

Diversions for People with Behavioral Health Needs

Presentation in conjunction with the Kansas Sentencing Commission

February 21, 2023



Justice Center
THE COUNCIL OF STATE GOVERNMENTS



Justice Reinvestment Initiative
Kansas

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Justice Center

THE COUNCIL OF STATE GOVERNMENTS

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, serving state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.



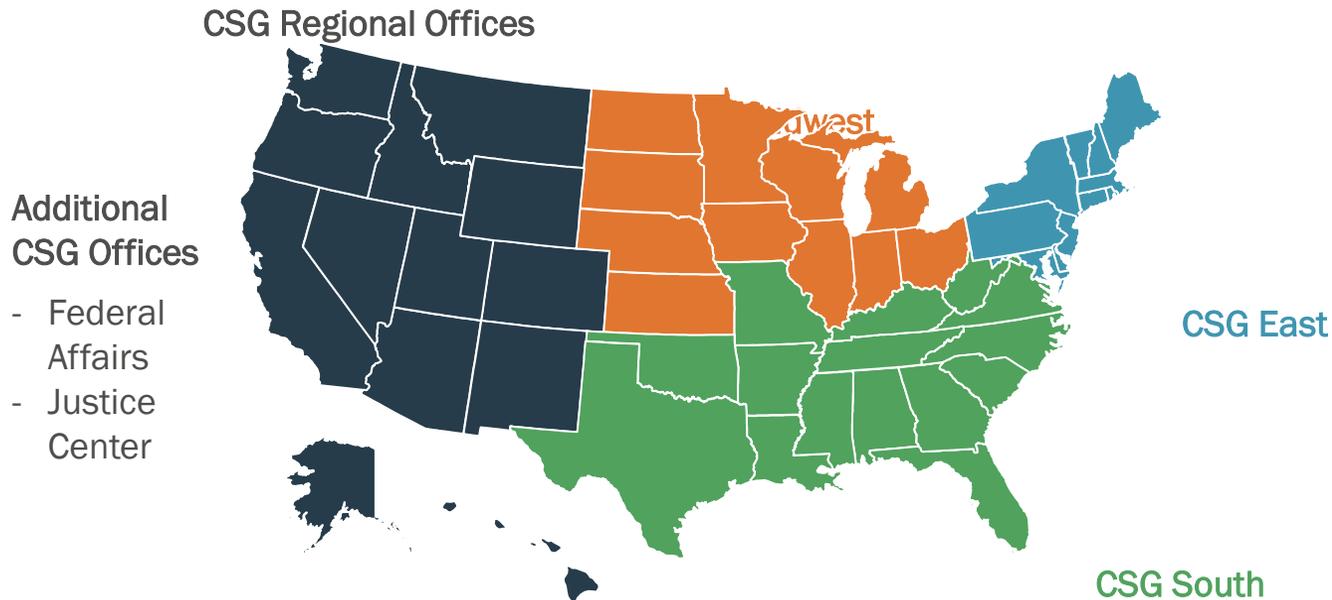
How We Work

- We bring people together.
- We drive the criminal justice field forward with original research.
- We build momentum for policy change.
- We provide expert assistance.

Our Goals

- Break the cycle of incarceration.
- Advance health, opportunity, and equity.
- Use data to improve safety and justice.

The Council of State Governments (CSG) is a region-based organization that fosters the exchange of ideas to help state officials shape public policy.



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Justice Reinvestment Initiative

A data-driven approach to improve public safety, reduce corrections and related criminal justice spending, and reinvest savings in strategies that can decrease crime and reduce recidivism

The Justice Reinvestment Initiative is supported and funded by the U.S. Department of Justice's Office of Justice Programs' Bureau of Justice Assistance (BJA), The Pew Charitable Trusts, and Arnold Ventures.



Justice Reinvestment Initiative Kansas

Overview

1

**Behavioral Health Needs in the
Criminal Justice System**

2

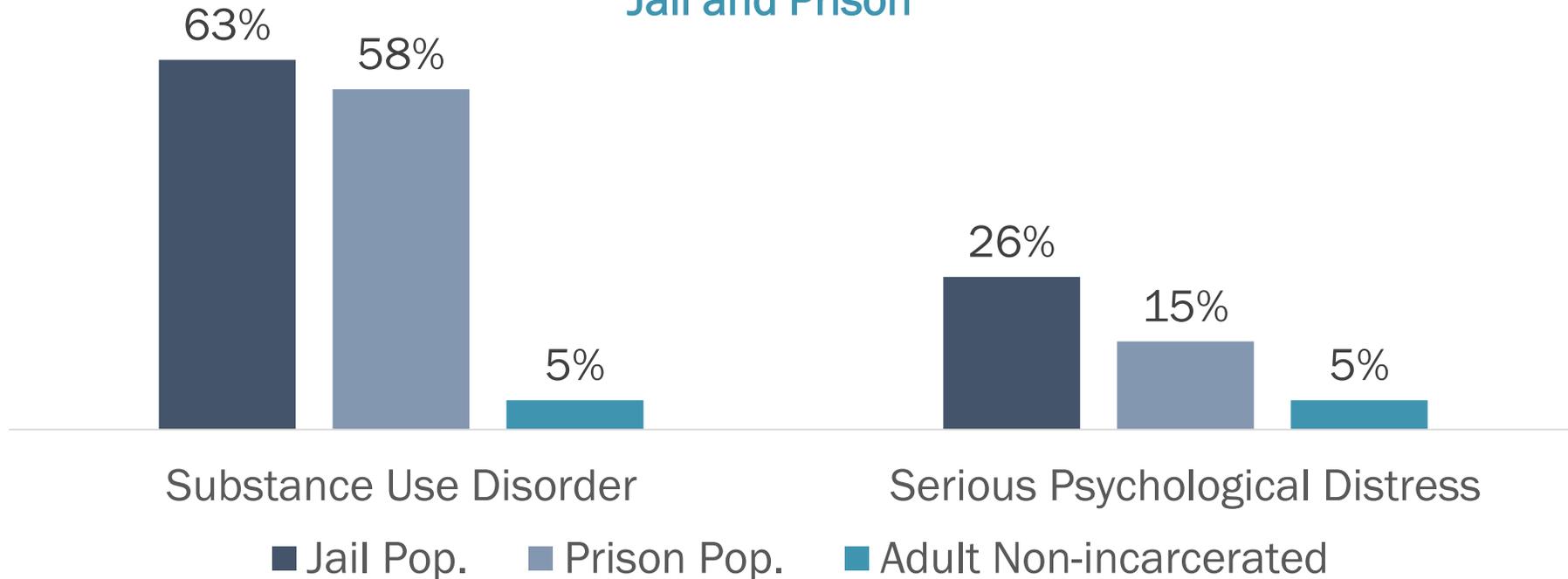
Kansas Context

3

**Diversion for People with
Behavioral Health Needs**

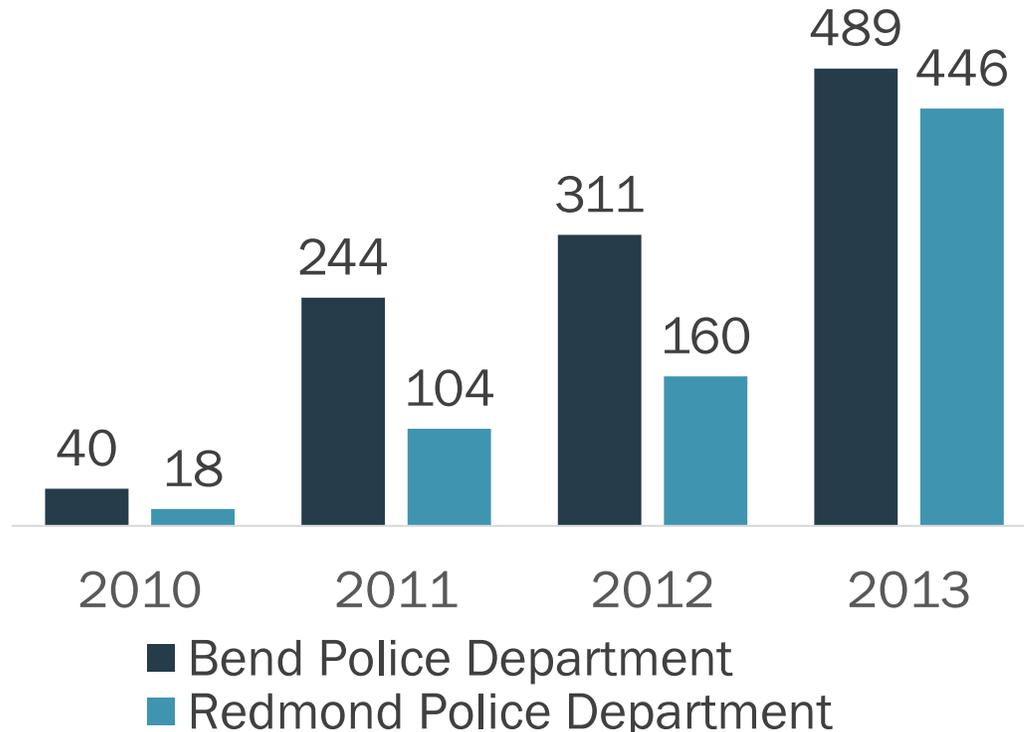
Nationally, the rates of mental illnesses and substance use disorders in the justice system are higher than in the adult general population.

National Findings on Drug Use and Mental Illness Among People in Jail and Prison



Across the country, mental health-related calls to law enforcement have increased.

MH-Related Calls to Law Enforcement Agencies in Deschutes County, Oregon, 2010-2013



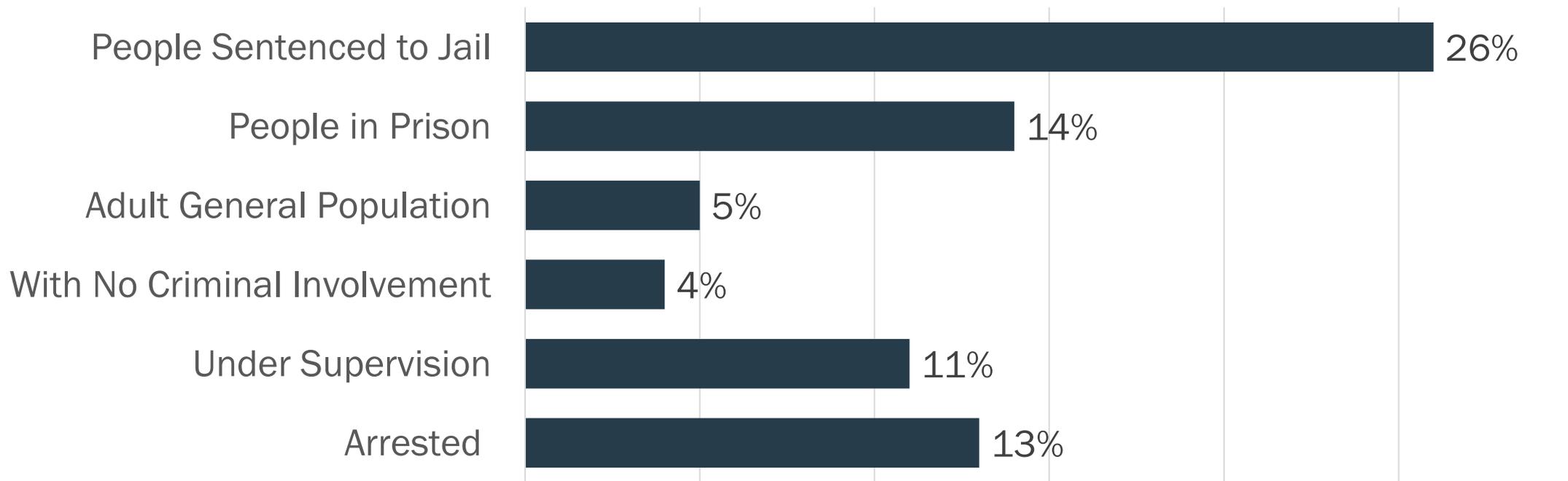
One Florida county found that **1 in 10 calls** for service involve a person with a **severe mental illness**.

In Madison, Wisconsin, **behavioral health calls** for service (CFS) take **twice as long as non-behavioral health calls to resolve:**

- All CFS = 1.5 hours
- BH CFS = 3 hours

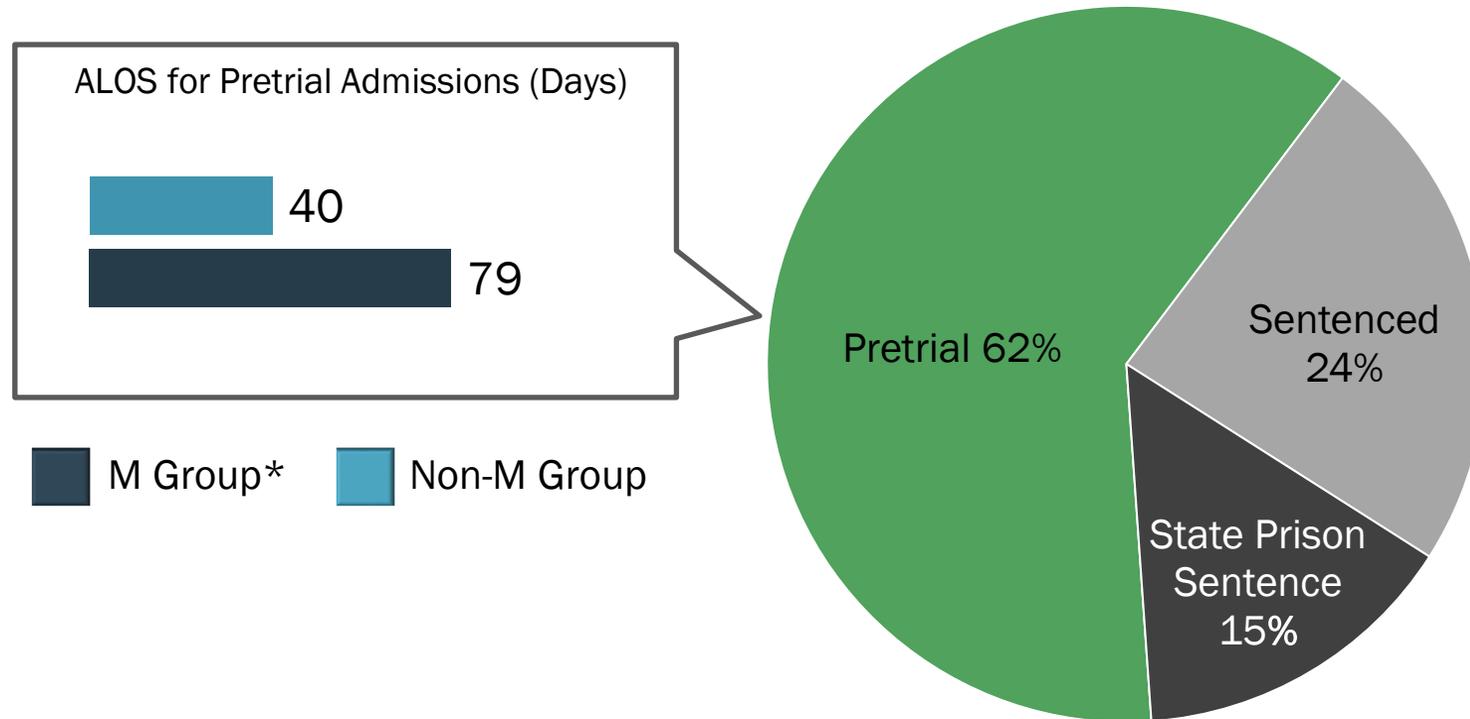
Incarcerated people in prison and jail were three to five times as likely to have met the threshold for serious psychological distress (SPD) as adults in the general U.S. population.

Incarcerated People in Prison and Jail and Adult General Population Who Met the Threshold for SPD, 2009–2012



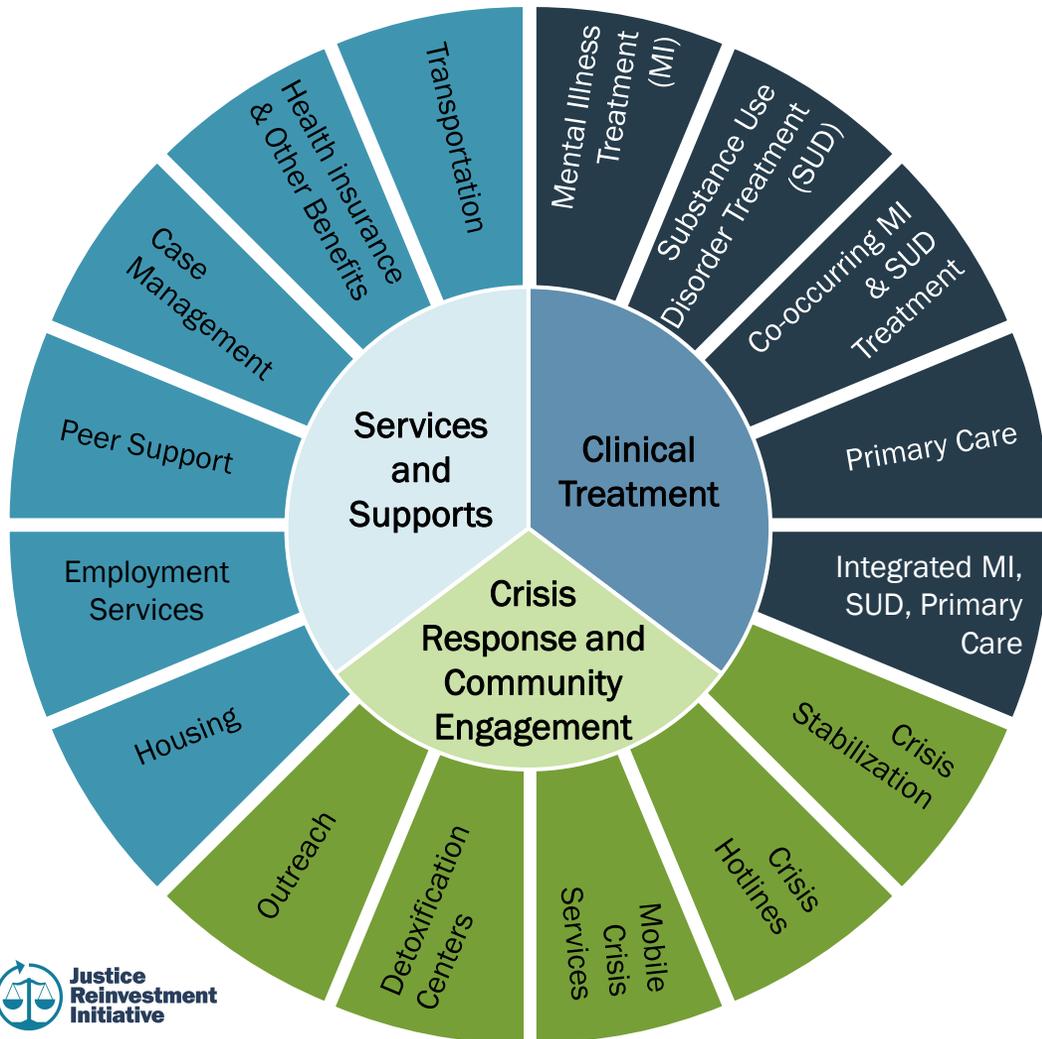
In a NYC study, people with mental illnesses spend longer in pretrial detention than people without mental illnesses.

Case Status at Admission and Average Length of Stay (ALOS) by Mental Health Status, 2008



*The M group consists of people identified as having mental health needs and people who received mental health services while incarcerated.

It can be challenging to meet the complex needs of people in the criminal justice system.



Common Challenges:

- Multiple systems providing different services
- Difficult to coordinate across multiple systems
- Lack of integrated treatment
- Lack of trauma-informed treatment
- Underdeveloped crisis systems
- Transportation to access services
- Housing with support services



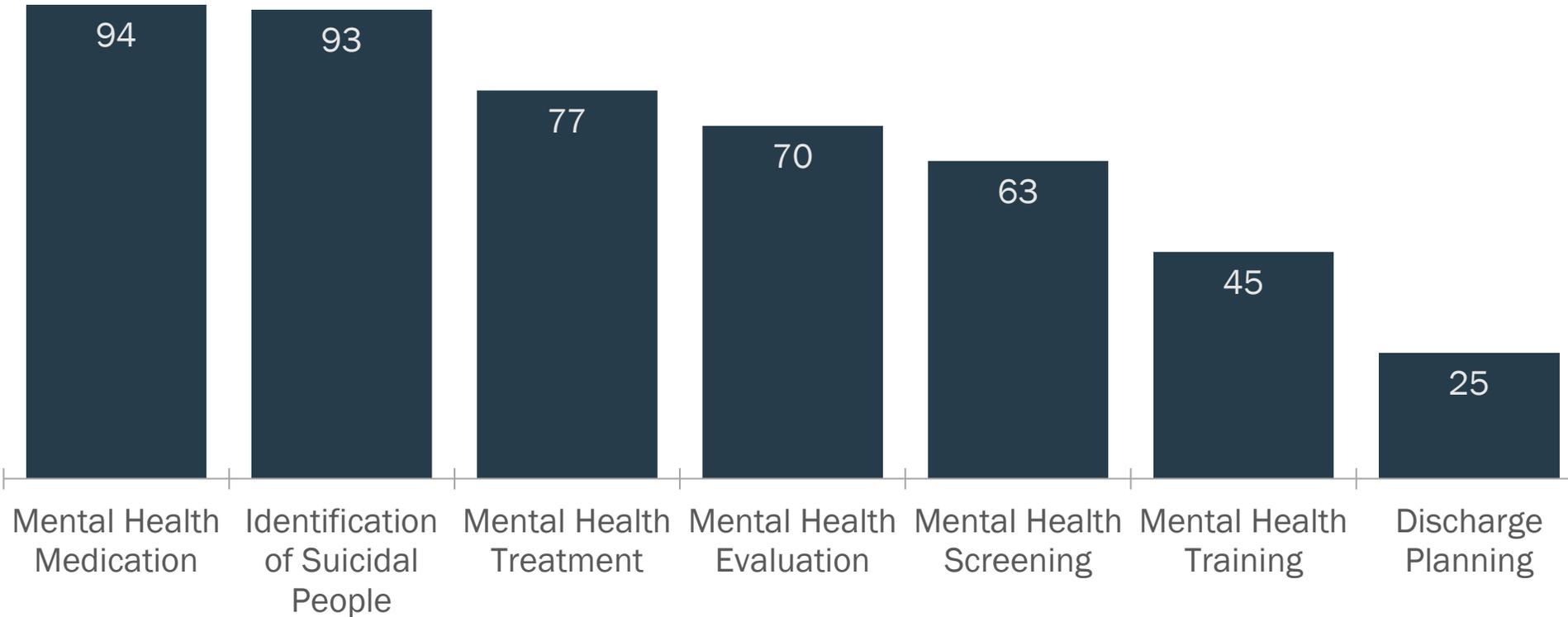
Justice Reinvestment Initiative Kansas

Overview

- 1 Behavioral Health Needs in the Criminal Justice System
- 2 **Kansas Context**
- 3 Diversion for People with Behavioral Health Needs

Almost all county jails in Kansas offer medication for mental health issues, but screening or evaluation is less common.

Number of Jails with Recommended Mental Health Services, by Type of Service (n = 96*)



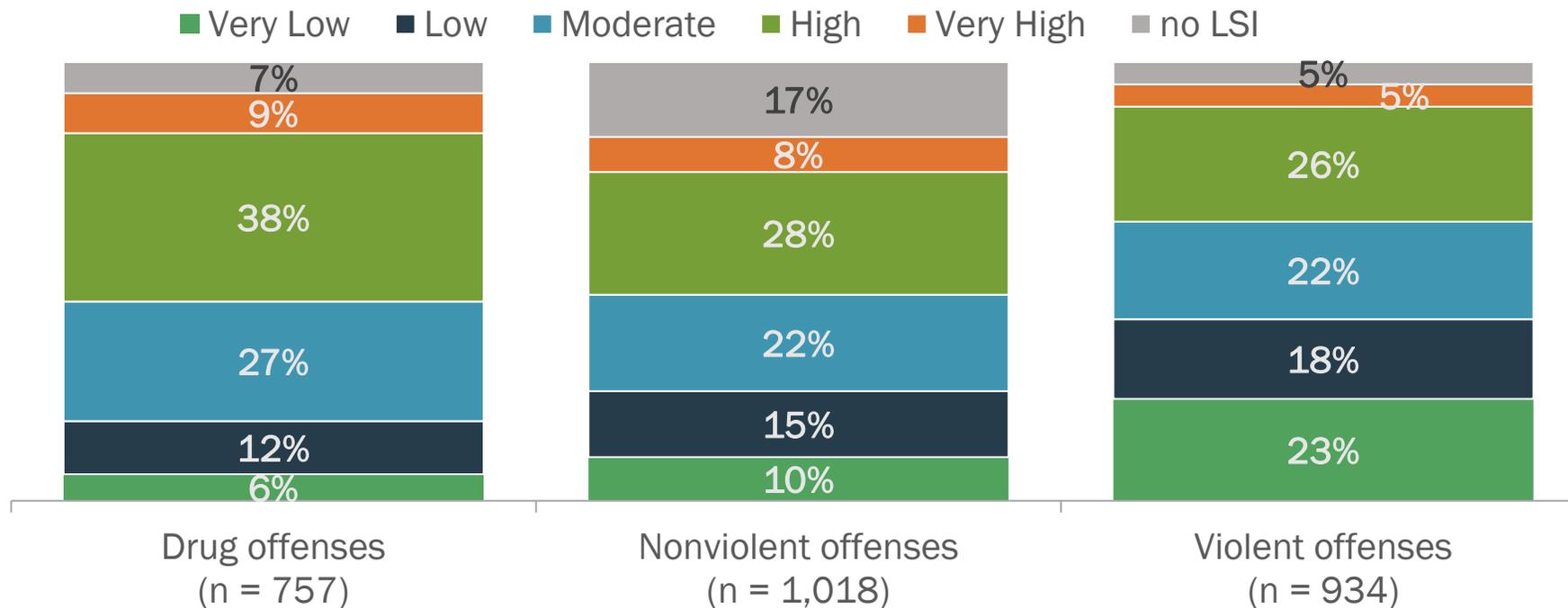
Number of Services	Average Jail Capacity
2	30
3	42
4	44
5	60
6	100
7	362

Typically, larger jails can offer more recommended mental health services.

*One jail did not respond to questions about services offered.

58 percent of admissions for new nonviolent offenses and 53 percent of admissions for new violent offenses scored “moderate” to “very high” in the LSI-R domain for alcohol/drugs.

FY2019 Prison Admissions for New Offenses* by Offense Type and LSI-R Alcohol/Drug Domain Score Level



Additional takeaways:
 In FY19, 75 percent of admissions for new drug offenses scored “moderate” to “very high” in the LSI-R domain for alcohol/drugs.

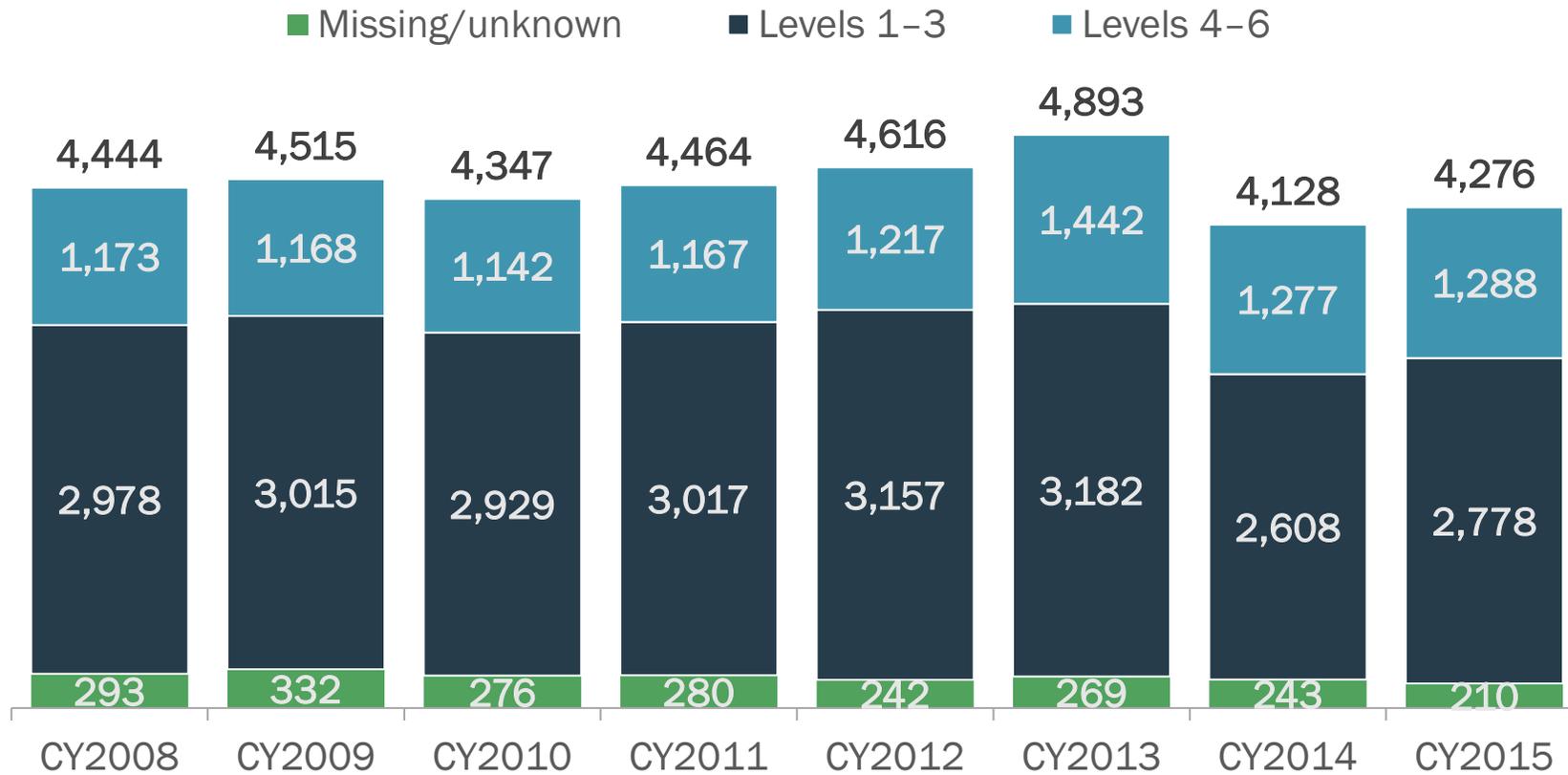


Based on the LSI-R assessment closest to the admission date. Assessments conducted more than 30 days after admission were excluded from analysis.

*Excludes admissions for probation or parole condition violations and probation sanctions.

Over a quarter of the people released from prison each year have mental health needs requiring some level of treatment or services.

Prison Releases by Mental Health Disorder Levels, 2010–2015



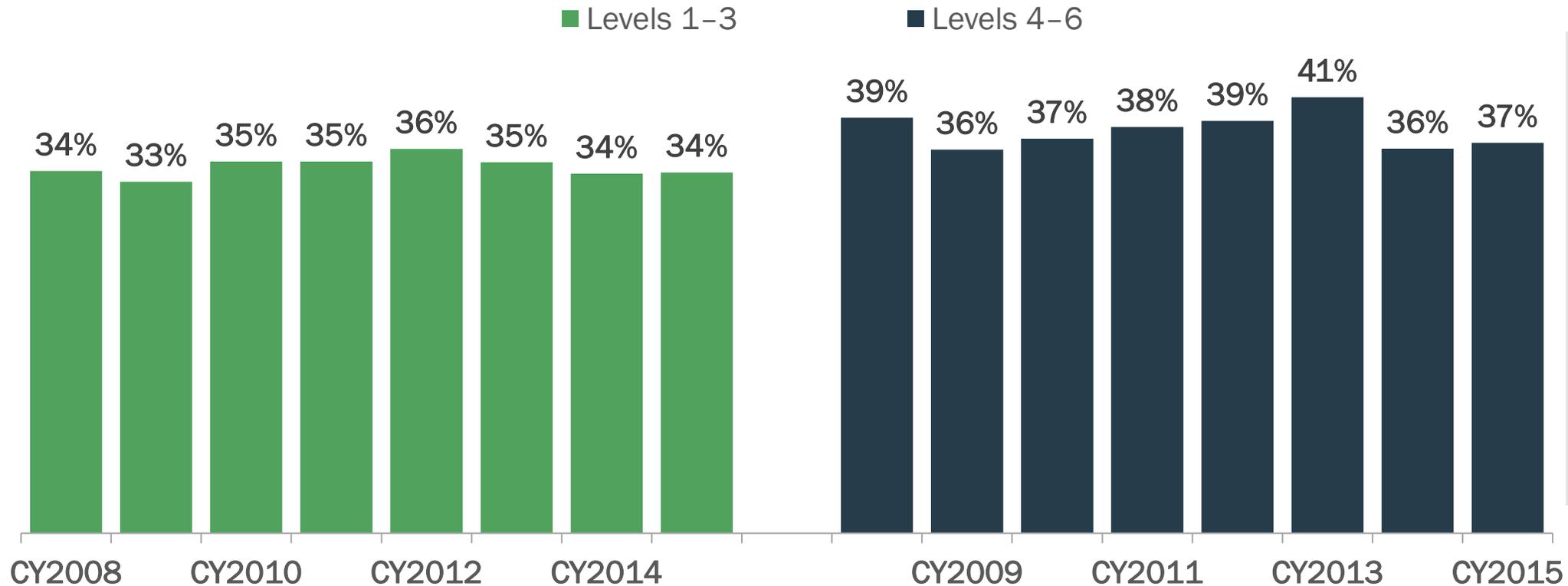
Mental Health Disorder Level Treatment Needs**	
Levels 1 and 2	Generally, do not require behavioral health services
Level 3	Transient mental disorders unlikely to cause much functional impairment
Level 4	Typically require behavioral health services or special needs monitoring
Levels 5 and 6	Serious mental health diagnoses and treatment needs



Note: "Mental disorders" is the terminology used by the state and is not the CSG Justice Center's preferred language. *Mental Health Disorder Levels are at time of release. Approximately 6 percent of people released each year did not have a mental health level. **Per descriptions on page 12 of the KDOC Fiscal Year 2018 Annual Report Kansas Department of Corrections recidivism numbers provided to CSG Justice Center staff on August 14, 2019.

People with higher mental health disorder levels return to prison at a slightly higher rate than those with lower levels.

Three-Year Reincarceration Rates by Mental Health Disorder Levels*

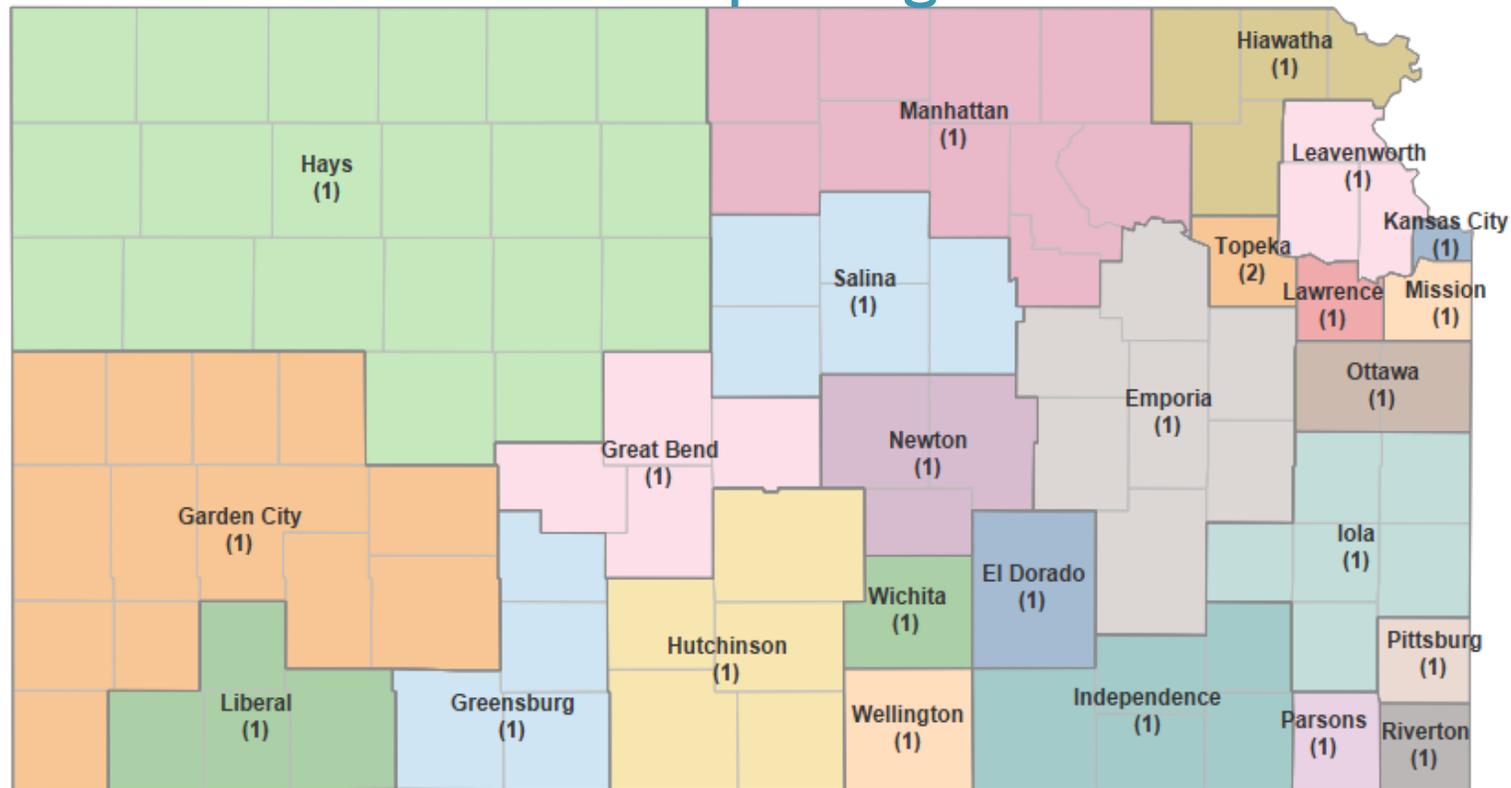


For both groups, the majority of returns to prison were for violations of supervision conditions.

*Reincarceration is defined as the percentage of people released from prison who return to prison within three years of release, excluding probation sanctions. Rates are reported by calendar year of release. Mental Health Disorder Levels are at time of release. Approximately 6 percent of people released each year did not have a mental health level.

Kansas has 26 Community Mental Health Centers (CMHCs) serving 25 regions.

Community Mental Health Center Regions and Number of Centers per Region*



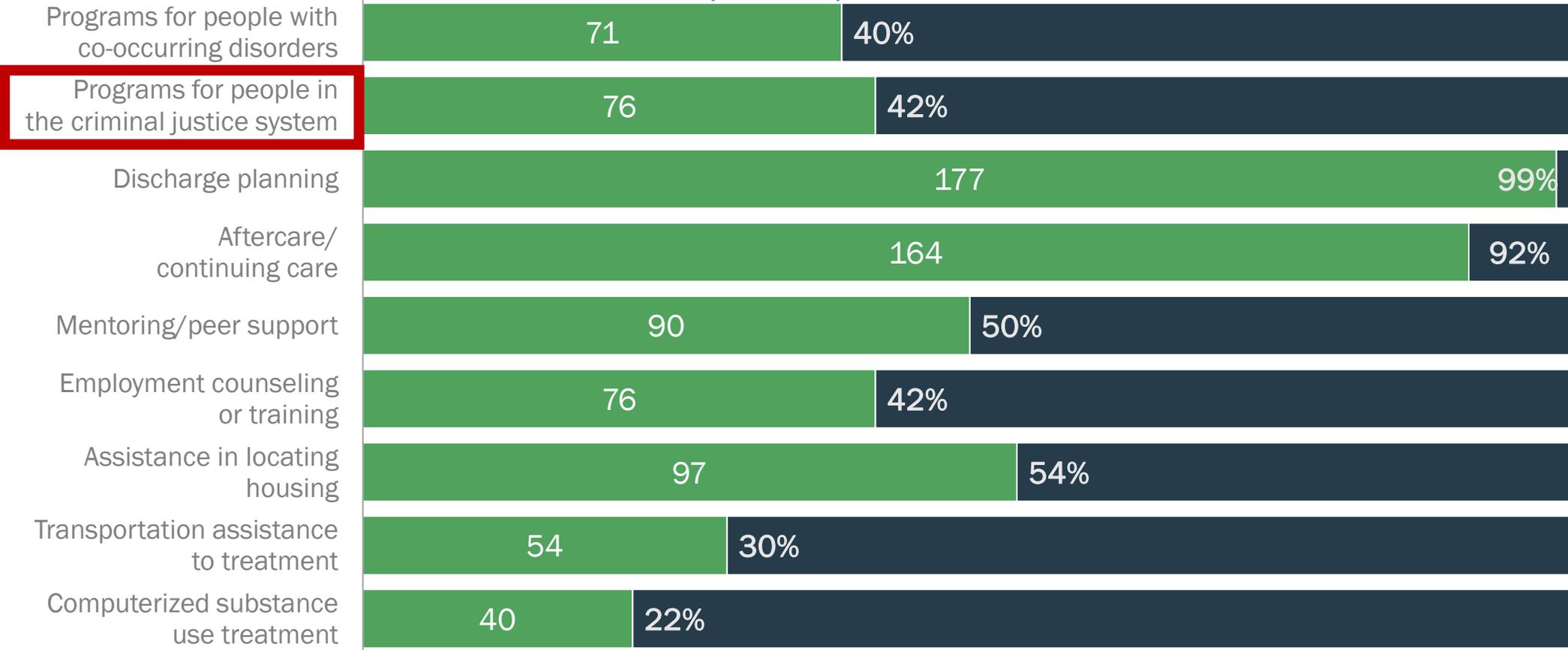
Of the 26 CMHCs:

- 11 served 1 county
- 12 served 2–7 counties
- 3 served 10 or more counties

Topeka was the only region to have more than one CMHC.

Fewer than half the substance use disorder treatment facilities in Kansas offered programs for people in the criminal justice system in 2018.

Services Offered by Substance Use Disorder Treatment Facilities
(n = 179)



Substance Abuse and Mental Health Services Administration, National Survey of Substance Abuse Treatment Services (N-SSATS): 2018. Data on Substance Abuse Treatment Facilities (Rockville, MD: Substance Abuse and Mental Health Services Administration, 2019); Substance Abuse and Mental Health Services Administration, National Mental Health Services Survey (N-MHSS): 2018. Data on Mental Health Treatment Facilities (Rockville, MD: Substance Abuse and Mental Health Services Administration, 2019). The Council of State Governments Justice Center | 17

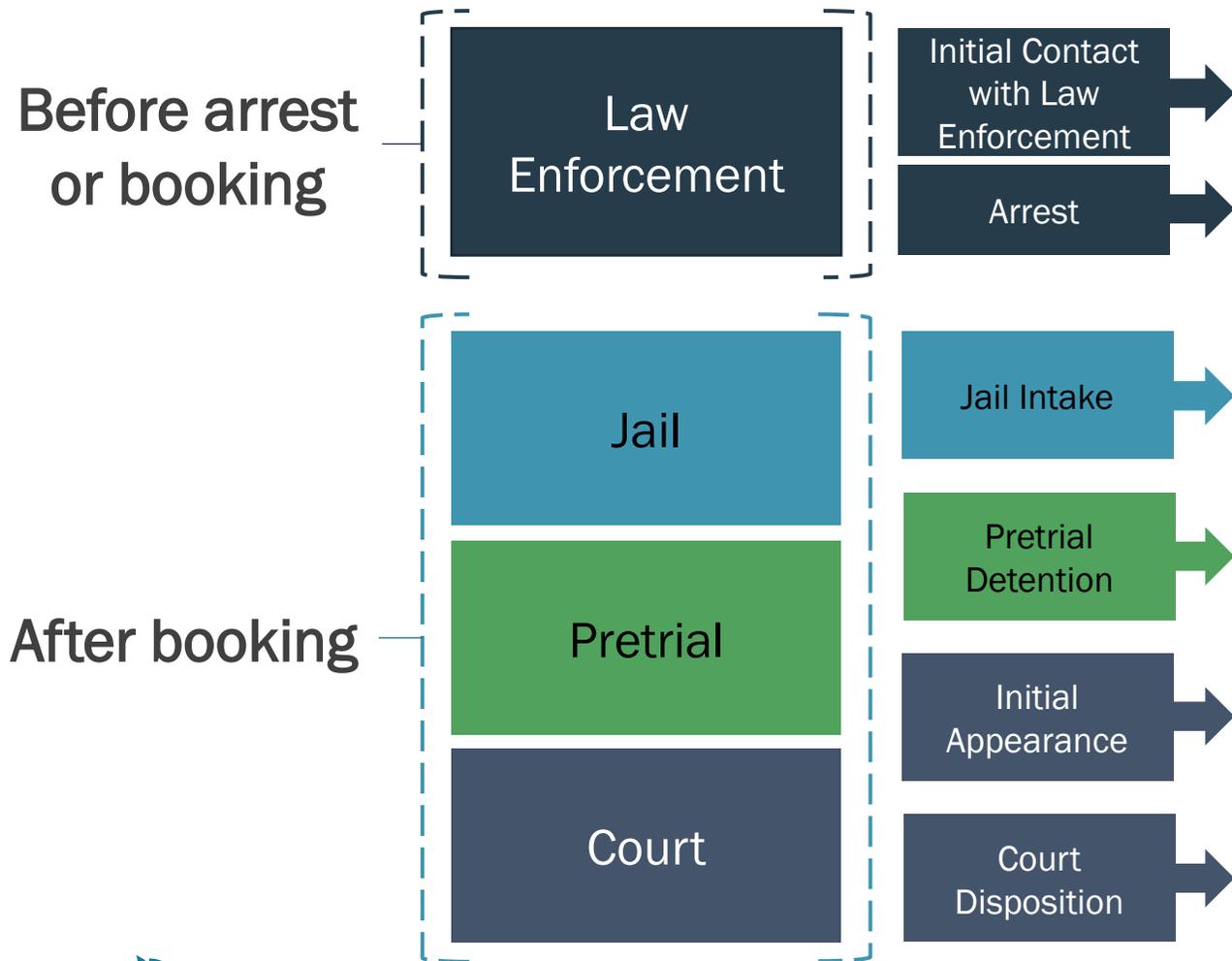


Justice Reinvestment Initiative Kansas

Overview

- 1 Behavioral Health Needs in the Criminal Justice System
- 2 Kansas Context
- 3 **Diversion for People with Behavioral Health Needs**

Diversion is an off-ramp from criminal justice involvement to community engagement.



Research shows that diversion programs have the potential to achieve positive outcomes.

A study of three pre-booking and three post-booking diversion programs for people with serious mental illness and co-occurring disorders found that jail diversion



Reduces time spent in jail without increasing public safety risk



Links people to community-based services*



Reduces criminal justice costs

* Treatment engagement and appropriateness were not measured

Prosecutor-led diversion programs can save money and reduce justice system involvement.

In a 2018 multisite study of diverse prosecutor-led diversion programs (no behavioral health focus), researchers found that these programs



Produced **cost savings for criminal justice agencies**—especially pre-filing programs.

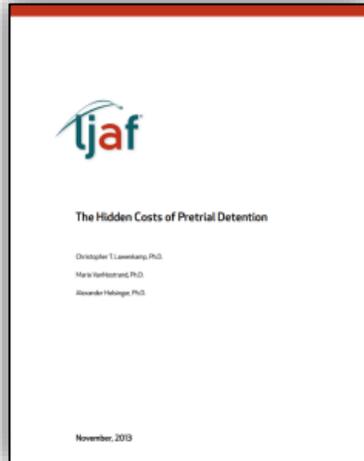


Decreased the percentage of cases ending in a conviction.
Reduced the likelihood of a jail sentence.



Reduced **recidivism**, although effects appear more modest and less consistently achieved than effects on conviction, jail, and cost.

Research shows the cascading negative impact of pretrial time in jail.



The Hidden Costs of Pretrial Detention

Detaining low-risk defendants, even just for a few days, is strongly correlated with higher rates of new criminal activity both during the pretrial period and years after case disposition.

Low-risk defendants had a **40 percent higher chance of committing a new crime before trial** when held 2 to 3 days compared to those held 1 day or less and a **51 percent higher chance of committing a new crime** in the next 2 years when held 8 to 14 days compared to 1 day or less.

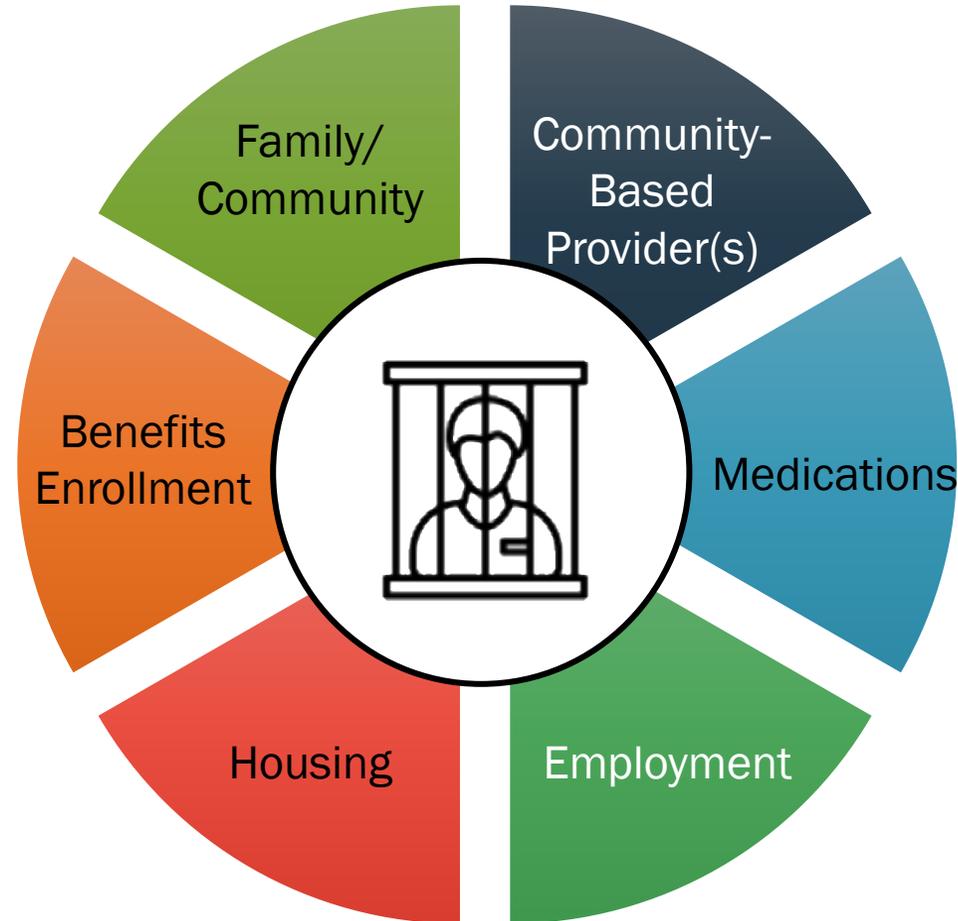


Distortion of Justice: How the Inability to Pay Bail Affects Case Outcomes

Pretrial detention leads to:

- 13 percent increase in the likelihood of conviction, 21 percent increase in the likelihood of pleading guilty
- Higher average court costs
- Incarceration sentences that are 4.6 months longer on average

Detention separates people with behavioral health needs from community treatment and supports.



Diversion that avoids a felony conviction shows reduced recidivism and increased employment prospects.

↓ 45% The probability of any future conviction

↓ 75% The number of future convictions

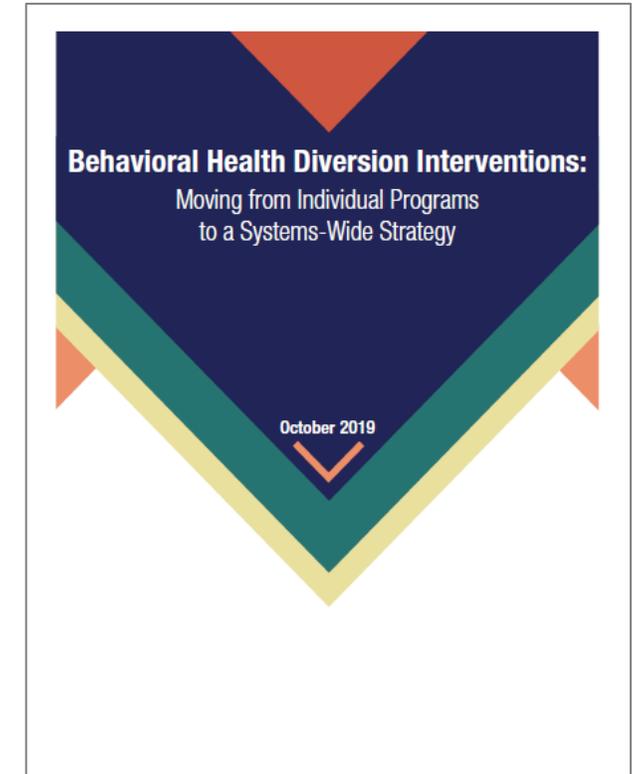
Among defendants diverted in the 1994 sample:

↑ 49% Quarterly employment rates

↑ 93% Total earnings over the 10-year follow-up period grew by \$85,365

There are six key components to developing a behavioral health diversion strategy.

1. Developing and engaging collaborative partnerships
2. Understanding the community's behavioral health needs
3. Identifying existing services, supports, and gaps
4. Defining key measures and collecting data
5. Leveraging funding to prioritize interventions
6. Measuring and sustaining progress



Thank You!

Join our distribution list to receive updates and announcements:

<https://csgjusticecenter.org/resources/newsletters/>

For more information, please contact Jennifer Kisela at jkisela@csg.org

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KANSAS RAFT PROGRAM: WHAT YOU NEED TO KNOW

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FEBRUARY 2023



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What is the RAFT Program?

A certified drug abuse treatment program for certain people who have entered diversion

Found in K.S.A. 2022 Supp. 21-6825

How did the
RAFT
Program
become
law?

2021 HB
2026

Bipartisan
support

RAFT Program Eligibility

Limited to offenders charged with felony unlawful possession of controlled substances (K.S.A. 21-5706) at this time

whose offense is classified in grid blocks 5-C, 5-D, 5-E, 5-F, 5-G, 5-H or 5-I of the sentencing guidelines grid for drug crimes....

Cannot have **any** prior felony convictions of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to their repeal, K.S.A. 2010 Supp. 21-36a03, 21-36a05 or 21-36a16, prior to their transfer, or K.S.A. 2022 Supp. 21-5703, 21-5705 or 21-5716, and amendments thereto, **or any substantially similar offense from another jurisdiction.**

See K.S.A. 2022 Supp. 21-6825

RAFT Program Eligibility Cont'd.

- ▶ (b) As part of the consideration of whether or not to allow diversion to the defendant, a divertee who meets the requirements of subsection (a) shall be subject to:
 - ▶ (1) A drug abuse assessment that shall include a clinical interview with a mental health professional and a recommendation concerning drug abuse treatment for the divertee; and
 - ▶ (2) a standardized criminal risk-need assessment specified by the Kansas sentencing commission.
- ▶ (c) The diversion agreement shall require the divertee to comply with and participate in a certified drug abuse treatment program if the divertee meets the assessment criteria set by the Kansas sentencing commission. The term of treatment shall not exceed 18 months.

Divertees can be supervised by either Community Corrections or Court Services. See K.S.A. 2022 Supp. 21-6825(d).

Discharge from the RAFT Program

- ▶ (e) (1) Divertees in a certified drug abuse treatment program shall be discharged from the program if the divertree:
 - ▶ (A) Is convicted of a new felony; or
 - ▶ (B) has a pattern of intentional conduct that demonstrates the divertree's refusal to comply with or participate in the treatment program in the opinion of the county or district attorney.
- ▶ (2) Divertees who are discharged from such program pursuant to paragraph (1) shall be subject to the revocation provisions of the divertree's diversion agreement.
- ▶ K.S.A. 2022 Supp. 21-6825(e)

Eligibility Determination Process

- ▶ **Substance Abuse Subtle Screening Inventory (SASSI 4th ed.)**
 - ▶ Divertees must score “High Probability” on this measure
- ▶ Risk Needs Assessment
 - ▶ **LSCMI** (men)- Must score 15 or greater (medium – very high risk)
 - ▶ **WRNA** (women)- Must score 15 or greater (moderate – very high risk)
- ▶ AFTER THESE ELIGIBILITY CRITERIA HAVE BEEN MET:
 - ▶ Divertee will complete an assessment with a certified provider to determine treatment needs and placement recommendations
 - ▶ Divertees are entitled to one funded assessment

Treatment Options for RAFT Divertees

- ▶ Those utilizing RAFT Diversion Program treatment funding are eligible to receive **identical treatment** as those on SB 123 (see [Modalities and Cost Caps](#) document on our website)
- ▶ The initial assessment should provide guidance related to initial and projected treatment needs, utilizing the ASAM continuum of care, and level of care recommendations.
- ▶ Treatment modalities available include:
 - ▶ Assessment
 - ▶ Social Detox
 - ▶ Inpatient
 - ▶ Outpatient (individual, group, family)
 - ▶ Reintegration
 - ▶ Relapse Prevention
 - ▶ Peer Mentorship

Treatment is provided by **SB 123 Certified** treatment agencies and providers. A current list of providers and services is located on the [KSSC website](#).

Modalities of Service

- ▶ It is important to note:
 - ▶ Inpatient is not always the answer
 - ▶ Individuals must meet medical necessity for inpatient treatment
 - ▶ Inpatient should not be used as a punishment or ultimatum
 - ▶ The bulk of meaningful addiction treatment occurs in outpatient settings
 - ▶ Outpatient modalities support the divertee in managing addiction and utilizing therapeutic skills while in their typical environment
 - ▶ Relapse prevention and peer mentorship are helpful in assisting the divertee in maintaining sobriety and applying practical skills
 - ▶ Limitations identical to those for SB 123 offenders exist for certain modalities
 - ▶ For example, peer mentorship is not a stand-alone service

Supervisor Obligations & Paperwork

- ▶ The supervisor of the divertee is responsible for assisting with care coordination, establishment of treatment services, and paperwork associated with the program.
 - ▶ This includes the Client Placement Agreement (CPA)
 - ▶ The CPA acts as a receipt and document of mutual understanding between the supervisor of the divertee and the treatment provider
 - ▶ Treatment providers are encouraged to not provide treatment to divertees/offenders without obtaining a signed CPA
 - ▶ The CPA reduces the likelihood of wasted resources, increased time to treatment, and unpaid treatment providers
 - ▶ The CPA should identify services that are recommended based on the divertee's individual needs and reflect only those services which the treatment provider is certified to provide and intends to provide within the treatment for this individual

The RAFT program has unique forms that can be found on the KSSC website!

Billing for Services

- ▶ When eligibility information is entered into the online form, treatment providers may then bill for treatment services (with a signed CPA)
- ▶ If a divertee is not eligible in Beacon's system, treatment providers will not be able to bill on that individual; Beacon and KSSC staff are available to assist if there are issues with a specific case.
- ▶ Please keep in mind that **KSSC is the payor of last resort**, meaning that if the divertee has private insurance of any kind or Medicaid/Medicare, those will be billed first.
- ▶ Billing standards for RAFT are the same as billing standards for SB 123 (i.e., 45 day timely filing, etc.)
- ▶ **RAFT Diversion Program and SB 123 are different programs**
 - ▶ They share some policy and a main funding source
 - ▶ Eligibility sources are different but may have overlap (i.e., Athena)
 - ▶ Please enter information carefully and establish the correct program on the CPA prior to attempting to bill

Utilization

- ▶ As of the most recent utilization report:
 - ▶ 11 divertees have established eligibility through the online form
 - ▶ 1 divertee has received treatment through the RAFT program
 - ▶ Supervision
 - ▶ 4 divertees supervised by DAs offices [Olathe/JOCO]
 - ▶ 3 supervised by Community Corrections [Abilene/Dickinson]
 - ▶ 4 supervised by Court Services [Kansas City/Wyandotte]
 - ▶ Demographics
 - ▶ 7 women; 4 men
 - ▶ All divertees categorized as white/Caucasian; 1 Hispanic/Latino divertee



QUESTIONS?

KSSC RESOURCES

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[KSSC Website](#)

- [RAFT Program](#)