

# Juvenile Justice Oversight Committee Testimony for the Joint Committee on Corrections and Juvenile Justice Oversight

October 22, 2018

Madam Chair Baumgardner, Vice Chair Jennings, Ranking Member Pettey, and Committee Members,

I am speaking to you today about implementation and outcomes of the Juvenile Justice Reform Act (better known as Senate Bill 367, passed into law in 2016).

The law:

- Establishes consistent statewide standards to hold youth accountable for their behavior;
- Restricts out-of-home placement for lower-level youth, consistent with the best available research about interventions that work;
- Focuses intensive system responses on the highest-risk juveniles;
- And shifts resources toward evidence-based alternatives that allow youth to be supervised safely while remaining at home.

The bill process began much earlier with an almost year-long examination of our own state's system, directed by the legislature and other leaders (See attachment 1 – *Report Outlines Flaws in Kansas' Juvenile Justice System*, *Topeka Capital Journal*, March 4, 2015). In 2015, as a result of this study I was invited to participate in a workgroup convened by Governor Brownback, Senate President Wagle, Senate Minority Leader Hensley, House Speaker Merrick, House Minority Leader Burroughs, and Chief Justice Nuss who recognized Kansas had some pressing problems in the juvenile justice system.

This multi-branch group tasked us with studying our juvenile justice system in Kansas and making recommendations for legislative reform. Within that, we were charged with three tasks; to:

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

The workgroup met regularly for months, analyzing state and local data and information from local stakeholders, and national experts regarding best practices, and based on substantial amount of research and related findings. There was so much information I often referred to this process as "drinking from a fire hose." We developed a thorough understanding of how juvenile justice was functioning in Kansas, and how it **should** be functioning. We saw there was a disconnect between the way it was and the way it should be. We took this opportunity to make some major changes in an effort to bridge that gap and bring us closer to where we wanted to be. The work group found that a scarcity of evidence-based, community interventions combined with a lack of state standardized practices led to the state spending most of its juvenile justice-focused resources on out-of-home placements, facilities which separated youth from their family and often failed to keep some youth from repeating their poor behavior.

The workgroup had representatives from many different agencies, varied political beliefs, and relied on the expertise of state stakeholders both skeptical and supportive of the juvenile justice system. This

diversity within the workgroup was crucial to get a broad understanding of the current intentions and functions of the juvenile justice system. We came into this process with the intention of improving the functionality of the juvenile justice system, and that includes better cooperation across the agencies.

At the end of this process, the workgroup had a very good understanding of best practices for juvenile justice and made recommendations unique to Kansas's needs for comprehensive juvenile justice reform. In the end, the reform effort was successful – SB 367 signed into law on April 11, 2016.

We successfully created a law that would keep more youth in their own communities, increase the chances that youth would leave our justice system and **not** return, keep our state safer than before, and be more cost-effective. We knew, however, implementing the reform was the hard part. We put words on paper; we made a law. That's the easy part. After passage came the hard part for all of our state and local agencies.

As part of the workgroup process we learned about the science of implementation. We learned implementation is not a quick process. We learned, on average, reaching full implementation takes four years. Doing something right takes a long time.

In addition, implementing these policies, adhering to the goals of policy change requires the Oversight Committee, this joint committee, and legislature as a whole reinforce the intent of reform, communicate its challenge and successes, and make sure that we hold ourselves accountable for the experience of our state's youth and their families, and the safety of our communities. To that end, I brought data which was supplied for the Juvenile Justice Oversight Committee's annual report, which will be publicly available November 30<sup>th</sup>. The overall picture is that things in Kansas are getting better. We are making improvements:

- The number of youth placed in the Juvenile Correctional Facility has dropped from 237 in FY15 to 164 in FY18 – a 31% reduction
- The number of misdemeanants placed in the Juvenile Correctional Facility has dropped from 34 in FY15 to 4 in FY18 – a reduction of almost 90%
- 3,266 youth received pre-file or post-file diversion in FY18 – we know from the research diversion is an effective practice for youth
- More than 80% of youth receiving a notice to appear at intake successfully appeared at their intake appointment – this change has reduced the need for intake staff to be called to their office in the middle of the night
- 447 youth in Community Corrections and 330 youth in Court Services have earned a total of 7,308 days off their probation through the Earned Discharge Credit – which comes when a youth is doing what they're supposed to do on probation
- Judges and attorneys who work with juveniles have reported more than 220 hours of continued legal education credit hours, showing increased breadth of knowledge of what works best for youth
- We have saved nearly 30 million dollars.

That final point is what brings me here today. During the workgroup process, we realized very quickly the changes we were making would result in averted costs that would have been spent on expensive out-of-home placements, under the old way of doing business. From the start, this body intended those funds to be reinvested into the community to give judges and prosecutors more options to treat youth,

and increase programs across the state proven to reduce recidivism and improve public safety. So, as part of the legislative process, we put what I call a 'lockbox amendment' on the reinvestment funds, to prevent those funds being used for anything other than what is outlined in SB367.

This brings us to 2018. We are two years in to implementation, and we are seeing good progress. On the whole SB367 is having the impacts we targeted. As we get deeper into this process, we will collect more outcomes. As an example, we measure recidivism as "a delinquency adjudication or adult conviction in Kansas while under court supervision or in DOC custody, or within 24 months of discharge from supervision or custody." By pure definition, we can't even begin to look at recidivism until two years after implementation, and that would only capture youth who were adjudicated immediately after being placed on supervision! My point is that it would be unfair and unwise to make proclamations about where we need to go next until ample time has passed. That said, there are other data points I mentioned earlier, that do give us indication that things are working.

For this reason, we are only now starting to determine how the reinvestment funds should be used. We used the data we analyzed during the working group process to make some immediate investments in programs like Functional Family Therapy and Moral Reconciliation Therapy – evidence-based programs in the community. Counties and judicial districts are only beginning to collect and compile more of the data they need to show what program gaps exist in their communities. KDOC, OJA, and DCF are only approaching a time when they can contemplate what they need that would be best for youth across Kansas. We have a subgroup tasked with investigating how money should be spent, but that group is still in its infancy.

This brings me to the complications of two further legislative changes (SB109 and SB179) that have occurred in the last year. Because of SB109 and SB179 which have legislated money be taken from the reinvestment fund to be used for other populations, the Juvenile Justice Oversight Committee, the agencies involved, and stakeholders across the state are running scared about what is going to happen if this money is taken away. We are worried about the reinvestment funds we have worked hard to collect, and are working even harder to spend in appropriate, responsible, evidence-based ways. We are worried before we even have a chance to make good decisions about these funds that they will be taken from us.

Now, let me be very clear about one thing: we all agree that other populations have needs. That crisis intervention centers, mental health facilities, and any number of other endeavors are needed, important, and valuable. No one on our Oversight Committee is going to dispute that. However, we feel the juvenile justice reinvestment funds should be saved for use first for juvenile offenders and their families, as was the original intention of the reform the legislature passed with broad support.

One of the tasks assigned to the Juvenile Justice Oversight Committee is to monitor the reinvestment funds and make recommendations regarding how they are spent. It is our duty to ensure that those funds are spent on juvenile offenders and their families in evidence-based ways.

We have several key points we would like to share with this body. First, the reform was designed to keep youth in their communities and away from out-of-home placements – because as we learned from the research, this is what is effective for seeing long-term behavior change in youth. Second, if the funds are needed for juvenile justice and are taken away from that purpose, we should expect that there will be costs to society, both social, and financial. Third, the Juvenile Justice Oversight Committee

has spent the past two-and-a-half years becoming educated about and invested in best practices in juvenile justice issues, and we feel our body should be consulted when possible changes arise regarding the juvenile justice system in Kansas or the use of juvenile justice funds (See attachment 2 – *Juvenile Justice Reform Can Help Young People “Turn Their Lives Around,” The Pew Charitable Trusts, June 8, 2018*).

During the workgroup process, we learned that research consistently shows the importance of keeping youth in their communities and avoiding out-of-home placement as much as possible. Youth referred to the juvenile justice system have better outcomes when they are kept at home and provided the resources they need to thrive. By definition, the crisis intervention centers, which reinvestment funds have been slated to support, take youth out of home. Once again, do not misunderstand, we understand that there is a needs for additional support for youth in crisis, but we feel strongly that funds intended to keep youth at home should not be used for centers whose express purpose is to keep youth out of home for a period of time.

Second, as I mentioned before, stakeholders across the state have expressed concern that if the funds in SB109 and SB179 were able to be swept, the lockbox amendment is not doing what it was designed to do, and is essentially a law that is being ignored. What is stopping other initiatives from being able to sweep more funds? All the funds? If that happens, our reform will fail not because it is not an effective approach, but because it was cut off at the knees. We will not be able to have the positive outcomes for youth we expect. That would have sweeping repercussions for the state. If we are not able to implement the reforms, we can expect more youth will be involved in the juvenile justice system, be deeper in the system, and stay longer. Remember, research shows that the deeper a youth gets into the system, the more likely they are to return to the system, either by recidivating as a youth, or as an adult, entering the adult system. Either way, this is bad for society. More crimes equals more victims, more cost, and more disrupted families. Basically, there are real costs involved if juvenile justice reform fails.

Finally, we want to let this Committee know that the members of the Juvenile Justice Oversight Committee truly are experts in best practices in juvenile justice and on this reform. We have spent countless hours reading, studying, learning, questioning, reading more, and developing a firm understanding of what, empirically, works best for youth. That does not mean we have all the answers, of course, but it does mean that between our committee members, we have a lot of expertise. Our request to you is that, in the future, before you make a recommendation regarding the juvenile justice system, we would like an opportunity to weigh in.

Thank you for the opportunity to speak here today. We value the work you do and we hope to continue building a strong collaborative relationship for years to come.

Greg Smith  
Juvenile Justice Oversight Committee, Chairman  
Phone: 913-302-9983  
Email: greg4ks@gmail.com

# Testimony for Joint Committee on Corrections and Juvenile Justice Oversight

## SB 367 Juvenile Justice Oversight Committee

Presented by:  
Greg Smith  
Chairman

November 1, 2017

Chairman Jennings, Madam Vice Chair Baumgardner, Ranking Member Highberger, and members of the committee,

Thank you for taking time to hear what has occurred since the inception of the Juvenile Justice Oversight Committee. SB 367, a juvenile justice reform bill was passed in the 2016 Session after nearly two years of research and work. In 2014, the Justice Center for the Council of State Governments began a study of the Kansas Juvenile Justice System. The results of that study were published and presented on March 4, 2015 to a joint meeting of the Senate Standing Committee on Corrections and Juvenile Justice and the House Standing Committee on Corrections and Juvenile Justice. The results were sobering. An article in the Topeka Capitol Journal (<http://cjonline.com/legislature-state/2015-03-04/report-outlines-flaws-kansas-juvenile-justice-system>) by Tim Carpenter summarized the report as follows:

*The juvenile justice system in Kansas functions inadequately due to a tangled organizational structure, inappropriate assignment of youths to detention facilities, poor use of mental health and substance abuse evaluations and overreliance on lengthy periods of incarceration, a consultant's report said Wednesday.*

*The analysis indicated Kansas operated without statewide guidelines for determining the appropriate level of supervision for juvenile offenders by local and state agencies. The Kansas Department of Corrections and local authorities aren't linked by computer to coherently manage youths and the collection of statistical information on offenders falls short.*

*In addition, the report said the state's allocation of block grants to local providers was based on the number of people served rather than performance outcomes. The \$16 million spent annually on private residential placement doesn't guarantee effective treatment, the report said.*

*The evaluation by the nonpartisan Council of State Governments indicated these and other factors contributed to a youth recidivism rate in Kansas higher than the national average. (<https://csgjusticecenter.org/wp-content/uploads/2015/10/030415-CSG-Justice-Center-Kansas-Juvenile-Justice-Assessment.pdf>)*

In 2015, the Kansas Juvenile Justice Workgroup was formed to begin an analysis of the juvenile justice system in Kansas. The CSG report was the base document the workgroup started with. Additional research was done by the group, aided by the Pew Charitable trusts. This inter-agency workgroup consisted of the following members:

- **Co-Chair: Rep. John Rubin**  
District #18
- **Rep. Gail Finney**  
District #84
- **Judge Thomas Foster**  
10<sup>th</sup> Judicial District
- **Judge Delia M. York**  
29<sup>th</sup> Judicial District
- **Stephanie Springer**  
Chief Court Services Officer  
27<sup>th</sup> Judicial District
- **Randy Bowman**  
Deputy Secretary of Juvenile Services  
Kansas Department of Corrections
- **Melody Pappan**  
Administrator  
Cowley County Youth Services
- **Trent Wetta**  
Attorney  
Kansas Legal Services
- **Co-Chair: Sen. Greg Smith**  
District #21
- **Sen. Pat Pettey**  
District #6
- **Judge Mary Thrower**  
28<sup>th</sup> Judicial District
- **Mark Gleeson**  
Office of Judicial Administration
- **Secretary Ray Roberts**  
Kansas Department of Corrections
- **Jaime Rogers**  
Deputy Secretary  
Kansas Department for Children and Families
- **Karen Griffiths**  
Assistant County Attorney  
Norton County
- **Ed Klumpp**  
Kansas Association of Chiefs of Police

The group was guided by three goals:

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

In November of 2015, after exhaustive research and study, the workgroup published its findings and recommendations.

## Workgroup Findings

**1. As crime falls, the juvenile justice system does not keep pace:** While the juvenile arrest rate in Kansas dropped more than 50 percent from 2004 to 2013, the state's community supervision and residential commitment populations have not fallen at the same rate. In particular, 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.

**2. Lower-level offenders make up a greater share of the out-of-home population:** The proportion of youth placed out of home for misdemeanors has grown over the past decade, accounting for roughly two-thirds of youth placed on Case Management supervision—primarily in costly state-funded residential facilities—and one-third of youth placed in the Juvenile Correctional Facilities (JCF). More than 90 percent of Case Management and JCF youth had two or fewer prior Adjudications when they were placed in custody.

**3. Bed costs are high:** More than two-thirds (over \$53 million) of the KDOC juvenile services budget is spent on out-of-home placements at a cost of as much as \$89,000 per year per youth - 10 times the cost of probation.

**4. Evidence-based services in the community are scarce:** Research shows evidence-based alternative services and sanctions in the community reduce reoffending. However, the Workgroup found that the courts lack access to these evidence-based alternatives, leading to higher costs, less public safety, and poorer outcomes for youth, families, and communities.

**5. Lack of standardization leads to disparate outcomes:** The Workgroup found wide variation among counties and judicial districts in how youth flow into and through the system. An absence of statutory guidance or standardized assessment of a youth's risks and criminogenic needs leads to geographically disparate use of out-of-home placements across the state.

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

**7. Out-of-home placement and longer lengths of stay do not reduce reoffending for most youth:** Research demonstrates that out-of-home placements generally do not reduce reoffending and can actually increase recidivism for certain youth. Holding youth accountable through evidence-based alternative sanctions and services such as strengthened community supervision and substance abuse and mental health treatment improves public safety at a much lower cost.

## **Workgroup Recommendations**

The workgroup came to consensus on 40 data-driven, fiscally sound policy recommendations. These 40 recommendations became the foundation for SB 367 which is estimated to reduce the average daily out-of-home population from current levels by the year 2021. It will also create approximately \$72 million in funding over five years for reinvestment in evidence-based options to hold youth accountable while remaining in the community, reduce recidivism, and improve other outcomes. The workgroup recommended that all of the averted costs be reinvested in evidence-based practices and programs in the community that will help Kansas youth become law-abiding and productive citizens of Kansas.

The 40 policy recommendations can be collected into three (3) major areas:

- 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.

These 40 policy recommendations are contained in the Kansas Juvenile Justice Workgroup Final Report (<https://www.doc.ks.gov/juvenile-services/Workgroup/report>) and became the foundation for SB 367, which became law on April 11, 2016. Implementation began on July 1, 2016 and continues to this day.

## **Update**

Numerous agencies are involved in the implementation effort. The purpose of the SB 367 Juvenile Justice Oversight Committee is to provide recommendations to assist in the implementation. It is charged with the following duties:

- (1) Guide and evaluate the implementation of the changes in law relating to juvenile justice reform;
- (2) define performance measures and recidivism;



- (3) approve a plan developed by court services and the department of corrections instituting a uniform process for collecting and reviewing performance measures and recidivism, costs and outcomes of programs;
- (4) consider utilizing the Kansas criminal justice information system for data collection and analyses;
- (5) ensure system integration and accountability;
- (6) monitor the fidelity of implementation efforts to programs and training efforts;
- (7) calculate any state expenditures that have been avoided by reductions in the number of youth placed in out-of-home placements to recommend to the governor and the legislature reinvestment of funds into:
  - (A) Evidence-based practices and programs in the community pursuant to K.S.A. 2016 Supp. 38-2302, and amendments thereto, for use by intake and assessment services, immediate intervention, probation and conditional release;
  - (B) training on evidence-based practices for juvenile justice system staff, including, but not limited to, training in cognitive behavioral therapies, family-centered therapies, substance abuse, sex offender therapy and other services that address a juvenile's risks and needs; and
  - (C) monitor the plan from the department of corrections for the prioritization of funds pursuant to K.S.A. 2016 Supp. 75-52,164(d), and amendments thereto;
- (8) continue to review any additional topics relating to the continued improvement of the juvenile justice system, including:
  - (A) The confidentiality of juvenile records;
  - (B) the reduction of the financial burden placed on families involved in the juvenile justice system;
  - (C) juvenile due process rights, including, but not limited to, the development of rights to a speedy trial and preliminary hearings;
  - (D) the improvement of conditions of confinement for juveniles;
  - (E) the removal from the home of children in need of care for non-abuse or neglect, truancy, running away or additional child behavior problems when there is no court finding of parental abuse or neglect; and
  - (F) the requirement for youth residential facilities to maintain sight and sound separation between children in need of care that have an open juvenile offender case and children in need of care that do not have an open juvenile offender case;
- (9) adhere to the goals of the juvenile justice code as provided in K.S.A. 2016 Supp. 38-2301, and amendments thereto;
- (10) analyze and investigate gaps in the juvenile justice system and explore alternatives to out-of-home placement of juvenile offenders in youth residential facilities; and
- (11) identify evidence-based training models, needs and resources and make appropriate recommendations;

Amendments added to the bill in the 2017 Session created two (2) additional duties for the Oversight Committee.

*(12) study and create a plan to address the disparate treatment and availability of resources for juveniles with mental health needs in the juvenile justice system; and*  
*(13) review portions of juvenile justice reform that require the department of corrections and the office of judicial administration to cooperate and make recommendations when there is not consensus between the two agencies.*

Originally, the Oversight Committee was a nineteen member committee. Amendments to the bill in 2017, have added two more members, bringing the total to 21. These new members are a youth member from the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention (KAG), appointed by the Chair of that group, and a director of a juvenile detention facility, appointed by the Attorney General.

The Oversight Committee mirrors the workgroup in that the members are from all three branches of government, representing multiple agencies and from counties all across Kansas. The Oversight Committee members are not compensated for their service or travel. I do not recommend that the Legislature change that. There is no need to grow the size or scope of government to implement this bill. Since its inception, the Oversight Committee has met on six occasions.

During each meeting, the Oversight Committee reviewed and evaluated the implementation progress of various stakeholders to monitor that implementation was on track. Discussions have centered on whether each stakeholder has been progressing in a manner consistent with best practices of implementation science. In addition, the Oversight Committee has discussed and considered the most appropriate ways to reinvest in juvenile justice and how future decisions should be made. Finally, two subcommittees have been formed to address particular issues regarding data and the continued improvement of the juvenile justice system

## **Subcommittees**

**Data Subcommittee:** This subcommittee was formed to: A) identify and define performance measures and how to collect the associated data; B) define recidivism; and C) discuss data collected regarding performance measures and what they explain. It contains representatives from the Kansas Department of Corrections, the judicial branch, the Department of Education, the Department of Children and Families, the Kansas Bureau of Investigations, and Johnson County.

**Continued Improvement of the Juvenile Justice Subcommittee:** This subcommittee was created to discuss issues that remained following the passage of Senate Bill 367. This subcommittee determined which aspects of juvenile justice would be the focus during

the inaugural year of the reforms. The group decided to focus on A) improvement of conditions of confinement for juveniles; B) the removal from the home of children in need of care for nonabuse or neglect, truancy, running away or additional child behavior problems when there is no court finding of parental abuse or neglect; and C) the requirement for youth residential facilities to maintain sight and sound separation between children in need of care that have an open juvenile offender case and children in need of care that do not have an open juvenile offender case. This subcommittee contains representatives from Johnson County District Attorney's Office, Court Services, Community Corrections, the Kansas Department of Corrections, the Department of Education, and the Department of Children and Families.

Both of these subcommittees are currently collecting data and contacting various agencies and stakeholders for information.

## **Implementation Update**

Evidence-based programs have been expanded throughout the state. Evidence-based is a key element of the SB 367 Juvenile Justice Oversight Committee. "Feel good" ideas are not allowed. All committee and subcommittee processes, decisions, and recommendations must be backed by articulable and/or tangible evidence. If it doesn't exist the idea is discarded.

The following programs are now available statewide:

- Effective Practices in Correctional Supervision II (EPICSII)
- Moral Reconciliation Therapy (MRT)
- Functional Family Therapy (FFT)
- Sex Offender Assessment and Treatment

The following programs are being piloted in various judicial districts in Kansas:

- Aggression Replacement Training (ART)
- Multi-systemic Therapy (MST)
- Youth Advocacy Program (YAP)

Other items of note are:

KDOC announced new grant programs totaling \$5 million in May of 2017.

Training has been implemented and continues across agencies in all three branches of government, including the judicial branch, the Department of Education, Law Enforcement, and DCF to name a few.

The "Crossover Youth Report," which has been done every year since 2005, compares the number of children released from DCF custody who become involved in the Juvenile Justice System. While this is a small number of children – 6% in FY2016 and 4% in FY2017 – an outcome of SB 367 is to improve quantity and quality of data related to youth who become involved in both the Juvenile Justice System and Child in Need of Care (CINC). This data is being utilized in addition to reaching out to DCF by our subcommittees.

The Judicial Branch and KDOC worked together to create an evidence-based system of graduated responses for both incentives and sanctions to be used by Court Services and Community Corrections. This uniform system will help ensure that a juvenile offender in Trego County receives the same options that a juvenile offender in Johnson County does.

The transfer of data between stakeholder agencies continues to be a difficult area to streamline. Stakeholder agencies use different software and different hardware to perform their functions. The classification of data, some on a "need to know" basis, or subject to federal laws also hinders a smooth transfer. There is also, as there usually is in bureaucracy, a tendency to be "territorial," for lack of better word, when it comes to sharing data. This was anticipated to be the area that will require the most effort to ensure success.

On January 5, 2017 KDOC provided a new standard for community supervision agencies that established criteria to access state funding to provide a Community Intervention Program (CIP). The CIP program was successfully piloted in some rural Kansas judicial districts. This evidence-based program will allow youth to establish their own residency when of the age of majority is reached (18) and there is a victim in the home preventing them from being able to return to their family by providing financial assistance.

The Kansas Detention Assessment Instrument (KDAI) is now in use statewide. This allows for the consistent collection of data. Data so far has shown:

- Over 50% of assessment were low risk recommendation to be released without restrictions
- Approximately 14% were moderate risk recommendation to be released with restrictions.
- Approximately 12% were high risk recommendation to be detained.

## **Reinvestment**

Reinvestment is key to the success of juvenile justice reform. To that end, SB 367 established the Kansas Juvenile Justice Improvement Fund. This fund is for the "development and implementation of evidence-based community programs for juvenile

offenders and/or their families. On or before June 30<sup>th</sup> of each year the Secretary of Corrections must certify the savings that can be reinvested into the juvenile justice system. These savings are a result of decreased reliance on out of home placement, either in a youth residential center (YRC) or juvenile correction facility (JCF). The savings for FY2017 were \$11,558,159 plus a carryover of the balance from the reinvestment fund or \$588,794, for a total of \$12,146,953.

The SB 367 Juvenile Justice Oversight Committee is responsible for recommending how the reinvestment monies should be allocated, although it is up to the Legislature, and/or stakeholder agencies to actually implement the recommendation. The recommendations of the committee are that all reinvestment be data driven, evidence-based, and concentrate on the needs of local communities. Local community needs will be determined by Juvenile Correctional Advisory Board (JCAB) reports. Specific recommendations were not made, other than to follow this core policy of SB 367.

The grant programs I referenced in my earlier testimony, were the quickest way to get funds to counties in need of evidence-based program. The application process is similar to that of a Byrne Grant and follows the tenets of SB 367.

## **Conclusion**

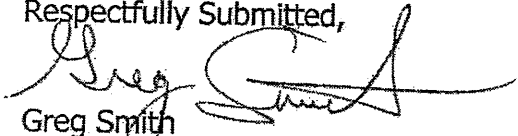
Great strides have been made in reforming a system that was badly in need of reform. Outcomes are already improving for juvenile offenders, families of the offenders, families of the victims, and for the communities these children live in. Much remains to be done. I would caution this committee to allow SB 367 to work. Data collection is a key function of the bill. It takes time to get the data, analyze the data, and to be able to make judgements on policy from the data. To be frank, "We don't know what we don't know." However, continuous "tweaking" of the legislation will eventually result in a law that had great intentions but will not be able to deliver what was promised. "Kneejerk" reactions that rely on emotion are simply counterproductive to the evidence based process. SB 367 took a process that rarely occurs in the Legislature. It was thoroughly researched. The committee process in taking testimony took two full weeks on the Senate side. The bill was set aside to give stakeholders a chance to bring amendments. A full week, again on the Senate side, was given to working the bill. The final product, after going to Conference Committee, was approved unanimously in the Senate, and by a vote of 118 -5 in the House.

Having said all that, I would ask for one "tweak." The term "calculate" has caused angst among some committee members, particularly those that are lawyers. The assumption of the legal mind appears to be that the committee should actually perform the calculations themselves, rather than let the agencies, who have staff in place to do so, perform that function. There was even a suggestion that the Oversight Committee hire an accountant with the reinvestment funds. The Committee has neither the authority to do so nor the need to do so. Having been as deeply involved in SB 367 as

was, and still continue to be, I would ask that the word "calculate" be amended to "monitor." This will make sure the SB 367 Oversight Committee is not charged with the actual accounting process.

I would encourage you to allow the SB 367 Oversight Committee to "oversee" and do its job over the long haul. With few exceptions, most members of the committee are not elected officials, and therefore, have no constituency to please. The committee must and should always follow the evidence. The only people we are concerned with, or should be, is the people of Kansas. Most importantly, we are concerned with public safety, as well as the positive outcomes of our juvenile offenders, their families, the crime victims and their families, and our communities. We welcome the chance to work with this committee to make SB 367 a success. Thank you for allowing me to speak to you.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Greg Smith". The signature is written in black ink and is positioned above the printed name.

Greg Smith

SB367 Juvenile Justice Oversight Committee, Chairman

# Report Outlines Flaws in Kansas' Juvenile Justice System

March 4, 2015

Topeka Capital-Journal

*By Tim Carpenter*

The juvenile justice system in Kansas functions inadequately due to a tangled organizational structure, inappropriate assignment of youths to detention facilities, poor use of mental health and substance abuse evaluations and over reliance on lengthy periods of incarceration, a consultant's report said Wednesday.

The analysis indicated Kansas operated without statewide guidelines for determining the appropriate level of supervision for juvenile offenders by local and state agencies. The Kansas Department of Corrections and local authorities aren't linked by computer to coherently manage youths and the collection of statistical information on offenders falls short.

In addition, the report said the state's allocation of block grants to local providers was based on the number of people served rather than performance outcomes. The \$16 million spent annually on private residential placement doesn't guarantee effective treatment, the report said.

The evaluation by the nonpartisan Council of State Governments indicated these and other factors contributed to a youth recidivism rate in Kansas higher than the national average.

"Recidivism rates are higher than we'd like to see," said Josh Weber, a program director with the organization's Justice Center "It's not a good use of resources."

He told House and Senate corrections committee members introduction of data-driven policies and practices in Kansas could better serve youths and allow for reinvestment of money in community-based programs.

"You've given us a lot to ponder," said Rep. John Rubin, a Shawnee Republican and chairman of the House Corrections and Juvenile Justice Committee. "I dare say this is somewhat of a wake-up call for us."

He said the report could be the foundation of a comprehensive reform bill considered during the 2016 legislative session.

Rep. Russell Jennings, R-Lakin, said the state would have benefit of research on recidivism that didn't exist 20 years ago. Jennings, who led the state's juvenile justice authority from 2007 to 2011, said the report captured many of the challenges facing the system in Kansas and other states.

Sen. Greg Smith, of Overland Park, the Republican chairman of the Senate Corrections and Juvenile Justice Committee, took particular interest in a finding that public school districts located near juvenile facilities resisted enrollment of offenders.

These individuals are disproportionately suspended or expelled, have fallen behind in academic work and rarely stay at the school more than a few months, Weber said.

The reviewers recommended Kansas adopt clear regulations for matching youths with the appropriate level of supervision, alter block granting to mandate private contractors deliver quality programs and vastly expand data collection and analysis.

Terri Williams, deputy secretary for juvenile services at the state Department of Corrections, said the agency welcomed the expertise of the Council of State Governments. The organization delved into Kansas' programs as part of a multi-state reform initiative.

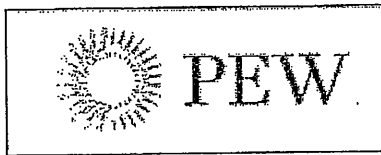
"We are supportive of their recommendations," she said. "We're committed to being data-driven."

Robin Olsen, a manager with Pew Charitable Trusts' public safety project, told the joint committee both the juvenile violent crime rate and the number of youths sent to state-funded facilities was declining nationally. Kansas is making progress, but at a slower pace.

She said the national out-of-home commitment rate declined 48 percent between 1997 and 2011. The decline in Kansas during that period was 38 percent, leaving the state with the 15th highest commitment in the country.

"Residential placements not only cost more than alternatives," Olsen said, "they can actually increase offending for certain youth."





## Juvenile Justice Reform Can Help Young People ‘Turn Their Lives Around’

Deputy Sheriff and former Kansas state Senator Greg Smith on why he champions new strategies

Article June 8, 2018

*This occasional series features interviews with influential leaders about how they became involved in criminal justice reform, how their views have evolved—sometimes in unexpected ways—and what's needed to sustain progress.*



Former Kansas State Senator Greg Smith (R) was a leader on comprehensive juvenile justice reform efforts in his state. With the passage of S.B. 367 in 2016, the state prioritized out-of-home placements and intensive system responses for the highest-risk juveniles and shifted significant resources toward evidence-based alternatives that allow youth to be supervised safely at home. Smith, now a deputy sheriff in Johnson County, chairs the Kansas Juvenile Justice Oversight Committee, which monitors implementation of the law. He serves as a distinguished adviser to The Pew Charitable Trusts and is president of the Kelsey Smith Foundation, which he launched with his wife, Missey, in honor of their daughter, who was abducted and murdered in 2007.

**Q: How would you describe your position on criminal justice or juvenile justice in the past?**

A: I've been a cop most of my adult life, so I'm sure my views were shaped by that. When I was out on the street, I was definitely a lock-'em-up kind of guy. That was what you did with people who broke the law, whether they were kids or adults: Remove them from society for the benefit of everybody else. Growing up, I had your typical "Beaver" Cleaver childhood, and I just developed certain strong views on the way the world worked. If you did something wrong, you were supposed to get arrested and go to jail. It made sense, and that's what we did.

**Q: What were your early views on how youth confinement affects crime?**

A: Before my election to the Legislature, I didn't think or know much about it. That was a separate branch of the criminal justice system, and I had no real reason to look at outcomes or research. My traditional upbringing and 10 years in the Navy left me with the belief that you don't do the crime if you can't do the

time, and my experience as a patrol officer only hardened that perspective. I do remember how disheartened I would get when a call would come over the radio and, sure enough, it was little Johnny again doing the same old stuff. But I essentially viewed juveniles who commit crimes as smaller, younger criminals and believed the best way to control crime was to get them off the street.

**Q: Can you describe your views about juvenile justice today?**

A: I've learned a lot and know a lot more than I used to. I've read a lot of evidence-based research that shows that for certain types of lower-level crimes, locking up kids can do more harm than good. I've also learned a lot about cognitive development in kids, and the fact is, adolescence doesn't really end until age 25. Young people aren't as able as adults to see the consequences their actions and behaviors might have.

Some of what I've learned came through working as a schoolteacher after my career as a police officer. What you see in the classroom is that at a certain point in life, kids are just totally self-centered; life is all about them and their peer group. And no matter what the teacher or mom or dad says, they are impulsive, and they're going to make bad decisions sometimes. Crossing over to juvenile justice, I don't believe we should condemn them or give up on them because of those bad decisions. On the other hand, they need to be accountable for their behavior. Overall, I've come to believe that locking up a kid for shoplifting or vandalism and mixing him with more serious offenders is a bad idea. It's bad for the kid, it's expensive for taxpayers, and it's not the best approach for public safety.

**Q: What caused you to change your mind?**

A: It started when I was elected to the Legislature and began hearing some of these other theories and views on juvenile crime. It was new to me, and honestly I took it all with a grain of salt. Initially I wasn't seeing anything presented in any of my committees that convinced me that people had the answers to the key question: How do we change our approach and make things better?

Then I was appointed co-chair of the Kansas Juvenile Justice Workgroup in 2015. In the beginning, my mindset was: Here we go, this is just another touchy-feely thing to make everybody feel like they're doing the right thing but it won't make a bit of difference. But I had a job to do, and I listened to everybody. There was one criminal defense lawyer [on the panel] who did nothing but juvenile work, and despite my bias against attorneys because of my law enforcement background, I listened to him. He had insights on things I never would have thought about. The judges also had some valuable insights.

What was really huge for me was the data on the adolescent brain, especially how long it takes for the prefrontal cortex—the decision-making part of the brain—to develop. That research and data on Kansas was convincing, and it all started to make sense. That's why I championed S.B. 367.

**Q: Was there a moment when you realized that things had to change?**

A: Not one moment. But during that six months with the work group, as we went over the data, heard presentations, met with all the stakeholders, I realized how reliant we were on out-of-home placements for all sorts of behavior. That's when it came together for me, and I started taking a hard look at all the ridiculous things we were doing to kids in Kansas. One example would be a kid who commits maybe his second or third shoplifting offense and would be sent to a group home 100 miles away, with no support or family contact.

One of the most meaningful groups we heard from included parents of children who had committed crimes. Not a one of them was impressed with the juvenile justice system. I remember one father who recognized that his son had issues and was in the system for legitimate reasons, but who was frustrated

because there seemed to be no end to it. We'd hear these stories of kids being sent hundreds of miles from home for six months, but then if a kid didn't complete a program or broke a rule or something, the clock would restart and suddenly it's 12 months. It seemed like there was a fundamental lack of fairness. It became obvious from what I was hearing and from the data that our approach simply wasn't working.

**Q: Have you encountered any interesting reactions to the change in your views?**

A: Yes. One of the most amusing stories happened when we were working to pass the bill, and the lobbying group supporting it had a meeting with the minority party, the Democrats. I was chairman of the Senate Corrections and Juvenile Justice Committee, and they knew the bill would have to come out of my committee. I guess the Democrats asked what I thought of the legislation and when they heard, the reaction was, "Smith? Greg Smith? You mean he supports this?" It definitely surprised some people.

Since we passed it, I've received some pushback. Sometimes people will approach me, and they have a misunderstanding about what the reforms have actually done. But I have found that if I can explain the research and show them the results, including the cost savings, sometimes a lightbulb goes off.

**Q: What do you find most gratifying about the changes in Kansas' juvenile justice system?**

A: Out-of-home placements are way down, and that's encouraging. We used to be very good at taking low-level, low-risk kids and locking them up. That wasn't helping; it was only creating the next batch of adult criminals by exposing them to violent, high-risk offenders. Now we can intervene with kids early on to help them turn their lives around, avoid a future in the system, and become productive citizens.

Another big thing for me is the cost savings we've recouped here in Kansas. Because of the reduction in out-of-home placements, we've had several facilities close. In one year, we had about \$12 million in savings, and for Kansas that is huge. The great part is we've turned around and reinvested that money to give grants to areas of our state that lack resources. The vast majority of our state is rural, and small-town Kansas needed help to develop programs and services for youth. The challenge is that rural areas don't have the resources that the urban areas have. But savings from our reforms are being reinvested to address that gap. It's a start.

**Q: What have been the greatest challenges in adopting and carrying out reform?**

A: Getting it passed was much easier than carrying it out. I say that somewhat jokingly because it was a big process in the Legislature to get it done. In my committee, I devoted an entire week to showing people what the bill did, then we had a week of testimony from people who were supportive and then another week of testimony from those who were neutral or opposed. Then we waited for a week so members could come up with amendments, and then it took another two or three days to pass the final product.

This is unheard of in the Kansas Legislature. We only meet for about 90 days a year so to take that long on one bill was incredible. One of most gratifying moments was when we were debating the bill on the floor of the Senate, and some people who I don't consider political allies stood up and said this is how the process should work.

But putting it all into action has been even more difficult. Fortunately, there has been a lot of support and good anecdotal feedback from people who work in the system. They say that things are better and they're able to get more resources for kids, so that's encouraging. But not everyone has their heart in wanting it to succeed, so that can be challenging. Changing the culture we had in Kansas still needs to happen in some places.

**Q: The abduction and murder of your daughter Kelsey in 2007 was a major reason you ran for office and worked to improve the juvenile justice system. Talk about that and the foundation that bears her name?**

A: After Kelsey was murdered, we worked to get the Kelsey Smith Act passed in Kansas in 2009. Our state now has one of the best missing person laws in the country, and it is easier to make a report of a missing person. At that point, I looked at my wife and said, "I wonder what else we could accomplish if we were more involved in the political system." Now 23 states have passed similar legislation, and the act was reintroduced on Missing Children's Day—May 25, 2018—in both houses of Congress. So, my entire legislative career was based on that, and those issues are things I worked on with the most passion.

When we formed the Kelsey Smith Foundation, our overriding goal was to spread information that would help youth and young adults stay out of situations that put them at risk for kidnapping, sexual assault, or murder. So, we provide safety awareness seminars and other programs all across the country, and everything we do is evidence-based. The United Kingdom and Europe also have expressed interest in our work.

**Q: Any thoughts on next steps for juvenile justice improvements in Kansas?**

A: I think S.B. 367 was a big step in the right direction, but there's still more work to do. We have the oversight committee to guide us and our state advisory group. No legislation is perfect the first time it goes through, and I think that as time goes on, we will continue to see things that need to be tweaked. As data comes in and we monitor and evaluate it, changes will be necessary to help us move forward.

But clearly what we were doing in the past, just tossing kids into group homes, didn't work. The overwhelming theme in our work group's review was that the juvenile justice system didn't want to deal with kids. It was out of sight, out of mind. And that isn't going to help anyone.

As I went through this process, I was often struck by how counterintuitive our approach to juvenile justice needs to be, and that reminded me of my cousin who was a Navy pilot during the Vietnam War. He once described learning to take off from an aircraft carrier and how pilots must rely on instruments to get airborne safely. The physical sensations of takeoff disorient the body, and a pilot believes he is rising when in fact the plane is heading for water. He said if he had relied on what he was feeling, he would have crashed. It was only by following his instruments that he completed a successful takeoff.

It's the same with juvenile justice reform. We need to follow our instruments—the data and evidence-based research—to reach our goals, which are to protect public safety; hold juvenile offenders accountable; contain taxpayer costs; and improve outcomes for youth, families, and communities.