time credit for successful completion of educational, vocational, and treatment programs.
Three-year recidivism rate for 2005 prison releases

39%

Three-year recidivism rate for 2007 prison releases

33%

<table>
<thead>
<tr>
<th>State</th>
<th>Percentage Change in Recidivism Rate*</th>
<th>Number Fewer Returned to Prison for the 2007 Release Group **</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kansas</td>
<td>-15%</td>
<td>289</td>
</tr>
<tr>
<td>Michigan</td>
<td>-18%</td>
<td>862</td>
</tr>
<tr>
<td>Mississippi</td>
<td>-9%</td>
<td>235</td>
</tr>
<tr>
<td>Ohio</td>
<td>-11%</td>
<td>1,278</td>
</tr>
<tr>
<td>Oregon</td>
<td>-8%</td>
<td>138</td>
</tr>
<tr>
<td>Texas</td>
<td>-11%</td>
<td>1,212</td>
</tr>
<tr>
<td>Vermont</td>
<td>-6%</td>
<td>141</td>
</tr>
</tbody>
</table>
• Between FY 2009 and FY2012, the number of people in Kansas prisons increased by almost 9 percent, and was projected to increase an additional 15 percent by FY2018 at a cost of least $81 million in prison construction and operating costs.

• Facing a projected 23 percent growth in the state prison population by FY2021, policymakers from across the political spectrum in Kansas utilized JRI to enact HB 2170 in April 2013. Throughout the process, the state has received intensive technical assistance from the Council of State Governments Justice Center (CSG), in partnership with The Pew Charitable Trusts and the U.S. Department of Justice’s Bureau of Justice Assistance (BJA).
History - 2012

2012 JRI Working Group formed to provide recommendations

- Kansas Sentencing Commission provided data to group and CSG

Working Group Findings: Kansas Faced Three Public Safety Challenges

1. **Crime** – Statewide crime rate was lower than national averages but law enforcement resources were challenged by rising or higher rates of crime in certain communities

2. **Probation** – Kansas had taken steps to strengthen supervision in the community but probation system resources were still strained

3. **Reentry** – Recidivism had fallen thanks to successful efforts, but opportunities existed to broaden those gains
Probation Revocations to Prison Have Increased Almost 25% Past Three Years

After a decline in revocations from FY07 to FY09, they have since risen by 24%.

Sources: Kansas Sentencing Commission, Felony Sentencing Case Data, and 2013 Prison Population Projection, August 2012

Only one-quarter of Community Corrections revocations involve “presumptive prison” or “border box” offenders.
# Probation Agencies Indicate Challenges to Providing Successful Supervision

- Uniform LSI-R cut-off scores are not used across the state for purposes of sentencing to probation.

- Officers are unable to move an offender between Community Corrections and Court Services.

- There is no standardized grid of progressive sanctions for responding to violations.

- Sanctions lack speed; much time elapses between motion to revoke filing and the hearing date.

- Many agencies cannot impose a brief jail stay without going back to court.

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- Court Services and Community Corrections not truly distinguished according to risk level.

- Accountability weakened.
Key Public Safety Provisions in 2013 HB 2170

• Requires probation agencies to respond to minor probation violations with swift, certain, and cost-effective sanctions
• Imposes progressive sanctions for repeat probation violation
• Invests a total of $5 million in the expansion of behavioral health treatment services
• Focuses supervision resources on people at the highest risk of reoffending
Implementation

• 2013
• 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
Implementation

Grants to Implement JRI Legislation

Funding from BJA to:

– support additional training, education, upgrades to data systems, and quality assurance efforts
– facilitate trainings to increase the use of sanctions to projected levels, as well as to develop a statewide training program for correctional staff and behavioral health treatment providers to improve interventions for individuals with behavioral health needs
– achieve the state’s objective of increasing access to quality behavioral health treatment

$499,412
Work to Implement Legislation’s Goals

- Education efforts by Sentencing Commission and KDOC
- 2014 S Sub for HB 2448 (JRI clean-up legislation)
  - Time calculation for graduated sanctions begins upon probation violation hearing disposition
  - Retroactivity provision to solidify legislative intent that hearings were procedural and not substantive
  - Added misdemeanor/nongrid offenses to eligibility of quick dips (2-3 day swift and certain jail sanctions)
- Risk-based assessments modified July 1, 2014 by Sentencing Commission
  - LSI-R now required on most felony convictions that are presumptive probation offenses
Lessons Learned and Future Use of JRI

Sentencing Commission continues to monitor performance
  – Sanctions effect on revocations
...In the beginning

- FY13 - Primary focus to significantly reduce the state’s admission and length of stay for probation technical violators
- FY13 – Projected savings $81 million b/t FY14 and FY18 and reduce prison beds by 841
  - KDOC town hall meetings
  - KSC briefs for attorneys and judges
  - KSC website modification
• Utilized BJA award of $499,412 to develop educational materials
  – Educational handouts
  – Probation officer training
  – Data systems upgrades
  – Improvement in quality assurance practices
• KSC collected monthly, semi-annual and annual performance metrics, including 120/180-day prison sanctions

• Results: By end of FY14, judges utilized only 25% of the projected number of prison sanctions available and continued to rely heavily on full revocations in response to technical violations when JRI was the default
So...we increased our efforts

- **Judges**: Chair of KSC and another progressive judge partnered with CSG to target those judges that had a low incidence of utilizing the JRI sanctions in their district courts. Expert training was given.

- **Prosecutors**: In early FY16, KSC presented with CSG at their fall conference.

- **Defense bar**: In early FY16, KSC and CSG also presented to public defenders.
• Webinars: In late FY16, KSC produced continuing legal education video production for judges and attorneys on best practices for sanctioning technical violators
• Booklet/Flowchart: In FY16, KSC mailed copies to all stakeholders
• All efforts have yielded modest results
Hurdles to Overcome

- **Prosecutor** perceptions: Increase workload due to extra hearings; probation running the show
- **Judges**: Circumventing the JRI process with a default finding of public safety and constitutional arguments
- Definitions of conduct: Absconder vs. Failure to Report
Prison Admissions/Sanctions
FY 2011 – FY 2015

KDOC Prison Admissions & HB 2170 Sanctions

*Source: KDOC’s Admission File, KDOC’s Sanction File & KSC’s Court Services JRI Database.*
**Condition Violation Disposition**

<table>
<thead>
<tr>
<th>Disposition Type</th>
<th>FY 14</th>
<th>FY 15</th>
<th>FY 16</th>
</tr>
</thead>
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<tr>
<td>Jail Sanctions</td>
<td>2026</td>
<td>2866</td>
<td>3563</td>
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<tr>
<td>Prison Sanctions</td>
<td>323</td>
<td>691</td>
<td>1003</td>
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<tr>
<td>Condition Viol. Revocations</td>
<td>1368</td>
<td>1321</td>
<td>1180</td>
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*FY 16 statistics reflects data obtained from KDOC TOADS and the Prophet File.*
FY 13 KDOC Admissions

- New Court Commitment: 36.4%
- Probation Condition Violators: 31.3%
- Compact Inmate Received: 0.2%
- Parole Condition Violator: 23.7%
- Prob Viol w/New Sent: 3.8%
- Non-Violator Return With New Sentence: 0.5%
- Parole Other: 4.0%

*FY 2016 KDOC Prophet File.*
New Court Commitment 32.2%  
Prison Sanction 16.3%  
Probation Condition Violators 22.1%  
Prob Viol w/New Sent 5.4%  
Compact Inmate Received 0.2%  
Parole Condition 20.1%  
Non-Violator Return With New 0.8%  
New Court Commitment 32.2%  
Prison Sanction 16.3%  
Probation Condition Violators 22.1%  
Prob Viol w/New Sent 5.4%  
Compact Inmate Received 0.2%  
Parole Condition 20.1%  
Non-Violator Return With New 0.8%  
*FY 2016 KDOC Prophet File.
KDOC Prison Population

Number of Inmates

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>KDOC Prison Population</th>
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<tbody>
<tr>
<td>2011</td>
<td>9180</td>
</tr>
<tr>
<td>2012</td>
<td>9370</td>
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<tr>
<td>2013</td>
<td>9581</td>
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<tr>
<td>2014</td>
<td>9612</td>
</tr>
<tr>
<td>2015</td>
<td>9822</td>
</tr>
<tr>
<td>2016</td>
<td>9663</td>
</tr>
</tbody>
</table>

*KDOC Prophet File.*
• Commission legislative workshop agenda proposals
  – Seek out other evidence-based practices within JRI
  – Improve pretrial release systems (pre and post-arrest diversion)
  – Expand existing and pilot new specialty courts (veterans, mental health and more drug courts)
  – Contemplate compulsory use of JRI sanctions for probation technical violators
  – Propose amending mandatory minimum sentencing
Thank You

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