OFFICE OF THE DISTRICT ATTORNEY
EIGHTEENTH JUDICIAL DISTRICT

MARC BENNETT

District Attorney

RON PASCHAL

Deputy District Attorney

Senate Bill 367

Opponent Testimony Before the Senate Judiciary Committee

Ron W. Paschal, Deputy District Attorney on behalf of

Marc Bennett, District Attorney, Eighteenth Judicial District

February 1, 2016

Dear Senator Smith and Members of the Senate Judiciary Committee:

Any discussion regarding juvenile justice in Kansas must start with the acknowledgement that this state has been very progressive in recognizing juveniles must be treated differently than adults in the court system, particularly in the area of juvenile offender matters and abuse and neglect cases. Our continuum of care and system of graduated sanctions reflects the positive philosophy and methodology we have had towards healthy kids and strong families in this state.

You get no argument from those of us who work with kids every day that the best way to help juveniles resolve issues is through the use of prevention and intervention programs and supervision in the community *when it can be done without putting community safety at risk.* Many of us have lobbied the legislature and local county government for years asking for continued funding to operate prevention and intervention programs for juvenile offenders and their families. Since 9/11 those calls have gone unanswered and funding sources for these valuable programs eliminated.

Senate Bill 367 really isn't a reform bill as much as it is a radical overhaul and departure from the current system. Much of what we currently have in place works well. I have attached for your review **Ex. 4** which demonstrates some of the programs and effective outcomes utilized here in the 18th Judicial District. It is for this reason I urge caution in such a wholesale change as suggested in Senate Bill 367. There must be conscientious and meaningful debate prior to adopting sweeping changes. I am

suggesting that any change as set forth in this bill occur in small steps over time. While the Office of the District Attorney believes there is always room for improvement in any system, we are also of the belief that there is not a general consensus among those of us in the juvenile justice system that Senate Bill 367 is the best manner in which to obtain improvement. There are prosecutors, judges and probation officers throughout the state that have concerns over the sweeping changes suggested in this bill.

Through this testimony I want to point out several concerns with this bill. First, it makes so many changes to the current system; implementation will be difficult throughout the state. Second it will be difficult to measure outcomes with so many changes occurring at once. Third, the funding source for the new system is woefully inadequate. If we are seriously going to shift towards this method of handling juvenile matters, the legislature must take steps to fully and immediately fund these programs. To put it bluntly, it should be part of the state's regular line item annual budget otherwise it is an unfunded mandate which means children and families will not receive services the proponents of this bill deemed important. Failing to provide real services in legitimate time frames will also ensure that we are putting the safety of our community at risk. Fourth, it appears the overall intent of this bill is to either completely eliminate the detention of juvenile offenders either because of a shift of philosophy or because of costs associated with detention. This is most readily observed by the elimination of the Extended Juvenile Jurisdiction provision of the current code, the changes in the eligibility to file Motions for Adult Prosecution, changes in the amount of time a juvenile can be committed to a juvenile correctional facility and drastic limits placed on the court's jurisdiction over a juvenile and abbreviated terms of probation. As more fully discussed below this could in fact create a law of unintended consequences which could have a negative effect on juvenile offenders in our state. Lastly, the mindset of eliminating incarceration of juvenile offenders all together ignores the reality that we do on occasion have juvenile offenders commit crimes of such a serious nature they must be incapacitated through incarceration.

Perhaps the authors of Senate Bill 367 have been led to believe that juvenile case filings are increasing, the numbers of juvenile offenders being sent to correctional facilities are increasing and kids accused of committing crimes are being indiscriminately subjected to Motions for Adult Prosecution at an unusually high rate. The facts do not support

any of these allegations. Here are some actual facts:

1. In fiscal year 2000, 1812 juvenile offender cases were filed here in Sedgwick County. In that same year, 350 juvenile offenders went into Kansas Department of Corrections, Juvenile Services Custody.

2. In fiscal year 2015, 1271 juvenile offender cases were filed here in Sedgwick County. In that same year, 126 juvenile offenders went into Kansas Department of Corrections, Juvenile Services Custody. *A review of fy 2000 through fy 2015 shows a continual decrease in the number of cases filed and the number of offenders committed to correctional facilities.* **See. Ex. 1.**

This trend in the decrease of filing juvenile offender cases and decrease in the number of offenders being directly committed to juvenile correctional facilities is consistent throughout the state.

In Sedgwick County (the 18th Judicial District) from fiscal year 2011-2015 we filed an average of 1245 juvenile offender cases per year. During that same time period we filed an average of 29 Motions for Adult Prosecution per year and an average of 7 Motions for Extended Juvenile Jurisdiction Prosecution per year. Our jurisdiction (and I believe many other jurisdictions as well) exercise great discretion in determining whether to pursue adult prosecution of a juvenile. We typically only file Motions for Adult Prosecution in matters where due to the age of the juvenile and nature of the crime, the juvenile is presumed to be an adult. This demonstrates prosecutors are responsibly exercising their authority in these matters and thus should be entitled to have this tool available for protection of the community. So the committee may have an understanding of the nature of the cases we pursue Motions for Adult Prosecution, I have attached **Ex. 2** for review. There have been cases in which juvenile offenders have committed very serious crimes and our office exercised its discretion and did not file Motions for Adult Prosecution. In 2001 I filed a charge of Second Degree Murder against a twelve year old male juvenile offender and in 2006 I filed a charge of First Degree Murder against a 15 year old female juvenile offender. Our office filed motions for adult prosecution in neither case and elected to resolve the matters in juvenile court where the needs of the juvenile and the community could best be met. At times the risk to the community is so great, prosecutors must have the option of prosecuting juveniles in the adult system.

The elimination of Extended Juvenile Jurisdiction Prosecution (EJJP) is problematic. This is a great tool to provide motivation for an offender to avail himself to programs in the juvenile offender system wherein he may have some previous history or committed a serious offense(s). It also ensures there is sufficient time under the jurisdiction of the court to link the juvenile to services he may need so that he can be a successful member of society. The elimination of EJJP will likely tip the decision making process towards filing a Motion For Adult Prosecution against these juveniles who we may have otherwise been willing to work with in the past.

The Bill also severely shortens the court's jurisdiction over juvenile offender and drastically limits the length of time they can be supervised on probation. The changes proposed in the bill would limit the court's jurisdiction to 18 months on a severity level 4 person felony with a maximum term of probation of twelve months. This is unrealistic in many circumstances. The bill is loaded with requirements to link juvenile offenders to services but says it must all be done in one year. Many of these juveniles have multiple issues such as anger management, substance/alcohol abuse and mental health issues. Resources are already stretched to the maximum. It is highly unlikely some of these offenders will be enrolled in the required counseling programs early enough in there supervision so that they may successfully complete them in the allotted time period. Moreover, many of these juveniles need intensive and long-term counseling and therapy. Sex offenders and individuals with mental health issues may need therapy and counseling in excess of 12 months, yet under the proposed plan the court cannot ensure the offender follows through with this important condition thus putting the community at risk of harm and the juvenile at risk of failure.

Consider the following factual scenario under Senate Bill 367: A slightly built, immature 16 year old walks in to a retail store, pulls out a gun and without explanation, fires a single round striking an individual in the head. The individual does not die however she is severely injured. The victim is a single

mother of three who is the sole support for her family. She did not know her juvenile assailant. The juvenile is a 16 year old known gang member. He has had two prior arrests but has never been charged or adjudicated for a criminal offense. He has a history of mental problems and drug abuse but he is competent to stand trial. Because he has no prior adjudications, he has never been provided services. The charge is a severity level 4 Aggravated Battery. He needs a lot of services. EJJP has been eliminated as an option. If placed on probation the maximum term of supervision is going to be 12 months minus good time credit. If directly committed to a correctional facility the maximum term of commitment would be 18 months and the court's maximum term of jurisdiction is 18 months which means *there will be no post release supervision.* Under the new law, I think it is safe to say this offender will be facing penalties as an adult whereas in the current statutory scheme many options exist for resolving this matter as a juvenile offender.

There are many practical concerns with the implementation of this bill. Here are some of the highlights. New Section 4 calls for the creation of an oversight committee. This group is to be composed of 18 members who meet at least quarterly. The committee has a vast array of responsibilities with at least twenty different objectives identified by statute. Given the time constraints of individuals involved it is unrealistic this committee could meet often enough to comply with their statutory mandate.

New section 3 requires the court in each judicial district to appoint a Multidisciplinary Team to review cases in which a juvenile fails to substantially comply with the development of the immediate intervention plan. This section also requires the Supreme Court to appoint a Multidisciplinary Team Facilitator in each judicial district. How is this going to be funded? Isn't this in large part duplicitous to the work already being performed by Court Services Officers? Is adding yet another layer of bureaucracy really going to enhance services to juveniles and their families?

New Section 38 is simply another mechanism to accomplish what the legislature was attempting to accomplish in 2014 with K.S.A. 38-2839. That particular statute provided a type of supervision with an automatic expungement provision if the offender successfully full-filled his obligations to the court. That statute is so new, that its effectiveness has not been statistically vetted. **Ex. 3.**

In closing, I suggest a larger working group including probation officers, prosecutors and defense counsel from larger jurisdictions be convene and determine: 1. What needs fixed? 2. What do we realistically have the funds to fix? 3. In what order of priority do we fix it? Proceeding in this manner will make implementation a realistic goal and it will be easier to measure outcomes and determine whether progress is being made.

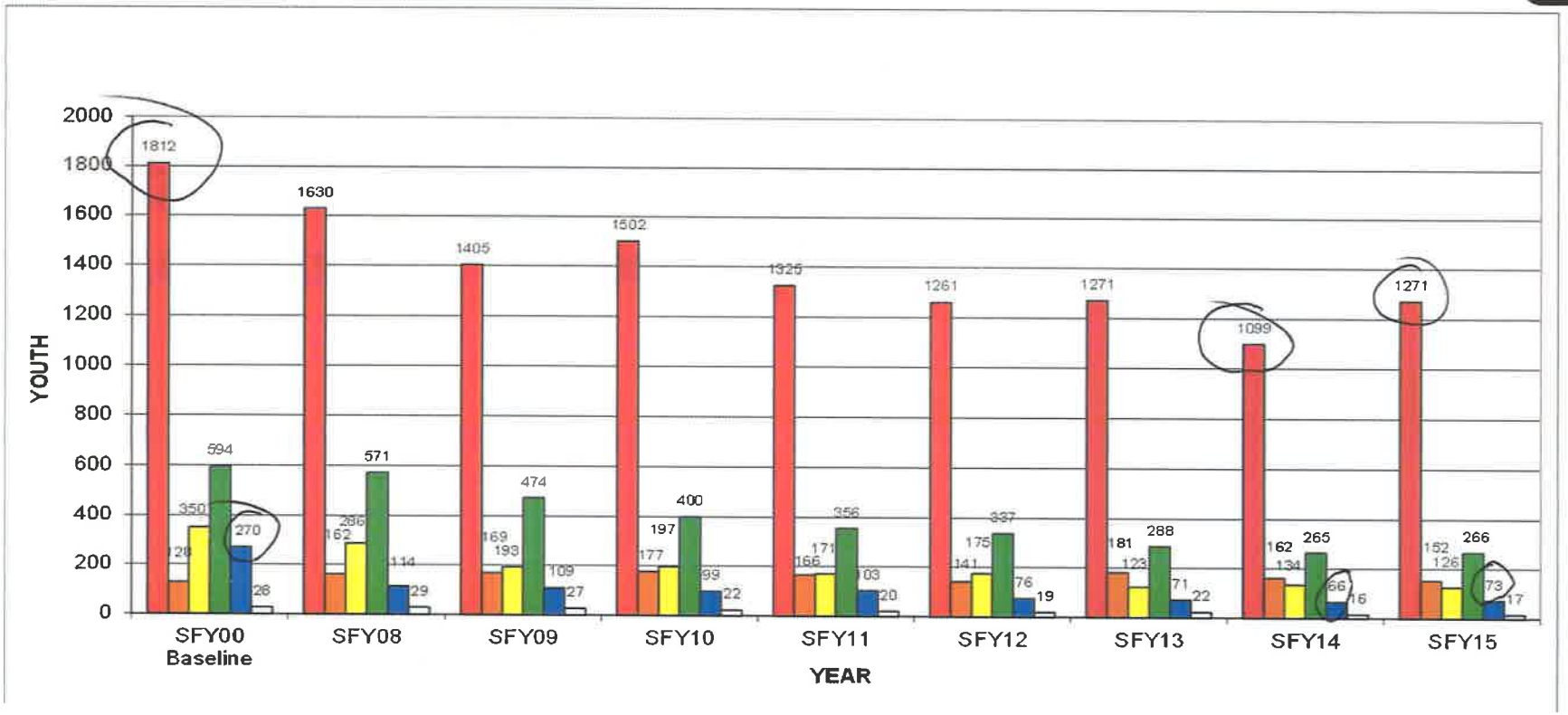
Sincerely,

Ron W. Paschal

Deputy District Attorney

PENGAD-Bayonne, N. J.

SEDGWICK COUNTY JUVENILE SYSTEM ACTIVITY CHART



Court Number	MAP status	EJJP	Junvile Name - Charges
2015JV000933	Pending- MAP	hrg 2/2/15	[redacted] - Agg Human Trafficking
2015JV000798	Pending - MAP	hrg 12/18/15	[redacted] - Att. Murder - firearm
2015JV000577	Pending- MAP	hrg 12/15/15	[redacted] - Agg Robbery - firearm
2015JV000576	Pending - MAP	hrg 12/15/15	[redacted] - Agg Robbery - firearm
2015JV000258	Waived MAP		[redacted] - Att. Murder - firearm
2015JV000237	Granted MAP		[redacted] - Att. Murder - firearm
2015JV000127	Withddrawn-MAP	EJJP	[redacted] - Rape
2015JV000128	Dismissed - MAP		[redacted] - Burglary (NP)
2015JV000125	Withddrawn-MAP	EJJP	[redacted] - 2x Rape
2015JV000129	Withddrawn-MAP	EJJP	[redacted] - Burglary (NP)
2015JV000130	Withddrawn-MAP	EJJP	[redacted] - Burglary (NP)
2015JV000126	Withddrawn-MAP	EJJP	[redacted] - Rape
2015JV000956	Pending- MAP	hrg 12/16/15	[redacted] - Agg Robbery - firearm
2014JV000170	Granted - MAP	04/15/2014	[redacted] - Aggravated Robbery/Agg Batt 4
2014JV000140	Dismissed - MAP	06/05/2014	[redacted] - Burglary (NP)
2014JV000324	Withdrawn - MAP	EJJP	[redacted] - 2x Agg. Ind. Lib.
2014JV000553	Withdrawn - MAP	11/05/2014	[redacted] - Agg. Battery SL4
2014JV000552	Withdrawn - MAP	EJJP	[redacted] - 2x Agg. Ass. Firearm/discharged occupied
2014JV000793	Dismissed-MAP		[redacted] - 4x Agg. Robbery Firarm/Agg. Batt SL4
2014JV000792	Withdrawn - MAP	EJJP	[redacted] - 4x Agg. Robbery Firearm/ Agg. Batt. SL4
2014JV000794	Dismissed - MAP		[redacted] - 4x Agg. Robbery Firearm / Agg. Batt SL4
2014JV000795	Dismissed-MAP		[redacted] - 4x Agg. Robbery Firearm / Agg. Batt SL4
2014JV000898	Granted - MAP		[redacted] - 1st Murder
2014JV001152	Withdrawn - MAP		[redacted] - 2nd Murder
2014JV001060	Withdrawn - MAP	EJJP	[redacted] - Agg. Robbery Firearm
2014JV001601	Withdrawn - MAP	EJJP	[redacted] - Agg. Robbery Firearm
2014JV001063	Dismissed - MAP		[redacted] - Att. Agg. Robbery
2014JV001062	Withdrawn - MAP		[redacted] - Att. Agg. Robbery
2014JV000963	Granted - MAP		[redacted] - Agg. Assault Firearm
2014JV000027	Granted - MAP		[redacted] - Aggravated Burglary
2013JV000003	Withdrawn - MAP		[redacted] - 3x Agg Robbery firearm/1x Agg. Burg
2013JV000004	Withdrawn - MAP		[redacted] - 3x Agg. Robbery firearm/1x Agg. Burg
2013JV000046	Dismissed - MAP		[redacted] - Rape
2013JV000082	Withdrawn - MAP		[redacted] - 1st Murder/Agg. Robbery
2013JV000083	Withdrawn - MAP	EJJP	[redacted] - 1st Murder/Agg. Robbery
2013JV000084	Withdrawn - MAP	EJJP	[redacted] - 1st Murder/Agg. Robbery
2013JV000169	Dismissed - MAP		[redacted] - recruit gang
2013JV000494	Withdrawn - MAP		[redacted] - 4x Burglary (NP)/4x Theft
2013JV000495	Withdrawn - MAP		[redacted] - 4x Burglary (NP)/4x Theft
2013JV000650	Granted - MAP		[redacted] - Rape/Agg. Robbery firearm/Agg. Burg.
2013JV000799	Granted - MAP		[redacted] - Agg. Sodomy/Agg. Ind.

2

PENGAD-Bayonne, N. J.

2013JV000886	Withdrawn - MAP	EJJP	[redacted] - 1st Murder
2013JV000901	Granted - MAP		[redacted] - 3x Agg. Assault (firearm)/ Agg. Battery SL4/ Firearm
2013JV000914	Withdrawn - MAP	EJJP	[redacted] - Agg. Indecent
2013JV000922	Withdrawn - MAP	EJJP	[redacted] - Agg. Robbery Firearm/Agg. Burg/Firearm
2013JV000994	Withdrawn - MAP		[redacted] - discharge @ occupied car
2013JV000915	Waived - MAP		[redacted] - Att. 1st Murder
2013JV001239	Granted - MAP		[redacted] - Agg. Human Traff/Agg. Robbery
2013JV001042	Granted - MAP		[redacted] - 2x Rape/Agg. Sodomy/2x Agg. Solicit.
2013JV001204	Withdrawn - MAP	EJJP	[redacted] - 4x Burg (PF)/17 Burg. (NP)/meth
2012JV000065	Waived - MAP		[redacted] - 3x Agg. Robbery Knife
2012JV000131	Waived - MAP		[redacted] - Agg. Assault Firearm/Firearm
2012JV000157	Waived - MAP		[redacted] - Agg. Robbery Firearm
2012JV000170	Waived - MAP		[redacted] - Agg. Batt. SL7
2012JV000169	Waived - MAP		[redacted] - Agg. Batt. SL7
2012JV000367	Waived - MAP		[redacted] - 7x Kidnap/2x Agg. Robb. Firearm/LEO Ass.
2012JV000459	Granted - MAP		[redacted] - Att. Agg. Robbery Firearm
2012JV000460	Withdrawn - MAP	EJJP	[redacted] - Burglary (PF)
2012JV000478	Granted - MAP		[redacted] - Agg. Burg/Rape/Att. Agg. Sod/Kidnap.
2012JV000492	Waived - MAP		[redacted] - Agg. Burglary/Agg. Robbert (crowbar)
2012JV000573	Waived - MAP		[redacted] - 3x Agg. Robbery Firearm
2012JV000653	Withdrawn - MAP		[redacted] - Agg. Burg./2x Att. Agg. Robbery
2012JV000621	Withdrawn - MAP		[redacted] - Agg. Robbery Harm
2012JV000772	Waived - MAP		[redacted] - Rape/Agg. Burglary
2012JV000810	Waived - MAP		[redacted] - 3x Rape
2012JV000780	Waived - MAP		[redacted] - Burglary (NP)/Theft (NP)
2012JV000852	Withdrawn - MAP		[redacted] - Agg. Burg./Agg. Robb firearm/Kidnap./Agg. Batt SL4
2012JV000446	Waived - MAP		[redacted] - Agg. Burg/Agg. Robbery Harm/Agg. Assault firearm
2012JV000650	Waived - MAP		[redacted] - Agg. Robbery Harm
2012JV000946	Withdrawn - MAP		[redacted] - Rape
2012JV000893	Waived - MAP		[redacted] - Agg. Robbery Firearm
2012JV001031	Withdrawn - MAP		[redacted] - Rape
2012JV000982	Withdrawn - MAP		[redacted] - Agg. Ind
2011JV000172	Withdrawn - MAP	EJJP	[redacted] - Agg. Burg./Agg. Robbery firearm/Agg. Ass. Firearm
2011JV000171	Dismissed - MAP		[redacted] - Agg. Robbery Harm
2011JV000182	Dismissed - MAP		[redacted] - Rape/Kidnapping
2011JV000204	Granted - MAP		[redacted] - Rape/Agg. Burg/Agg. Batt./Agg.Sod./5x kidnap.
2011JV000132	Waived - MAP		[redacted] - Agg. Robbery Firearm
2011JV000098	Withdrawn - MAP		[redacted] - Burglary (PF)/Theft (NF)
2011JV000133	Withdrawn - MAP		[redacted] - Agg. Robbery Firearm
2011JV000222	Withdrawn - MAP	EJJP	[redacted] - Agg. Robbery Firearm/2x Agg. Ass. Firearm
2011JV000186	Withdrawn - MAP		[redacted] - Rape
2011JV000220	Withdrawn - MAP	EJJP	[redacted] - 3x Agg. Assault firearm
2011JV000223	Withdrawn - MAP	EJJP	[redacted] Agg. Robbery firearm/Agg. Assault Firearm
2011JV000188	Dismissed - MAP		[redacted] - Agg. Ind.
2011JV000280	Waived - MAP		[redacted] - Burglary (PF)/Theft (NF)
2011JV000148	Waived - MAP		[redacted] Theft (NF)

2011JV000270	Waived - MAP		[redacted] - Batt. LEO SL7/Firearm
2011JV000384	Withdrawn - MAP	EJJP	[redacted] - 1st Murder/Agg. Batt. SL4
2011JV000382	Withdrawn - MAP	EJJP	[redacted] - Agg. Robbery Firearm
2011JV000318	Waived - MAP		[redacted] - Agg. Robbery Firearm
2011JV000498	Waived - MAP		[redacted] - Agg. Indecent/Agg. Sodomy
2011JV000367	Dismissed - MAP		[redacted] - Agg. Battery SL4
2011JV000365	Withdrawn - MAP		[redacted] - Agg. Battery SL4
2011JV000353	Withdrawn - MAP	EJJP	[redacted] - Agg. Battery SL4/Agg. Battery knife
2011JV000366	Waived - MAP		[redacted] - Agg. Battery SL4
2011JV000594	Withdrawn - MAP		[redacted] - Agg. Battery SL7 Manner
2011JV000569	Withdrawn - MAP	EJJP	[redacted] - Crim. Threat/Agg. Intim.
2011JV000453	Withdrawn - MAP	EJJP	[redacted] - 3x Agg. Sodomy
2011JV000466	Withdrawn - MAP	EJJP	[redacted] - Rape/Agg. Indec.
2011JV000537	Waived - MAP		[redacted] - 2x Agg. Assault Firearm
2011JV000706	Granted - MAP		[redacted] - Agg. Robbery firearm/Att. Agg. Robbery
2011JV000785	Withdrawn - MAP		[redacted] - Rape/Agg. Sod./Agg. Battery
2011JV000802	Granted - MAP		[redacted] - Agg. Robbery Firearm/Agg. Battery SL4
2011JV000741	Waived - MAP		[redacted] - Burglary (PF)/misd theft
2011JV000387	Waived - MAP		[redacted] - Burglary (NF)/Theft
2011JV000372	Waived - MAP		[redacted] - Att. Burglary NF/Firearm
2011JV000777	Granted - MAP		[redacted] - Agg. Kidnap./Agg. Robbery Harm/Agg. Battery SL7
2011JV000982	Granted - MAP		[redacted] - 2nd Murder
2011JV001042	Withdrawn - MAP		[redacted] - 4x Agg. Robbery (2x alts)
2011JV001041	Waived - MAP		[redacted] - 4x Agg. Robbery (2x alts)
2011JV001131	Waived - MAP		[redacted] - 3x Agg. Robbery (knife)/Kidnap./Agg. Ass LEO
2011JV001247	Waived - MAP		[redacted] - Unlaw Sex
2011JV001094	Withdrawn - MAP		[redacted] - Rape
2011JV001093	Withdrawn - MAP		[redacted] - Rape
2011JV001062	Waived - MAP		[redacted] - Crim Dam (NF)
2011JV001269	Granted - MAP		[redacted] - Agg. Ind.

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KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Kansas Statutes Annotated
Chapter 38. Minors
Article 23. Revised Kansas Juvenile Justice Code

K.S.A. 38-2389

38-2389. Alternative means of adjudication; exceptions; withdrawal; appeal

Currentness

(a) *Findings and purpose.* The following findings and declaration of purpose apply to this section.

(1) The legislature finds that personal and familial circumstances may contribute to the commission of offenses by juveniles who represent a minimal threat to public safety and that in such cases it would further the interests of society and the juvenile to take an approach to adjudication that combines less formal procedures, appropriate disciplinary sanctions for misconduct and the provision of necessary services.

(2) It is the purpose of this section to provide prosecutors with an alternative means of adjudication for juvenile offenders who present a minimal threat to public safety and both the juvenile and society would benefit from such approach.

(b) *Designation.* A county or district attorney with jurisdiction over the offense who believes that proceedings under this section are appropriate may, in such county or district attorney's discretion, designate an alleged juvenile offender for adjudication under this section and not seek application of a placement within the placement matrix pursuant to K.S.A. 38-2369, and amendments thereto, if the alleged juvenile offender's act, if committed by an adult, would constitute a misdemeanor.

(1) The county or district attorney shall make such designation in the original complaint or by written notice filed with the court and served on the juvenile, the juvenile's counsel and the juvenile's parent or legal guardian within 14 days after the filing of the complaint.

(2) The filing of a written application for diversion under K.S.A. 38-2346, and amendments thereto, shall toll the running of the 14-day period and shall resume upon the issuance of a written denial of diversion.

(c) *Exceptions.* Except as provided in this subsection, the provisions of the revised Kansas juvenile justice code, K.S.A. 38-2301 et seq., and amendments thereto, shall apply in any adjudication under this section.

(1) If during the proceedings the court determines that there is probable cause to believe that the juvenile is a child in need of care as defined by K.S.A. 38-2202, and amendments thereto, the court shall refer the matter to the county or district attorney, who shall file a petition as provided in K.S.A. 38-2234, and amendments thereto, and refer the family to the Kansas department for children and families for services.

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3

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(A) If the court presiding over the proceeding under this section finds, in accordance with K.S.A. 38-2334 and 38-2335, and amendments thereto, that the juvenile should be removed from the home, the court may place the juvenile in the temporary custody of the secretary for children and families or any person, other than the child's parent, willing to accept temporary custody.

(B) If the child in need of care case is presided over by a different judge, the county or district attorney shall notify the court presiding over the proceedings under this section of pertinent orders entered in the child in need of care case.

(2) Notwithstanding any other provision of law, no juvenile shall be committed to a juvenile correctional facility pursuant to subsection (a)(12) of K.S.A. 38-2361, and amendments thereto, for an offense adjudicated under this section or for the violation of a term or condition of the disposition for such an offense.

(3) Notwithstanding any other provision of law, no adjudication under this section or violation of the terms and conditions of the disposition, including a placement failure, shall be used against the juvenile in a proceeding on a subsequent offense committed as a juvenile or as an adult. For purposes of this section, "used against the juvenile" includes, but is not limited to, establishing an element of a subsequent offense, raising the severity level of a subsequent offense or enhancing the sentence for a subsequent offense.

(4) Upon completion of the case and the termination of the court's jurisdiction, the court shall order the adjudication expunged, and the provisions of subsections (a), (b), (c), (d), (e), (i), (k) and (l) of K.S.A. 38-2312, and amendments thereto, shall not apply to such expungement.

(5) Notwithstanding any other provision of law, a juvenile shall not be required to register as an offender under the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, as a result of adjudication under this section.

(6) The provisions of K.S.A. 38-2309 and 38-2310, and amendments thereto, shall not apply to proceedings under this section.

(7) The provisions of K.S.A. 38-2347, and amendments thereto, shall not apply to proceedings under this section.

(8) The provisions of subsection (g)(1) of K.S.A. 38-2304, and amendments thereto, shall not apply to proceedings under this section.

(9) The trial of offenses under this section shall be to the court and the right to a trial by jury under K.S.A. 38-2357, and amendments thereto, shall not apply.

(d) *Withdrawal.* At any time prior to the beginning of a hearing at which the court may enter an order adjudicating the child as a juvenile offender, the county or district attorney may withdraw the designation for proceedings under this section by providing notice to the court, the juvenile, the juvenile's attorney and guardian ad litem, if any, and the juvenile's parent or legal guardian. Upon withdrawal of the designation, this section shall no longer apply and the case shall proceed and the court shall grant a continuance upon request.

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(e) *Appeal.* An adjudication under this section is an appealable order pursuant to K.S.A. 38-2380, and amendments thereto.

(f) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

Credits
Laws 2014, ch. 126, § 1, eff. July 1, 2014.

K. S. A. 38-2389, KS ST 38-2389
Statutes are current through laws enacted during the 2015 Regular Session of the Kansas Legislature.

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Legislative Oversight Committee Report:

Sedgwick County Comparative Assessment for the Sedgwick County BOCC

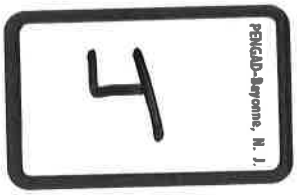
By Jodie Beeson, Ph.D.

Sedgwick County started making changes to how youth in the juvenile justice system would be addressed. These changes are in line with the recommendations made by the Pew Institute and recommendations made in the KDOC report. The first step in this process was in developing a yearly report outlining critical statistics and programmatic outcomes. In 1998, the first Benchmark 5 Report was issued and has published a report containing a complete overview of the system. Much progress in reducing incarceration and out of home placements in Sedgwick County has been made since then. While the KDOC data provided in the "KDOC Overview to Joint Committee on Corrections and Juvenile Justice" presentation covers the years between 2009 and 2015, it is important to note that much progress was made in Sedgwick County prior to this date, so a comparison of Sedgwick County numbers for the time period between 2000 and 2008 is also offered. As one can see in the table below, Sedgwick County continues to make positive strides in reducing out of home placements, as well as filings and more intensive levels of supervision. One exception is the rise of JISP (Juvenile Intensive Supervision) between the years of 2000 and 2008. This can be attributed to measures to insure public safety while the county system made a transition from a model of incarceration to a model of community based treatment. With the availability of quality evidence-based programming this number has also dropped. Sedgwick County contributes 18.2% [1] of the population of youth between the ages of 10 and 17. Thus almost 20% of youth in the State numbers are potentially from Sedgwick County.

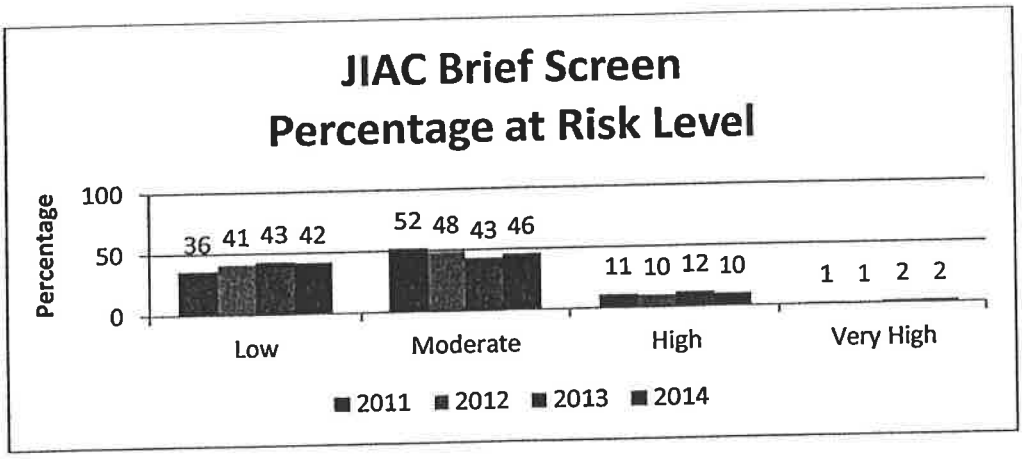
Reductions in Filings and Various levels of Custody

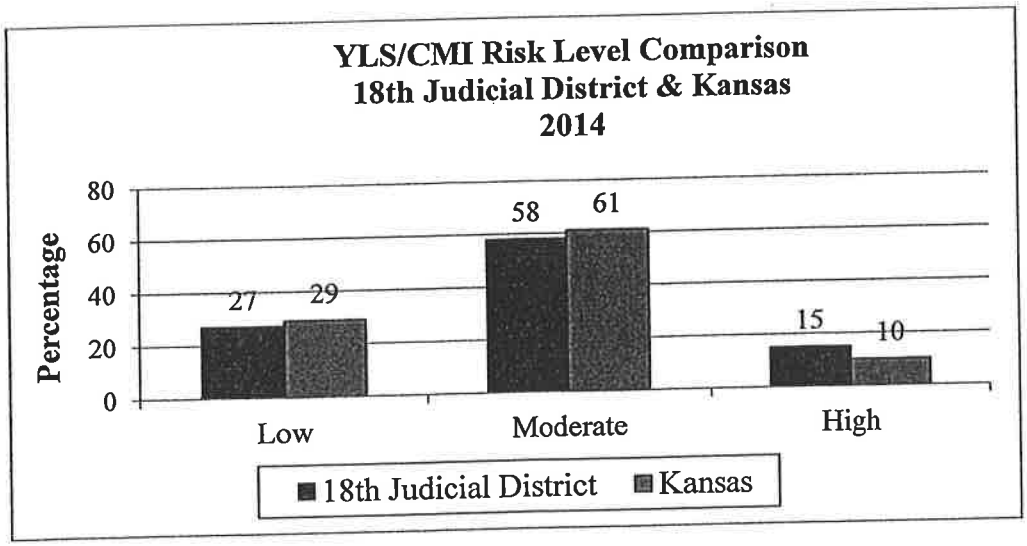
	Kansas 2009-2015	Sedgwick County 2009 to 2015	Sedgwick County 2000-2008
Filings	-33.23%	-21.78%	-22.46%
KDOC New Custody	-32.23%	-34.72%	-44.86%
JCF	-26.67%	-33.03%	-59.63%
JISP	-34.33%	-21.24%	50.78%
CM	-36.81%	-43.88%	-20.20%

Note: Filings are from 2009 to 2014 (2015 numbers not yet available).
JCF-Juvenile Correctional Facility
JSIP-Juvenile Intensive Supervision
CM-Case Management



One of the issues in the juvenile system that is the most concerning is the presence of low risk, status offenders (CINC-Child in Need of Care) and misdemeanant offenders ending up deep within the system. The following charts indicate that Sedgwick County is very effective at preventing low risk offenders from sinking deeper into the system. The first chart indicates the risk levels of youths assessed for risk at Juvenile Intake and the second indicates the youth who are at higher levels of the system. The Sedgwick County percentages of low and moderate risk offenders who are at a deeper level of the system are lower than the overall state figures. Keep in mind that, as the Sedgwick County youth population is imbedded in the state population figures, the actual difference in percentages would favor Sedgwick County.





The number of Status Offender cases receiving an intake has steadily declined over the past 5 years. This is matched by drastic reductions in the number of status offenders being placed in the Juvenile Detention Facility. See the following charts for exact figures.

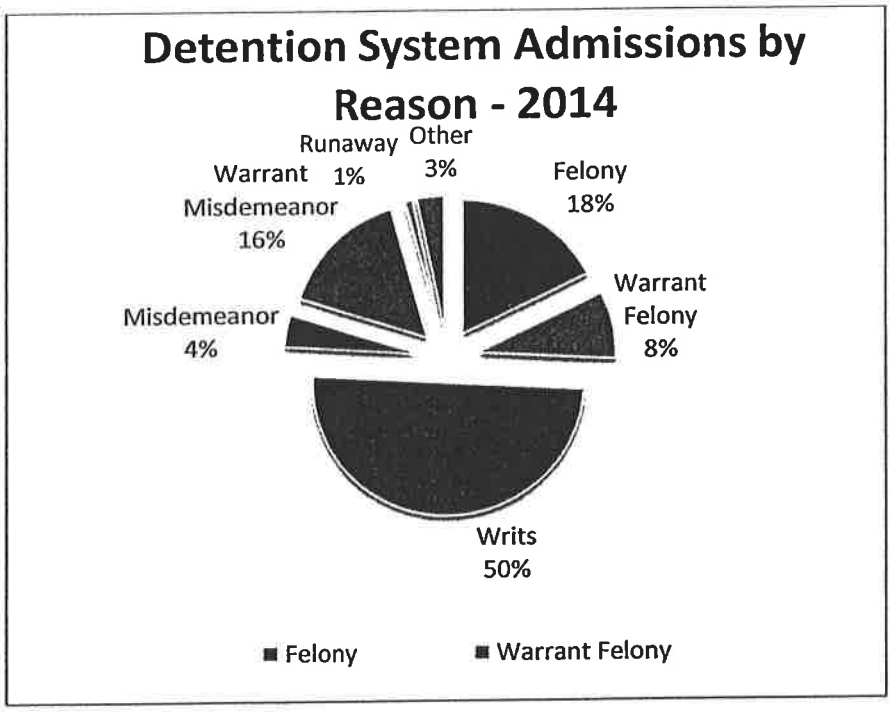
JIAC – Completed Intakes / Assessments

	SFY10	SFY11	SFY12	SFY13	SFY14
Juvenile Offenders (JO)	**3,235**	**2,772**	**2,498**	**2,207**	**1,964**
Males	2,182	1,860	1,625	1,471	1281
Females	1,053	912	873	736	683
Status Offenders (SO)	**475**	**309**	**369**	**260**	**233**
Males	328	204	216	148	135
Females	147	105	153	112	98
TOTAL	**3,710**	**3,081**	**2,867**	**2,467**	**2,197**

JIAC – Intakes to the Juvenile Detention Facility (Admit w/o Assessment)

	SFY10	SFY11	SFY12	SFY13	SFY14
Juvenile Offenders (JO)	**906**	**805**	**731**	**678**	**679**
Males	725	634	570	520	527
Females	181	171	161	158	152
Status Offenders (SO)	**114**	**98**	**49**	**41**	**61**
Males	47	50	21	23	22
Females	67	48	28	18	39
TOTAL	**1,020**	**903**	**780**	**719**	**740**

Only 4% of the admissions to Detention were for misdemeanor offenses and only 16% for misdemeanor warrants.



One of the concerns brought out in the report was a concern over the high numbers of Case Management youth who go AWOL while receiving services. According to the report, the numbers went from 26% in 2006 to 36% in 2014. This is not the case in Sedgwick County. The combined AWOLS for JISP, JCM and CR (conditional release status) were 12% for 2014.

The Pew Institute makes several recommendations for improvements in Kansas. One of the most overarching recommendations is that decisions at various levels in the system be data driven. Sedgwick County has a long history of extensive data collection and utilizing the data to make macro level decisions. On the individual level, youth are assessed by validated instruments and recommendations are made from those assessments.

The Pew Institute also recommends evidence-based prevention/early intervention programs. The Sedgwick County Crime Prevention Programs are evidence-based programs. These programs have long been a part of the continuum of services offered in Sedgwick County and programs are managed and evaluated on a yearly basis to insure quality delivery of services and cost effectiveness of the programs. These programs cannot be viewed as functioning separate from the progress made in Sedgwick County. They are vital to continued success.

[1] Easy Access to Juvenile Populations: 1990-2014.
http://www.ojjdp.gov/ojstatbb/ezapop/asp/comparison_display.asp