Look to Communities to Improve Child and Family Outcomes: Community-Based Sentencing for Primary Caregivers

A sense of community–that feeling of belonging, connection, and interdependence among a group of people–is a powerful force for positive change. Research has shown that a strong sense of community and belonging can have a positive effect on public health. Specifically, community belonging translates into more participatory mobilization to solve problems in the community. It also improves quality of life, which boosts confidence and combats loneliness in individuals.[1]

In Kansas, we know the power the community has to come together and provide solutions that make a more just and thriving Kansas for all members of the community.

- When families are going hungry, communities donate food and pay off meal debt.
- When children need a safe space, friends and family open their homes.
- When our neighbors experiencing disabilities need help maintaining their homes, neighbors shovel their driveways and rake their leaves.
- When neighbors experiencing homelessness are facing cold winters unhoused, we donate meals, clothing, and money to local shelters.

This list could go on and on, but the point is, the first place Kansans know to turn when they or their communities are experiencing hardships is to their communities. Community driven solutions get resources to those that need them in the most effective and efficient ways, improving individuals and the communities' well-being.

One area that community solutions in Kansas could do more is in the criminal justice system. Kansas Appleseed has seen great strides made in community-solutions for children involved in the justice system since the youth justice reforms of 2016. However, there is still much work to be done in equipping the justice system and communities to provide the necessary resources at the community level.

To strengthen communities, the Kansas justice system, and improve public health so all Kansans can thrive in just communities, it is time the state considers policies that support and promote community-based sentencing for primary caregivers. This is a practice where courts could use community diversion or rehabilitation programs for nonviolent primary caretakers of dependent children rather than sending those parents to jail or prison. This is a community solution that would benefit families and children alike by keeping nonviolent individuals out of jails and children with their families.

When a child has a parent in prison, the child's health and well-being can suffer. Research shows having a parent in prison can negatively affect a child's mental, behavioral, and physical health.

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[1] Michalski, C. A., Diemert, L. M., Helliwell, J. F., Goel, V., Rosella, L. C. "Relationship between sense of community belonging and self-rated health across life stages." *SSM Population Health.* 2020.

- Children with parents in prison are at increased risk for mental health problems such as PTSD, anxiety, and clinical depression.[2] These are not abstract conditions, but real health problems with a significant impact. For example, a survey of children with incarcerated parents found one-third of respondents had engaged in self-harm behaviors.[3]
- Research finds that children whose parents are incarcerated are less likely to develop social and behavioral skills needed for success. For example, studies show that children with parents in prison are less likely to graduate from high school and college. Even children without parents in prison can face harm, with studies showing that even children attending schools with a large number of students with parents in prison face a greater risk of not graduating. In other research, children with parents in prison are more likely to engage in delinquency, illegal drug use, and eventually spend time in jail themselves.[4]
- Children with parents in prison also experience greater risk of physical health such as asthma, migraines, and high cholesterol. Research also shows that children with parents in prison are less likely to get regular medical treatment.[5]

In sending primary caregivers of dependent children to prison for non-violent crimes, we are forcing their children to also bear the burden of the consequences of their parents' actions. The result is setting Kansas kids up for a life where they face enormous obstacles to thriving.

Sending parents to prison for nonviolent crimes also exacerbates existing problems Kansas communities face everyday, causing additional harm. Research shows that having

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[2] Lee, R. D., Fang, X., & Luo, F. (2013). The impact of parental incarceration on the physical and mental health of young adults. Pediatrics, 131(4), e1188–e1195; Swisher, R. R., & Roettger, M. E. (2012). Father's incarceration and youth delinquency and depression: Examining differences by race and ethnicity. Journal of Research on Adolescence, 22(4), 597–603; Heard-Garris, N., Sacotte, K. A., & Winkelman, T. N. A. (2019). Association of childhood history of parental incarceration and juvenile justice involvement with mental health in early adulthood. JAMA Network Open, 2(9), e1910465. https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2749232; Fry-Geir, L. and Hellman, C. M. (2016). School aged children of incarcerated parents: The effects of alternative criminal sentencing. Child Indicators Research., 10. 859-879; Mears, D. P. and Siennick, S. E. (2016). Young adult outcomes and the life-course penalties of parental incarceration. Journal of Research in Crime and Delinquency, 53(1): 3-35. https://repository.lib.fsu.edu/islandora/object/fsu:290930/datastream/PDF/view

[3] Davis, L. and Shlafer, R. J. (2017). Mental health of adolescents with currently and formerly incarcerated parents. J. Adolesc., 54. 120-134. https://pmc.ncbi.nlm.nih.gov/articles/PMC5549675/#abstract1

[4] Haskins, A. R. (2014). Unintended consequences: Effects of paternal incarceration on child school readiness and later special education placement. Sociological Science, 1, 141–158. https://www.sociologicalscience.com/unintendedconsequences-effects-of-paternal-incarceration/; Huynh-Hohnbaum, A., Bussell, T., & Lee, G. (2015). Incarcerated mothers and fathers: How their absences disrupt children's high school graduation. International Journal of Psychology and Educational Studies, 1(2), 1–11; Hagan, J., & Foster, H. (2012). Children of the American prison generation: Student and school spillover effects of incarcerating mothers. Law & Society Review, 46(1), 37–69; Turney, K. (2014). Stress proliferation across generations? Examining the relationship between parental incarceration and childhood health. Journal of Health and Social Behavior, 55(3), 302–319; Murray, J., & Farrington, D. P. (2008). The effects of parental imprisonment on children. Crime and Justice 37(1), 133–206; Roettger, M. E., Swisher, R. R., Kuhl, D. C., & Chavez, J. (2011). Paternal incarceration and trajectories of marijuana and other illegal drug use from adolescence into young adulthood: Evidence from longitudinal panels of males and females in the United States. Addiction, 106(1), 121–132; Mears, D. P. and Siennick, S. E. (2016). Young adult outcomes and the life-course penalties of parental incarceration. Journal of Research in Crime and Delinquency, 53(1): 3-35. https://repository.lib.fsu.edu/islandora/object/fsu:290930/datastream/PDF/view

[5] Lee, R. D., Fang, X., & Luo, F. (2013). The impact of parental incarceration on the physical and mental health of young adults. Pediatrics, 131(4), e1188–e1195; Heard-Garris, N., Winkelman, T. N. A., Choi, H., Miller, A. K., Kan, K., Schlafer, R., & Davis, M. M. (2018). Health care use and health behaviors among young adults with history of parental incarceration. Pediatrics, 143(5), e20174314

more people incarcerated increases childhood poverty. This is because having a mother in father in prison can substantially harm the financial support a family has to rely on. The result is children in those communities with high incarceration rates face higher risks of food insecurity and homelessness.[6] In Kansas communities, we can see this correlation occurring across the state. Counties with the highest rates of incarceration in jails in prison, as have the highest rates of food insecurity. For example, Wilson, Bourbon, and Anderson counties in Southeast Kansas have some of the highest rates of incarceration per 100,000 residents ages 15-64, while also having some of the highest rates of food insecurity in the state.[7]

Children in Kansas are entering foster care due to parents going to prison for nonviolent crimes. According to DCF data, the number of children placed in the foster care system due to parental incarceration ranges from one to six percent of all foster care placements in recent years.[8] Yet, when we look at the reason those parents may be in prison or jail, it is largely due to nonviolent offenses. Almost half of all female Kansans are incarcerated for drug or property crimes and almost a quarter of all male Kansans are incarcerated for the same reasons.[9] Additionally, 63% of all Kansans in jail are being held pretrial, meaning they have not been tried and found guilty of any crime, but are still being held away from their families.[10]

Nationally, 55% of all state prisoners are parents to minor children, and before going to prison 44% of fathers and 64% of mothers lived with those children–likely making them primary caregivers.[11] Although the data is unclear how many of Kansas nonviolent offenders are primary caregivers, the fact remains that children are entering the foster care system due to parental incarceration, and the data shows that many of these parents may not be a threat to their children or communities.

Incarcerating primary caregivers is likely causing disproportionate harm to Black and Indigenous Kansas families and children. Kansas disproportionately incarcerates Black and Indigenous Kansans. Despite making up 7% of Kansas' total population, Black Kansans make up 27% of all Kansans incarcerated. Similarly, Indigenous Kansans make up 3% of the incarcerated population in the state, but only 1% of the total population in the state. Meanwhile, their white peers make up 75% of Kansas's population but only 55% of the state's incarcerated population.

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[6] DeFina, R. H., & Hannon, L. (2010). The impact of adult incarceration on child poverty: A county-level analysis, 1995–2007. The Prison Journal, 90(4), 377–396; Turney, K. (2015). Paternal incarceration and children's food insecurity: A consideration of variation and mechanisms. Social Service Review, 89(2), 335–367. https://www.journals.uchicago.edu/doi/10.1086/681704; Wildeman, C., Hacker, J. S., & Weaver, V. M. (2013). Parental incarceration, child homelessness, and the invisible consequences of mass imprisonment. The ANNALS of the American Academy of Political and Social Science, 651(1), 74–96.

[7] Feeding America. Map the Meal Gap data. Kansas. 2022. https://map.feedingamerica.org/county/2022/overall/kansas and Vera Institute of Justice. Kansas Incarceration Trends. 2024. https://trends.vera.org/state/KS

[8] DCF.Children Removed into Out of Home Placement by Primary Removal Reason. 2010-2024. https://www.dcf.ks.gov/services/PPS/Pages/FosterCareDemographicReports.aspx

[9] KDOC. KDOC Dashboards. https://www.doc.ks.gov/dashboards

[10] Vera Institute of Justice. Kansas Incarceration Trends. 2024. https://trends.vera.org/state/KS

[11] Mumola, C. J. (2000). Bureau of Justice Statistics special report: Incarcerated parents and their children. https://www.bjs.gov/content/pub/pdf/iptc.pdf

These numbers get worse when looking at just the demographics of incarcerated women in the state–a demographic that is more likely to be a primary caregiver to dependent children and more likely to be in prison for nonviolent crimes. Both Black and Indigenous Kansas women are being incarcerated in prisons at a rate more than double that of their white peers.[12]

Disporationate and higher incarceration rates fo Black and Indigenous Kansans means their children face higher risks of experiencing the negative health impacts that having incarcerated parents carry.

Community-based sentencing for primary caregivers provides a proven community solution to the harm family separation by incarceration does to Kansas families and children. As of 2023, 12 states have taken legislative actions to address family separation due to incarceration.[13] Notably, Tennessee, Massachusetts, Oregon, Washington, and Missouri are among those states that have passed laws that allow judges to use flexibility to use community-based sentences for parents convicted of non-violent crimes.[14] Research and experiences in these states have shown that allowing for community-based sentencing improves outcomes for the state, communities, families, and children.

Community-based sentencing allows people to maintain family and community ties, which improves outcomes. People convicted of crimes are less likely to commit new crimes after release if they are able to maintain strong family ties while incarcerated. Yet, prisons are often far away, making it difficult for families to afford to visit loved ones in prison. An initial study of Washington's community-based sentencing alternatives has shown that participants in the alternative sentencing program were 71% less likely to be convicted of a new felony in the two years after release.[15]

Research also shows that community-based and alternative sentencing programs improve outcomes for children. A study of 102 mothers and their children showed that the children of the mothers in the study that had alternative sentences performed significantly better on externalizing behavioral programs, overall behavioral problems, building parental trust, and communication and overall better parent-child attachment compared to the children of those mothers who were incarcerated.[16]

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[12] KDOC. KDOC Dashboards. https://www.doc.ks.gov/dashboards and Vera Institute of Justice. Kansas Incarceration Trends. 2024. https://trends.vera.org/state/KS

[13] Ruth. E. "How 12 states are addressing family separation by incarceration–and why they can and should do more." Prison Policy Initiative. 2023. https://www.prisonpolicy.org/blog/2023/02/27/caregivers/

[14] Ruth. E. "How 12 states are addressing family separation by incarceration–and why they can and should do more." Prison Policy Initiative. 2023. https://www.prisonpolicy.org/blog/2023/02/27/caregivers/; Missouri HB 2216. 2024. https://house.mo.gov/bill.aspx?bill=HB2216&year=2024&code=R

[15] Rubenstein, B. Y., Toman, E. L., & Cochran, J. C. (2019). Socioeconomic barriers to child contact with incarcerated parents. Justice Quarterly, 1–27. https://www.tandfonline.com/doi/abs/10.1080/07418825.2019.1606270; Yukhnenko, D., Wolf, A., Blackwood, N., & Fazel, S. (2019). Recidivism rates in individuals receiving community sentences: A systematic review. PLoS One, 14(9), e0222495; Aguiar, C. M., & Leavell, S. (2017). A statewide parenting alternative sentencing program: Description and preliminary outcomes. Smith College Studies in Social Work, 87(1), 78–93.

[16] Fry-Geir, L. and Hellman, C. M. (2016). School aged children of incarcerated parents: The effects of alternative criminal sentencing. Child Indicators Research., 10. 859-879

Community-based sentencing is more fiscally responsible for the state than incarceration. Nationally, it is eight times more expensive to incarcerate an individual than it is to monitor them in their community.[17] On average, it costs Kansas over $40,000 annually to incarcerate a single person.[18] If the national average holds true in Kansas, that would mean a community-based sentence would cost the state $5,000 a year compared to the $40,000 for incarceration.

Additionally, incarceration leads to children being placed in foster care. On average, Kansas spends about $41,000 per year for each child in foster care. Meanwhile, it costs between $5,000 and $10,000 per year to provide family preservation services to a family.[19] In fiscal year 2023, 42 children were in foster care in Kansas due to parental incarceration.[20] We cannot assume all those children's parents are incarcerated for nonviolent offenses, but the state would still likely spend less money for eligible families on family preservation services as opposed to putting those children in foster care. Even if half of the children in foster care due to parental incarceration were able to stay with their parents through community-based sentencing, the state would save over half a million dollars.

It is time Kansas stops punishing children for their parents' actions. Legislative action to allow community-based sentencing alternatives for parents of dependent children convicted of nonviolent crimes would allow families to stay together, improving outcomes for everyone. Research shows these community solutions create stronger and healthier communities and families. There is much work to be done in Kansas to build the necessary infrastructure to support community-based sentencing for primary caregivers, but putting these policies and solutions into place will strengthen a thriving and just Kansas for families and their communities.

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[17] Administrative Office of the United States Courts. (2017). Incarceration costs significantly more than supervision. https://www.uscourts.gov/news/2017/08/17/incarceration-costs-significantly-more-supervision
[18] KDOC. Annual Report. FY 2023. https://www.doc.ks.gov/publications/Reports/fy2023-annual-report
[19] KLRD. Department for Children and Families Budget Analysis. FY 2024. https://kslegislature.gov/li/research/appropriations/agencies/agency_reports/budget_analysis/2023/dcf_writeup.pdf and KVC. "Your complete guide to the 2024 Kansas child welfare system changes." 2024. https://kansas.kvc.org/2024/06/09/your-complete-guide-to-the-2024-kansas-child-welfare-system-changes
[20] DCF.Children Removed into Out of Home Placement by Primary Removal Reason. 2010-2024. https://www.dcf.ks.gov/services/PPS/Pages/FosterCareDemographicReports.aspx