

2021

Juvenile Justice Report



Presented to the Governor and Legislature by the
**Kansas Advisory Group on Juvenile Justice and
Delinquency Prevention (KAG)**

Table of Contents

About the KAG.....	2
Ongoing Activities.....	3
Current Activities.....	4
Policy Recommendations.....	6
KAG Membership.....	12

About the KAG

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) requires each state to maintain a State Advisory Group (SAG). In Kansas, this group is named the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention (KAG).

One of the roles of the KAG is to advise on, and advocate for, juvenile justice matters that are consistent with industry standards and best-practices. In accordance with this role, the KAG makes annual recommendations to state policy makers and the Kansas Department of Corrections (KDOC).

The KDOC is the designated state agency for receiving federal funds from OJJDP. The KDOC and KAG partner to oversee the Title II federal funds for the State of Kansas. The KAG also assists in providing oversight to keep Kansas in compliance with the provisions of the federal Juvenile Justice and Delinquency Prevention Act (JJDP Act).

The KAG meets quarterly and is made up of members who are appointed by, and serve at, the pleasure of the Governor.

Ongoing Activities

OJJDP funding is allocated to each state contingent upon its compliance with four core requirements of the JJDP Act. The KAG and KDOC are responsible for overseeing and monitoring these requirements. The requirements are:

- Jail Removal: Juvenile offenders shall not be securely detained in adult jails.
- Sight and Sound Separation: Juveniles must be kept sight and sound separate from adult offenders.
- Deinstitutionalization of Status Offenders: Juveniles charged with status offenses should not be placed in secure detention or correctional facilities.
- Racial and Ethnic Disparities: States must address over-representation of minorities in the juvenile justice system.

Compliance Monitoring:

Kansas employs a Compliance Monitor who visits all juvenile facilities in the state to educate staff on the federal statutes and ensure the facilities are complying with said statutes. Kansas has maintained full compliance with the core requirements since 1999. This allows the State to continue to receive 100% of the Title II funds available under the federal funding formula.

In alignment with these requirements, the KAG has continued to review policy needs, services, and assessments for juveniles based on associated risk-level factors. Due to COVID-19 restrictions, the Compliance Monitor has been limited to sporadic on-site visits. Virtual visits are not an option as these are not accepted at the federal-level. The Compliance Monitor has been monitoring COVID levels in communities and conducting monitoring visits when safe to do so.

Current Activities

Community System Improvement Initiative:

The Kansas State Juvenile Justice Collaborative of Kansas State University was awarded the Title II funding for initiatives that took place from 2018-2020, using the state's 2015, 2016, and 2017 Title II allocations. The two-year project known as, Our Town Our Kids (OTOK), focused on collaboration with the 15th, 17th, 23rd, and 25th Judicial Districts. The contracts required OTOK to work with community stakeholders and facilitate the development of a strategic community plan to:

- 1) Increase the community's capacity to collect data from juvenile justice decision points.
- 2) Increase the community's data analysis and interpretation capacity.
- 3) Increase the community's collaborative capacity.

During the same period, KU was selected to run an additional pilot site with identical goals in Wyandotte County.

In October 2020, OTOK provided an Executive Summary¹ and 2020 Final Report & OTOK Toolkit² to the KAG, and KU provided a summary and toolkit as well. Using these reports, the KAG and KDOC used its 2018 Title II allocation to start similar work in a fourth pilot site in the 11th Judicial District, Crawford County. The University of Kansas was selected to work with this Judicial District for a one-year project. The contractual deliverables include:

- 1) Increasing the community's capacity to collect data.
- 2) Increasing the community's data analysis and interpretation capacity.
- 3) Identifying system gaps or areas where outcomes for area youth could be improved through juvenile justice system improvement or other system interventions.
- 4) Increasing the community's collaborative capacity.
- 5) Assisting in the creation of a sustainable strategic plan.
- 6) Creating a toolkit detailing steps taken and lessons learned during the facilitation process.

With the successful completion of the KU and KSU initiatives in October of 2020, the KAG selected Crawford County as a site to carry out a similar initiative. KU has been working with Crawford County since October of 2020, with the planned end date of June 2022.

Strengthening Juvenile Defense in Kansas:

In late November 2020, the National Juvenile Defender Center (NJDC) made a presentation of their findings/report on the state of Juvenile Defense to the full KAG.³ The KAG included a

¹ Our Town Our Kids. (2020). *Executive summary*. Retrieved from

<https://documentcloud.adobe.com/link/review?uri=urn:aaid:scds:US:71a2c283-48da-4d20-b4a9-987c962cb775>

² Our Town Our Kids. (2020). *2020 Final Report & OTOK Toolkit*. Retrieved from http://ourtownourkids.org/sites/default/files/2020-09/Digital%20Version%20-%20FINAL%20%28reduced%29_0.pdf

³ National Juvenile Defender Center. (2020, October). *Limited justice: An assessment of access to and quality of juvenile defense counsel in Kansas*. Retrieved from <https://njdc.info/wp-content/uploads/Kansas-Assessment-Web.pdf>

recommendation for legislative action to address the report's findings in our 2020 Annual Report (released in January 2021). In April, 2021, the KAG Executive Team and the KAG Operations Committee began having conversations about the feasibility of using some remaining Title II funds to partner with NJDC on ways to begin work on ways to strengthen juvenile defense in Kansas.

In late May, 2021, the KAG voted to fund initiatives which would strengthen juvenile defense in Kansas. In consultation with NJDC, the KAG voted to approve a multi-faceted training and resource plan. This includes:

JTIP Trainer Certification: The Juvenile Training Immersion Program (JTIP) is a highly specialized, comprehensive, 42-lesson trial advocacy training program designed to enhance the capacity of youth defense attorneys across the country. JTIP is intended to serve as the gold standard in training for youth defenders and reflects a core commitment to the unique role and critical importance of specialized defense counsel in juvenile courts across the United States. The funding will be used to provide this certification program for up to 18 individuals who would be able to then conduct training locally. (Currently there is only one JTIP certified trainer in Kansas.) Funding was allocated for **Pre-Certification JTIP Training** (on topics pertaining to juvenile defense) to be held in up to six locations in Kansas which would help identify the individuals for the Trainer Certification. There are allocated funds to allow for **Post-Certification JTIP Training** for out-of-state JTIP certified trainers to partner with the newly-certified Kansas team members during the initial year of training.

The funds will also establish a **Juvenile Defense Training and Resource Hub** which will fund a part-time position for roughly two years. We plan to partner with NJDC and possibly other local organizations to establish this hub and NJDC will help create a comprehensive training plan to address the needs of juvenile defenders in the state.

Lastly, the KAG voted to approve funds to augment a free CLE Training sponsored by Sedgwick County Juvenile Services. Sedgwick County hosted the training event in November 2021. KAG members have been working with the County to sponsor a second event to be held in a different part of the state and to include topics such as Racial and Ethnic Disparities. The event is tentatively scheduled for Spring, 2022.

Policy Recommendations

Policy Recommendation #1:

Continued Data Collection and Analysis of Racial and Ethnic Disparities Data

Per the KAG's request, in late 2020, the KDOC provided the "Youth Disparity at Key Steps in the Juvenile Justice System"⁴ data evaluation report. This report examined disparity at key steps in Kansas' juvenile justice process post SB 367 (Juvenile Justice Reform). The report included data for a period of seven years, from 2014 to 2020. This multi-year review allows Kansas to examine practices and data prior to the passage of SB 367 in 2016, as well as in the years post-enactment.

Primarily, this report asked the following question, "Is any disparity in who arrives at the front end of the justice system (Juvenile Intake and Assessment Services "JIAS") reduced, removed, or exacerbated at each stage within areas that KDOC funds and/or oversees?"

The KAG requested that the data report:

- 1) Include as much information on each part of the system involvement as possible (e.g., arrest, detention, probation, custody, JCF) to include data on crossover youth.
- 2) Analyze the outcomes of programming for youth to ascertain if any disparities existed for youth by race, ethnicity, gender, and sexual orientation/gender identity.
- 3) Outline any current system gaps (including data collection) and the plan to overcome such gaps.
- 4) Outline a plan for mitigating overrepresentation to include the identification of evidenced-based models that are culturally and gender responsive.
- 5) Establish incremental goals for a reduction of overrepresentation.

Data was reviewed in the following eight areas under the KDOC purview (or funded by KDOC):

- 1) Juvenile Intake and Assessment
- 2) Kansas Detention Assessment Instrument (KDAI)
- 3) Intermediate Intervention Programs
- 4) Reinvestment Grant Usage
- 5) Access to Evidence-Based Practices and Program Success Rates
- 6) Juvenile Supervision
- 7) Juvenile Correctional Facility (JCF) Admissions
- 8) Juvenile Correctional Facility Releases

The report included analysis of the juvenile justice system decision-points funded or overseen by the KDOC (e.g., excluding arrest), through a lens of gender, race, as well as gender and race. While there remain some challenges with data collection, the report provides a baseline for measuring future change, as unfortunately, the data report does suggest continued concerns for youth of color (both boys and girls) throughout the above-mentioned decision-points. Due to the nature of

⁴ Youth disparity at key steps in the juvenile justice system. (2020). Kansas Department of Corrections: Juvenile Services. Retrieved from <https://documentcloud.adobe.com/link/review?uri=urn:aaid:scds:US:041acc77-bc3f-4a1f-8408-0461203e7aa1>

currently collected data, the analysis collapsed race into “non-white” and “white.” It is the KAG’s hope that newer KDOC systems can identify multiple races rather than just a “primary race.” The KAG would also welcome more robust analysis to look for common themes among Judicial Districts, based on age, income, race, sex, gender identity, and so forth. The KAG and KDOC leadership continue to agree on the need to regularly review and report on the data with a goal towards incremental improvement. As such, the KAG requests KDOC provide a similar report on a yearly basis to assess for emerging data trends.

Recommendation 1.1 – Improve Juvenile Justice Data Systems

The project review revealed system data gaps where information is either inaccessible or narrowly entered. The Office of Judicial Administration (OJA) provided similar data for FY 2014 through FY 2021 but the report included aggregate data only, without a level of analysis to determine disparity across the various decision-points. Within both systems, there is a lack of consistent reporting of race/ethnicity at various system points and lacks a current analysis providing an intersectional lens in understanding racial/ethnic disparities alongside other factors. While this is a start, precise data can provide a more accurate understanding of Kansas specific trends. The KAG recommends expanding data points, but not limited to, the following:

- 1) Gender identity
- 2) Sexual orientation
- 3) Clarification on KDAI overrides/departures (upward or downward)
- 4) City or county of residence
- 5) Native/primary language spoken in the home
- 6) Crossover youth status

Recommendation 1.2 – Expand Collaboration and Data Sharing with Other Kansas Systems

It is not uncommon for youth of color to be overrepresented in not only the juvenile justice system, but also in child welfare. In future reports, the KAG recommends that KDOC collaborate with the Kansas Department for Children and Families (DCF) and the Office of Judicial Administration (OJA), per a recently signed (but not yet finalized) MOA, to include data on crossover youth as well as youth/families with DCF involvement and youth in out-of-home placement. KAG would welcome the opportunity to meet with KDOC, OJA, and DCF to establish a plan to achieve this goal to increase information sharing.

Recommendation 1.3 – More In-Depth Review of Program Access, Outcomes, and Fidelity

The KDOC’s report noted disparate responses when providing access to diversionary programs such as the Immediate Intervention Program (IIP) for youth of color. The KAG recommends future reports seek to further explore the current findings and propose steps to take to reduce the disparate youth of IIPs for youth of color. Additionally, the KAG requests the KDOC establish protocols to measure program effectiveness, or outcomes, for youth involved in KDOC-sponsored programming. Lastly, the KAG encourages all KDOC programming to establish ongoing practices to ensure the fidelity of offered programs (e.g., compliance monitoring).

Policy Recommendation #2

Strengthening Juvenile Defense for Youth in Kansas

On December 2, 2020, the National Juvenile Defender Center (NJDC) officially released a report on the juvenile defense delivery systems in Kansas. This project was initiated by, and funded through, the Kansas Department of Corrections in October of 2018. After a comprehensive multi-year review of the Kansas juvenile defense system, the NJDC highlighted the following key findings⁵ which were presented to the KAG membership in late November 2020:

- 1) Kansas juvenile defenders do not have structure, training, support, or compensation needed to develop expertise in juvenile defense.
- 2) Plea deals are initiated in most cases, and with minimal investigative or advocacy initiatives.
- 3) Fines and fees are negatively impacting youth and families in Kansas and interfere with youth's right to counsel and access to diversion options.
- 4) Recognized harm and continued trauma surrounding the shackling of youth is not acknowledged in Kansas, largely due to defenders failing to advocate against such practices.
- 5) Juvenile defenders rarely challenge racial biases and disparate treatment within their defenses of Kansas youth.

While the KAG has committed funds to begin mitigating some of these deficiencies as outlined in the Current Activities Section of this report, the funds are woefully insufficient to address the systemic deficiencies. As such, the KAG continues to urge the Kansas Legislature to take action to remedy all five of the noted system deficiencies in the juvenile defense system in Kansas during the upcoming legislative session. Specifically, the KAG would like to encourage movement on this issue as many of the five key points impact a youth's experience throughout the entire system, and potentially, across systems (DCF and KDOC).

⁵ Limited justice: An assessment of access to and quality of juvenile defense counsel in Kansas. (2020). National Juvenile Defender Center. Retrieved from <https://njdc.info/wp-content/uploads/Kansas-Assessment-Web.pdf>

Policy Recommendation #3:

Continued Support for Juvenile Justice System Improvements

Current Kansas juvenile justice statutes seek to restrict the use of out-of-home placement while focusing on evidence-based alternatives and graduated sanctions, targeting moderate and high-risk youth. Through the use of standardized assessment measures (e.g., YLS/CMI), the Kansas juvenile justice system has seen major improvements in adherence to the Risk-Need-Responsivity model—a system based on matching the level of youth programming to their assessed risk for re-offense. Additionally, Kansas has intentionally worked to keep as many of these youth in their homes as possible, and relying on the deep system involvement (Kansas Juvenile Correctional Complex) only when deemed absolutely necessary.

The KAG continues its support for the current juvenile justice statutes and would caution against further legislative, policy, or budgetary rollback efforts as such practices reduce Kansas’s ability to remain on-target with the guidelines set forth by SB 367. Topics of particular interest to the KAG include:

- 1) We strongly advise against the reallocation of the Juvenile Justice Reinvestment Funds and advocate for support in seeking best-practice initiatives for all justice-involved youth across Kansas. Potential efforts for future system improvements may be negatively impacted by the loss of \$21.1 million in Reinvestment Funds while also preventing the ability to expand in areas of need such as adding/expanding gender and culturally-responsive services in Kansas communities. In October of 2021, the KAG provided written testimony⁶ to the Joint Committee on Corrections and Juvenile Justice Oversight to address the \$21.1 million loss in Reinvestment Funds.
- 2) We continue to support the Juvenile Justice Oversight Committee’s multi-year plan for program expansion in a way that ensures sustainability of the established evidence-based services and promising practices for youth and families in Kansas.
- 3) We continue to support the continued cross system work of the Crossover Youth Project Model. After the extended contract ends on December 31, 2021, the KAG would support ongoing efforts to expand this model beyond the piloted sites and across all of Kansas.
- 4) We support comprehensive evaluation of programs funded through the Juvenile Justice Reinvestment fund for all youth under the supervision of KDOC and/or OJA.
- 5) We recommend the finalization of Memorandums of Agreement (MOAs) with KDOC, DCF, and OJA to share information on system youth which will improve communication and coordination among agencies and increase safety and positive outcome measures for youth and families.

⁶ Restoration of evidence-based funds. (2021, October 18). Executive Committee of the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention (KAG). Retrieved from http://www.kslegislature.org/li/b2021_22/committees/ctte_jt_cjjo_1/documents/testimony/20211026_22.pdf

Policy Recommendation #4: Validation, Reliability, and the Fidelity of Assessments

The KAG supports Kansas's efforts to create tools specific to the needs of Kansas youth and to support the use of such instruments. Specifically, the KAG recommends the following, regarding different measures currently utilized across Kansas:

Recommendation 4.1 – Ensure Reliability and Validation of the KDAI

The KAG recommends the KDOC continue to seek acceptable outcomes on the inter-rater reliability exercises on the Kansas Detention Assessment Instrument (KDAI). Upon reliability of the instrument, the KAG seeks completion of a validation study that was said to occur during 2021.

Recommendation 4.2 – Fidelity of the YLS/CMI

In June of 2020, the Crime and Justice Institute (CJI) completed a validation study⁷ of the YLS/CMI by collecting data from both KDOC and OJA. The results suggested the instrument is a valid tool for Kansas youth. The KAG supports the findings from CJI and encourages KDOC and OJA to ensure the ongoing fidelity of the instrument. Specifically, the KAG agrees with CJI's following recommendations:

- 1) Improve data collection
- 2) Use consistent case numbers across agencies
- 3) Increase inter-rater reliability
- 4) Conduct a validation for underrepresented Hispanic population
- 5) Explore the causes underlying disparate findings across racial groups
- 6) Adopt new risk level cut-offs

KDOC worked with CJI on item three—to increase interrater reliability (IRR) of the instrument. The validation study resulted in KDOC transitioning to the YLS/CMI 2.0 version—the same version being used by OJA. While the ongoing inter-rater reliability work with KDOC and OJA has paused, they will resume in 2022 with a focus on developing a sustainable plan for increasing and maintaining a high IRR. OJA will continue in conversation with KDOC to establish and adopt new level cut-offs, per recommendation six. While an agreement has not been met, previous conversations have suggested using already established cut-offs as set forth by the Multi-Health Systems, Inc. (MHS).

⁷ Crime and Justice Institute. (2020, August 11). *Validation study of the Youth Level of Service/Case Management Inventory*. Retrieved from <https://www.doc.ks.gov/juvenile-services/committee/yls-cmi-validation-study/KS%20YLS%20Validation%20Final.pdf/view>

Policy Recommendation #5: Increase and Expand Training Protocols

The KAG is pleased with the ongoing training initiatives being offered through KDOC, OJA, DCF, and other Kansas youth agencies. The KAG would like to encourage expansion of currently offered training as well as the implementation of new training efforts.

Recommendation 5.1 – Training Expansion and Development

The KAG also commends KDOC for their ongoing training initiatives for both new and established facility and community employees and partners. The KAG would like to see KDOC expand the nature of the trainings beyond introductory-level information on juvenile justice practices. The following is not an exhaustive list, but provides a starting point for areas of consideration including research on developmental psychology, trauma-informed care, and gender-responsive and culturally-sensitive awareness:

- Culturally-responsive approaches
- Gender-responsive programming

The KAG would also like to recognize that the KDOC is working with the National Girls Initiative to build momentum, create stronger networks of juvenile justice stakeholders, and to develop programs resulting in systemic improvement with lasting effects for the girls of Kansas. As part of this initiative, the working group will provide a training deliverable regarding gender-responsive programming.

In the 2016 passing of SB 367, OJA was required to develop or designate a training protocol for judges, county and district attorneys, and defense attorneys who work in juvenile court. OJA has plans beginning in the 2022 calendar year, to begin offering remote trainings according to this protocol. The KAG supports these stated intentions and encourages OJA to consider the findings of the NJDC's suggestion when developing training initiatives.

KAG Membership

Below is a listing of the KAG membership as of December 1, 2021. We would also like to recognize the contribution of Rachel Beech, David McKune, and LaShonda Garnes, who also served on the KAG during 2021.

Terri Williams - Topeka - **KAG Chair** - CDO, Community Solutions Inc

Melody Pappan – Winfield - **Operations Committee Chair** - Cowley Co. Youth Services Director

Beryl Ann New - Topeka - **Equity Committee Chair** - Dir. Equity, Topeka Public Schools

Maximilian Mendoza - Kansas City - **Membership Committee Chair** - Director of Heartland 180

April Terry - Hays - **Policy Committee Chair** – Professor, FHSU Criminal Justice Department

Kristen Powell - Wichita - **Youth Committee Chair** - Youth Member

Angela McHardie - Topeka - SNCO DOC Deputy Director

Marquetta Atkins - Wichita - Dir. of Programming, The Seed House

Elaine Johannes - Manhattan - Extension Specialist, KSU

Kellie Hogan - Wichita - District Judge, 18th Judicial District

Isidro Marino - Garden City - Student

Boog Highberger - Lawrence – Legislator, Kansas House

Peggy Pratt - Norton – Director, Juvenile Services

Bruce Johnson - Sedgwick - Retired Police Chief, Concordia

Carol Cadue-Blackwood - Lawrence - Education Outreach Coordinator

Traci Dotson - Lawrence - Social Worker, LDCHD

Tyler Williams - Wichita - Community Organizer, The Seed House

Preston Thomas - Mission Hills - Student

Yeni Telles - Wichita – Wichita State University

Chrishayla Adams – Topeka - Student