

The State of the Criminal Justice System in Kansas

September 12, 2019

Jeff Easter Sedgwick County Sheriff's Office
Sedgwick County District Attorney Marc Bennett

Issues

- Who is going to prison?
 - Violent crimes
 - Drug Crimes
 - Supervision Violations?
- How long are they going?

Prison Population – Who goes to prison in Kansas ?

Violent Offenders

- In FY 2018 there were 2,516 severity level 1, 2 or 3 **non-drug** inmates
- This includes:
 - Aggravated Kidnapping
 - Second Degree [Intentional] Murder
 - Second Degree [Reckless] Murder
 - Aggravated Robbery
 - Kidnapping

Prison Population – Who goes to prison in Kansas ?

- **Violent offenders**
- In FY 2018 there were 1,412 “off-grid” offenders.
- This category **ONLY** includes:
 - Capital Murder
 - First Degree [premeditated] Murder
 - “Jessica’s Law” sex crimes committed against children
13 years of age or younger

Prison Population – Who goes to prison in Kansas ?

- **Violent offenders:**
- Total: 3,928 people of the 9,973 inmates, or 40% of current inmates fall into off grid or severity level 1, 2 or 3 offenses.

Prison Population – Who goes to prison in Kansas ?

Drug Offenders

- In 2018, there were 1,519 “drug crime” offenders of the 9,973 offenders in prison.
- Which was 15% of the total population.
- Sedgwick County – 15% of the District Attorney’s cases have at least one count of methamphetamine
- Grid in Kansas – “presumptive probation” for all possession cases.

Prison Population – Who goes to prison in Kansas ?

Revocations

- In FY 2018, of the 6,542 offenders admitted to Kansas prisons, 30.9% were admitted **solely** for new convictions.
- The rest were admitted for violations of probation, parole/ “post-release” either by violating a term of probation or being convicted of a new crime while on supervision.

Prison Population – Who goes to prison in Kansas ?

- Top reasons for violations:
 1. “Failure to report”
 2. Failure of a drug test (3450 violations);
 3. Failure in a treatment program (3062 violations).
 4. New crime (2672 violations).

According the Kansas Sentencing Commission’s January 19, 2019 presentation to the Kansas House Corrections and Juvenile Justice Committee

What about Marijuana?

Marijuana Possession – felony/ 3rd time

- In FY 2018, **91** offenders were convicted of 3rd or subsequent (felony) possession of marijuana across 105 counties in Kansas
- Of that, **6** were sentenced to prison, for an average length of stay of 21 months.
- Note that a 21 month sentence is only available on the Kansas Sentencing grid for defendants with three or more **prior** felony convictions in addition to their 2 prior misdemeanor marijuana convictions

“Non-violent” offenders

- In Kansas, all non-violent (nonperson) offenders are “presumptive probation” unless they have two or more prior person felony convictions
- 2017 study from Chicago Crime Lab examined homicides arrests in Chicago in 2015-2016:
 - 90% had at least 1 prior arrest
 - 50% had a prior arrest for a violent crime
 - 40 % had a prior gun arrest
 - 20 % had 20 + prior arrests (of any kind)

Kansas Prison Population – Length of Stay

- Length of Stay (as of June 30, 2017): 70.3% arrived owing 5 yrs or less – of that 21% owed 6 months or less

	<u>Number</u>	<u>Percent</u>
6 months or less	2,108	21.5%
Over 6 months to 1 year	1,179	12.0%
1 year to 2 years	1,519	15.5%
Over 2 years to 3 years	925	9.4%
Over 3 years to 4 years	643	6.6%
Over 4 years to 5 years	522	5.3%
Over 5 years	2,907	29.7%
Total	9,803	100.0%

Past Reform Efforts

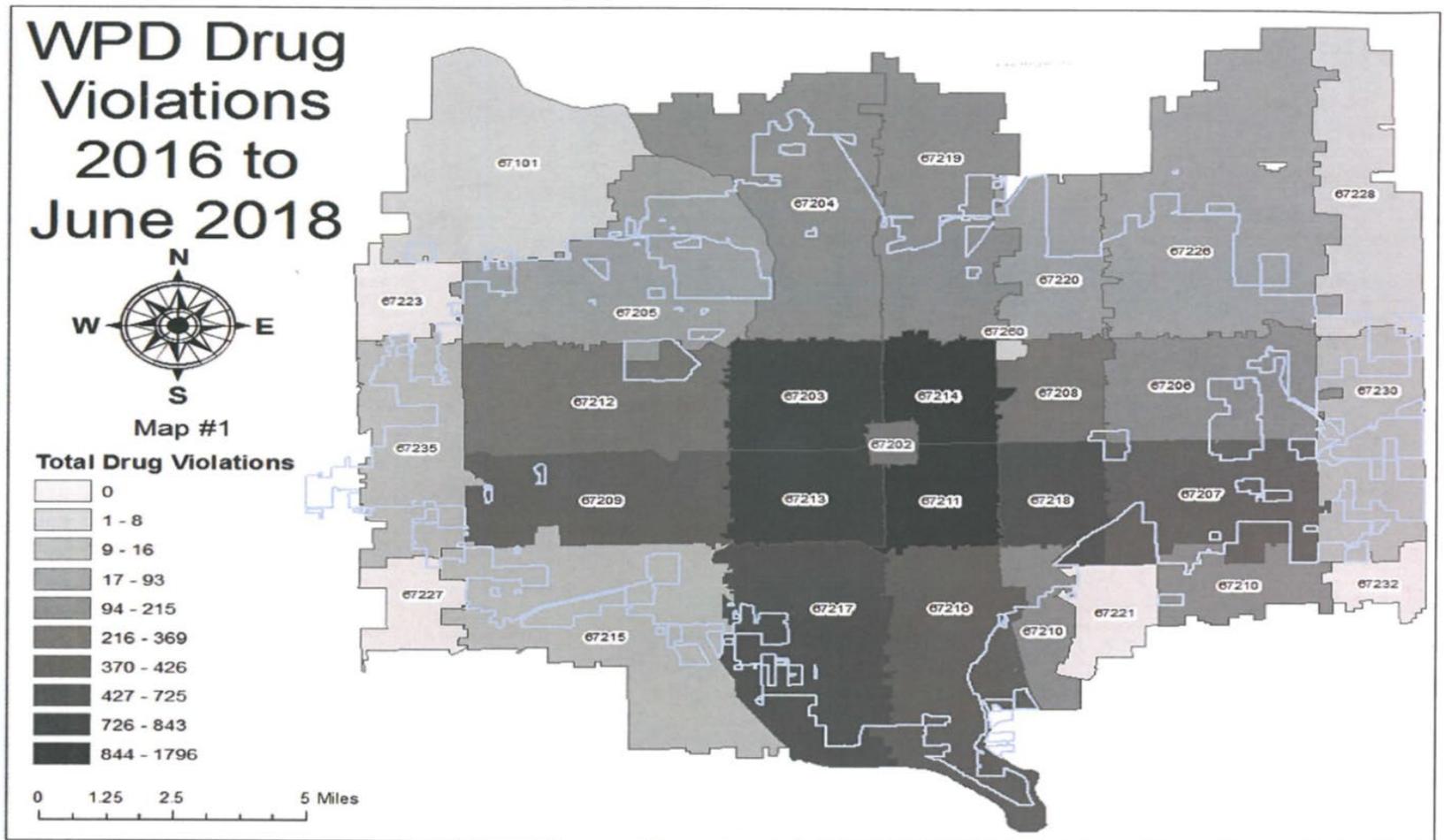
- SB 323 (2000): reductions in admission for parole and post-release violators;
- SB 123 (2003): mandatory treatment for drug offenders;
- HB 2170 (2014): graduated probation sanctions model – “quick dips” and 180 day “soaks.”
- 2019 legislation – 18 days worth of “dips” now w/ option of 60 day sanction
- Criminal Justice Reform has been taking place since 2000

Sedgwick County Jail

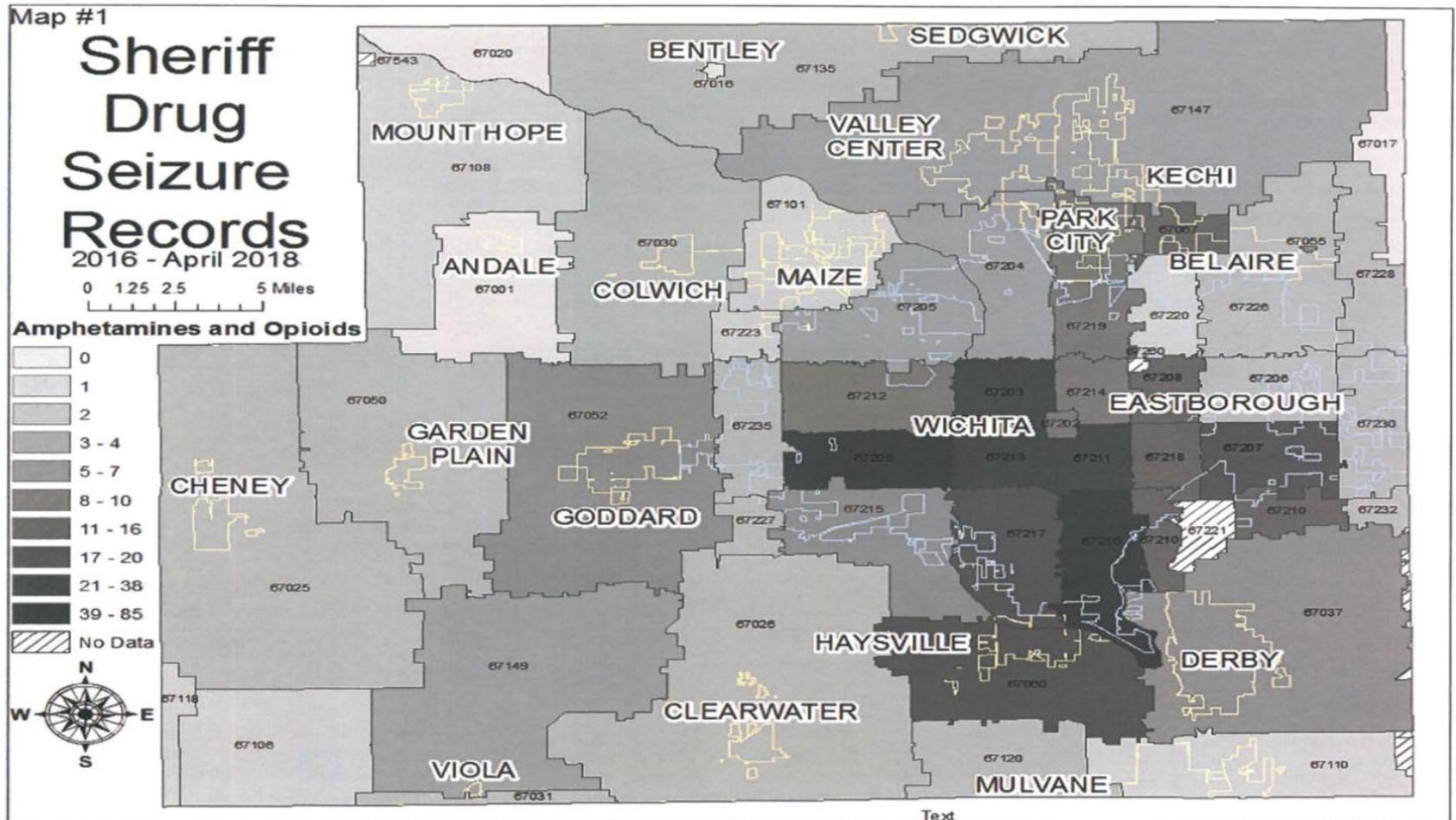
Mental Health/Substance Abuse

- In 2018, we treated 400 inmates in just the Mental Health Management Unit
- The mental health pod holds 49 inmates at a time
- These inmates cannot function in general population.
- In 2018, 400 or 30% of inmates were diagnosed with a mental illness
- In 2018, another 450 or 35% inmates are suspected of having a mental illness
- Approximately 1000 or 73% of all inmates have a chemical dependency. The majority of inmates have both

Substance Abuse



Substance Abuse



Sedgwick County 2018 Statistics

- Average Daily Population 2018: 1,421
- Total Bookings for 2018: 24,728
- Mental Health Management Unit: 46
- Total inmates on medication: 8,337
- Total inmates on psych medication: 3,188

- Mental health staff estimate 35% of the inmate population are suspected of having mental illness
- 73% of all inmates housed have a chemical dependency
- A vast majority with mental illness also have a dual diagnosis of chemical dependency

Local Recidivism Rates

- The Sheriff's Office has been tracking recidivism for two years
- The definition of recidivism for the SCSO is if the person has been in jail previously and if they returned to jail for any reason. Below is the stats:
- 90 days out of jail 30% returned
- 180 days out of jail 42% returned
- 1 year out of jail 56% returned
- 2 years out of jail 64% returned

Proposed Criminal Justice Reform

- 70% of the Sedgwick County Jail's population is pretrial felonies, almost all are violent in nature or inmates with multiple convictions in their history
- We do not house anyone for a simple drug possession charge. Drug offenders are WOP'd out of jail
- Most non-violent offenders, burglars, identity thieves, forgers are not kept in jail, they are released on pre-trial services
- It is important for Sheriff's that the committee understands our concerns since most offenders spend very little time in jail/prison if any

Criminal Justice Reform

- Sedgwick County is already experiencing high numbers of burglaries, larcenies, forgeries and identity theft. This is due to no real ramifications if convicted and rarely is prison time assessed
- Due to law changes and philosophy changes it takes multiple violations of parole or probation for a warrant to even be issued
- Judges hands are tied due to the sentencing guidelines although at least 70% of the offenders are addicted to an illegal substance during the commission of the crime

Real Life Example

- In 2013, Elbert Costello Jr. was arrested and booked for the following:
- Aggravated Battery
- 2 counts of Aggravated Assault
- Criminal Possession of a Firearm
- Criminal Discharge of a Firearm; Occupied Dwelling with bodily Harm

Time Line

- Elbert Costello Jr. was sent to prison for the charges on 6/2/14
- 7/5/18 was released from prison
- 11/9/18 DOC issued a warrant
- 12/6/18 sent back to prison
- 2/20/19 released from prison
- 4/20/19 DOC issues another warrant
- 7/5/19 warrant is withdrawn/expiration of sentence
- He is a suspect on cases being worked by the WPD during this time frame including violent felonies, gun and drug cases

Time Line

- On 8/18/19, Elbert Costello arrives at an apartment complex in Wichita, Ks.
- He conceals himself behind a bush where a Crip party is taking place
- A rival gang member walks out the front door and Mr. Costello shoots him which the victim is now paralyzed
- The victim's friends return fire, killing Mr. Costello. A total of 81 rounds were fired striking other housing units and vehicles

Kansas Today

- The justice system is a revolving door.
- Violations of supervision result in short term stays.
- Drug addiction & mental health issues permeate the system
- We have $\frac{1}{4}$ of the mental health beds we had 30 years ago.
- Sedgwick County jail is the largest mental health facility in the county
- Poor access to treatment – drug and mental health

Kansas Today

- What do we do?
- Past “reform” efforts have not worked: SB 123, SB 323 & HB 2170 – and 2019?
- Instead – invest in alternatives
- Example: Comcare Community Crisis Center in Wichita.
 - 5,799 people served in 2018
 - Cost of 1.3 in state funds
 - Saves between \$8.1 million and \$12 million annually

Kansas – moving forward

- We can go on spending \$25,000 each year locking up addicts & mentally ill for short periods of time for crimes and probation violations driven by addiction and mental illness.
- But these folks get out and find new victims – chip away at public safety.
- Or we can invest in local programs like Crisis Center's and sentence drug addicted offenders to mandatory drug treatment instead of just probation.
- Fiscally responsible way to enhance public safety
- We pay one way or the other

Conclusion

- If we only reduce the penalties for drug and property crimes and a concerted effort is not made statewide to address the *reasons* why roughly half of the people in Kansas prisons are there for supervision violations, we will simply increase the speed of the revolving door to and from Kansas prisons and allow more citizens to become victims.

Thank You

Marc Bennett

District Attorney

(316) 660-3600

Marc.bennett@sedgwick.gov

Jeff Easter

Sheriff Sedgwick County

(316) 660-3900

Jeffrey.easter@sedgwick.gov