

# How State Reform Efforts Are Transforming Juvenile Justice

Agency leaders share the history and potential of research-driven policy change

## Overview

Since 2012, a growing number of states have used data and research to inform sweeping policy changes that aim to improve juvenile justice systems. Their efforts include prioritizing use of detention and out-of-home placement for youth who present the greatest public safety risk, limiting the length of their confinement, reinvesting taxpayer savings to expand access to evidence-based services, and supporting community-based interventions for lower-level offenses. These changes reflect a growing body of research showing that costly, extended out-of-home placements often fail to produce better outcomes than alternative approaches.

To understand the challenges and benefits of this shift, staff members from The Pew Charitable Trusts spoke with current and former leaders of juvenile justice agencies from three states that have undertaken comprehensive reform: Randy Bowman of Kansas, Kristi Bunkers of South Dakota, and Merton Chinen of Hawaii.

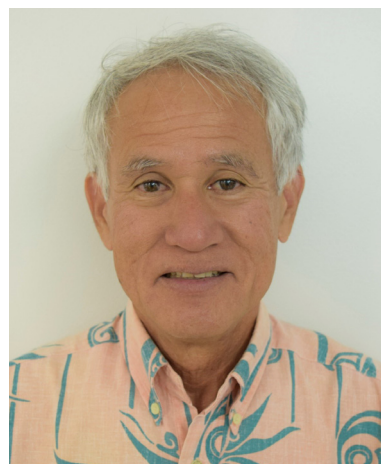
Although the details vary, these leaders all said reform was necessary because their states were sending high numbers of low-level, low-risk youth to expensive out-of-home facilities and getting poor returns on those investments. They also agreed that using data and research to change minds and shape policy was critical to their states' success, and they celebrated the opportunity presented by reform to redirect funds previously used for incarceration to strengthen evidence-based community programs.



**Randy Bowman**, *Kansas*



**Kristi Bunkers**, *South Dakota*



**Merton Chinen**, *Hawaii*

## Q: What prompted your state to pursue large-scale juvenile justice transformation?

**Bowman:** Beginning in the late 1990s, Kansas ranked high among states in the number of kids we took away from families and put in out-of-home placement facilities. By 2013 we ranked sixth in the country, and I think we all just realized that kids are better served in their own families and communities and that we needed to do better. We also recognized that the way the state budget created shared placement funding among agencies contributed to the large number of out-of-home placements, and that needed to change.

**Bunkers:** In 2013, South Dakota had the second-highest juvenile commitment rate in the country, even though the juvenile violent crime rate in our state was a third of the national average. We had a long history of leading the nation in out-of-home placement and were investing significantly in various types of beds with very poor outcomes associated with that approach. Half of the kids returned to custody within three years of release. Our statewide work group had the opportunity to review data, and one of the most compelling reasons we identified for pursuing reform was that 7 in 10 kids in Department of Corrections custody were there for probation violations, low-level misdemeanors, or status offenses. There was a lot of support through the work group process to improve South Dakota's juvenile justice system.

**Chinen:** Before Pew came in and we started this round of reform, we did a study in 2012 that showed we had disproportionate representation of native Hawaiian and other youth of color in the juvenile justice system. That fueled a lot of our efforts, because it told us that not much had changed in Hawaii since the 1990s, when another report showed the same thing. We also had a large proportion of youth coming into the system on low-level offenses.

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“Historically, a lot of people operated based on anecdote or ‘that one kid.’ That’s a good conversation starter, but you have to step back from that and use objective data to direct your efforts.”

*Kristi Bunkers, director of juvenile services, South Dakota Department of Corrections*

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## Q: What challenges did your state's system face before the reform process?

**Bowman:** One huge deficit was that we lacked data and the ability to analyze it to understand what was really happening and how to improve our performance. Another challenge was that our court system was not doing risk assessments. Instead, prosecutors would file the charge, the court process would begin, the kid would be found guilty through a plea bargain, and then off the kid would go to out-of-home placement. As a result, a lot of low- and moderate-risk youth were getting deeper into the system than they needed to be. We also lacked evidence-based programs. We just kept sending kids to group homes and facilities, even when the research showed there were other approaches that produced better outcomes at lower cost.

**Chinen:** We had many challenges. Even though our placement and probation numbers had declined, the length of placements was growing. We had high costs and poor outcomes at our Hawaii Youth Correctional Facility and a shortage of community-based programs across the state. And underlying everything was a lack of standardized policies and procedures and too little collaboration. We were all in different silos, and we weren't working closely with each other in ways that would allow us to more effectively help our young people.

**Bunkers:** Young people experienced significant “justice by geography” in South Dakota. Depending on where you lived you may have had a shot at diversion, but in many parts of the state, that wasn’t even on the radar. At the same time, regardless of where you lived, there was a lack of evidence-based alternatives to placement. It wasn’t that people wanted to behave in a manner that was harmful to kids, but commitment to state custody resulting in out-of-home placement often seemed like the only viable option.

## **Q: Which policy changes have most effectively improved your system?**

**Bowman:** We’re early in the process, but one of the most important changes was requiring that every child who’s referred to court for a misdemeanor and has no prior adjudications receive an Immediate Intervention Program, or IIP, which is the Kansas term for diversion. In our first year, the number of kids who had the opportunity for diversion increased by 37 percent, with 88.6 percent of participants completing the program successfully. That’s huge, and it means fewer kids in the system and in facilities.

In 2012, we had over 400 kids in our most commonly used type of group home, youth residential centers. While that number had declined some before the juvenile justice work group began to study our system in 2015, it had dropped another 67 percent one year after passage of our reform legislation. As of December 2018, we were 30 months into implementation, and we had about 11 kids in these facilities. So we’re giving them that lighter touch and keeping them out of the system.

**Chinen:** The change in our probation practices has been critical. The historic role of the probation officer was as enforcer. Now our officers have training and tools to work with kids under our more holistic behavioral intervention and support system. Staff are given more options to support youth in their decision-making, emphasizing reinforcement with earned discharge credits as well as verbal praise and tangible incentives. These relationships, these human connections, are at the heart of our approach.

**Bunkers:** The most significant change was creating eligibility standards for commitment to state custody that shifted our focus to community-based rehabilitation. Out-of-home placement should be reserved for the most serious offenses. As long as we had no limits on who could be committed to the Department of Corrections, we were going to continue to struggle and lead the nation in incarcerating kids. We also established limits on the length of probation, which addressed the inconsistencies we had in our supervision terms across the state.

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Merton Chinen, *executive director, Hawaii Office of Youth Services*

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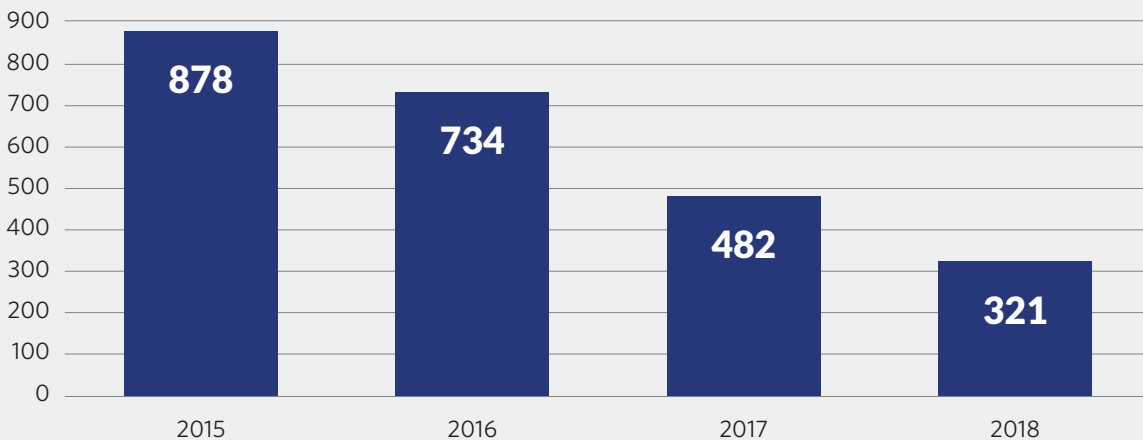
## Kansas

Following recommendations from a statewide working group, Kansas enacted broad reforms to its juvenile justice system in 2016, which included changes such as reduction of court referrals, increased diversion, and limitations on transfers to adult court. The measures, passed with strong bipartisan support as Senate Bill 367, establish consistent statewide standards to reduce disparate outcomes, prohibit out-of-home placement for youth with less serious offense histories and risk profiles, prioritize the most expensive system resources for the highest-risk young people, and shift significant funding toward evidence-based alternatives that allow youth to be safely supervised while remaining at home.

Within two years of passing the legislation, Kansas' total juvenile out-of-home population had decreased 63 percent—including reductions in youth sent to detention facilities, group homes, and secure correctional facilities—and arrest rates, which had already been falling before reform, continued to decline.<sup>1</sup> The resulting savings—which total \$30 million to date—are deposited in a dedicated fund that state officials can use to expand evidence-based services for youth living at home.<sup>2</sup> (See Figure 1.) The reductions in residential placements have already surpassed those projected when the legislation was enacted, and the reforms are well on their way to delivering the expected \$72 million in savings for reinvestment by 2022.

Figure 1

### **63% Drop in Juvenile Residential Confinement Enabled Kansas to Shift \$30 Million to Evidence-Based Community Programs** Average monthly population of youth in out-of-home placements, 2015-18



Note: Out-of-home placements include secure juvenile corrections facilities, detention, juvenile justice foster care, psychiatric residential treatment facilities, group homes, and other facilities.

Source: Kansas Department of Corrections, "Court-Ordered Custody," (June 2018) <https://www.doc.ks.gov/publications/juvenile/archived-pop-reports/2018>

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## **Q: What problems did you encounter in carrying out systems change?**

**Chinen:** The “how” is always the obstacle, so for us the main challenge has been trying to integrate our systems to be the most effective for young people. The statute HRS 5-7.5 provides a strong legal foundation for our stakeholders to adopt a holistic approach to supporting youth and their families by authorizing public leaders to consider the values of “Aloha Spirit”—of valuing relationships and caring for one another—in carrying out their responsibilities. We provide wraparound services to address many of the family’s needs and engage the family from the start. And if Plan A doesn’t work, then what’s Plan B? It’s about being creative and flexible, breaking down walls between agencies and delivering seamless services when and where they are needed.

**Bowman:** For me, the toughest challenge has been proving it can be done. It’s been a heavy lift. We’ve done training for probation officers, worked on data, created thousands of program slots across the state, and I think we’ve met the challenge. We do have some hot spots of resistance, but thanks to the outstanding leadership of two governors and the Legislature, we’re moving forward. They have been amazing, and despite some efforts to repeal the law in 2017, our House committee leaders said, “We can talk about some tweaks, but we’re staying the course, we’re not going backwards.”

**Bunkers:** South Dakota had a high comfort level with incarcerating young people, so our old approach relied too heavily on the justice system to deal with problem kids. Many of our stakeholders were comfortable with this approach, and not everyone’s hearts and minds have been changed. Despite our efforts to educate people, there is still a lack of understanding of the research and a refusal to believe that incarceration disrupts kids’ prosocial networks, their ability to transition successfully to adulthood, and can do harm.

## **Q: What benefits have staff and youth in the system seen from reform?**

**Bunkers:** More kids are successfully completing probation. Fewer kids are revoked and returned to custody. We have fewer young people entering our adult system. And in addition we’ve finally acknowledged that kids exist in the context of families. Historically, we removed kids from families and sent them to facilities that were often far from home. We provided no services to the families during the confinement period, which resulted in a revolving door. Now we have statewide counseling programs such as Functional Family Therapy, and we support families with services in their homes. That has to be our goal. We want to empower families to make the necessary changes so they can make parenting decisions about their children and keep them on track. Probation staff have more tools to help kids succeed rather than relying solely on out-of-home placement.

**Bowman:** The benefits for staff are best summarized by a local probation director. Here’s the quote: “I have to say that this opportunity to better serve our kids and families comes at a good time. Staff are actually excited that they will be able to do more. They were getting burned out with their limitations. I would include myself in that as well. We all get tired of the negativity. So, thank you! We are excited to have a chance to do more for our kids.”

**Chinen:** The adoption of a single assessment tool helped staff learn what was going on with youth in a more systematic way. That information helps guide our service delivery so we address more effectively the dynamics underlying young people’s behavior. For example, many youth have assessment scores that indicate significant risk for aggression. Last year, we invested in Aggression Replacement Training and trained a group of staff to serve as facilitators of the program statewide. Implementing group treatment with fidelity to the underlying program model is a challenge, but we are all learning and growing. And this sets a good foundation for future services.

## South Dakota

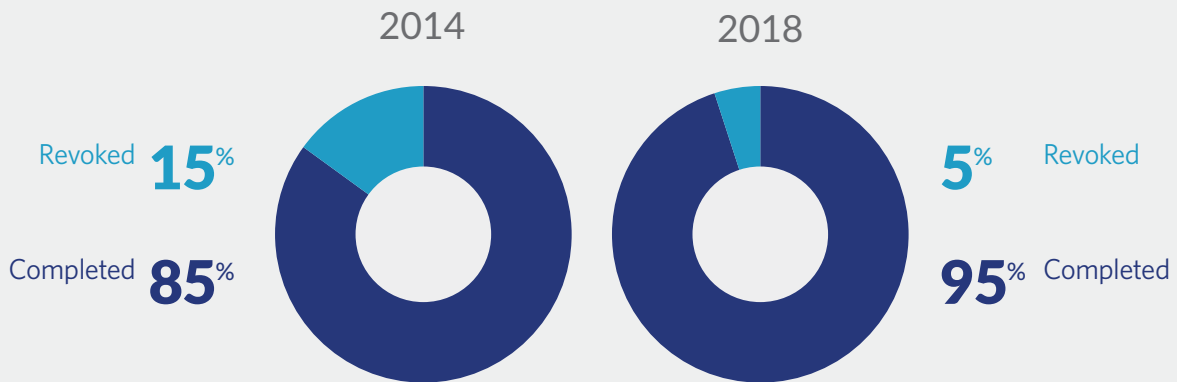
On March 13, 2015, Governor Dennis Daugaard (R) signed into law comprehensive reform legislation based on policy recommendations from the bipartisan, interbranch Juvenile Justice Reinvestment Initiative Work Group. The legislation, S.B. 73, provides incentives to counties to make diversion from formal system processing the default response for many lower-level offenses, prioritize use of residential facilities for youth who pose a public safety risk, align probation with evidence-based practices, and reinvest resulting savings into community intervention programs.

Three years after implementation of the reforms, the total number of youth committed to South Dakota Department of Corrections custody and aftercare supervision declined 63 percent.<sup>3</sup> This reduction was consistent with state policymakers' stated goals of prioritizing out-of-home placement for youth who pose a public safety risk, expanding evidence-based community alternatives, improving outcomes, and increasing accountability for youth in the juvenile justice system. Between 2014 and 2018, the rate of probation completion increased from 85 to 95 percent (see Figure 2), and filings for supervision violations dropped by 43 percent.<sup>4</sup>

Figure 2

### More South Dakota Youth Completed Community Supervision 4 Years After Reform

Percent of young people who finished probation or had it revoked, 2014 and 2018



Note: "Completed" includes youth who received both satisfactory and unsatisfactory probation ratings from a probation officer at the conclusion of supervision. "Revoked" includes youth sent to county detention or the state Department of Corrections or who were otherwise terminated from probation.

Source: South Dakota Juvenile Justice Oversight Council, "South Dakota Juvenile Justice Public Safety Improvement Act 2018 Annual Report" (2019), [https://boardsandcommissions.sd.gov/bcuploads/PublicDocs/2018%20JJPSIA%20\(1-12%20Proof\).pdf](https://boardsandcommissions.sd.gov/bcuploads/PublicDocs/2018%20JJPSIA%20(1-12%20Proof).pdf)

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## **Q: Has your state closed any facilities because of the reforms, and were those cost savings reinvested?**

**Bowman:** We closed the Larned Juvenile Correctional Facility, one of two state-operated secure facilities, in early 2017. We've also eliminated more than 350 spots in the youth residential centers. Savings go into a reinvestment fund that we use for youth and family services in the community. The first year, it was \$12 million.

**Bunkers:** We operated one large state correctional facility, the STAR Academy, in a remote location in western South Dakota. With a continuing decline in the population of kids in custody, we were able to close the academy, and we now work to keep kids closer to home in many cases, in smaller, private facilities. The declines and closure significantly reduced the Department of Corrections budget, and we've invested over \$6.1 million to develop and sustain community-based services.

**Chinen:** Hawaii only had one secure state placement to begin with, but our population has fallen by 66 percent since the legislative reforms. We are consolidating operations and trying to use the savings for additional services for at-risk youth to prevent their deeper involvement in the juvenile justice system. Through planning with community stakeholders, we are expanding programs on the Hawaii Youth Correctional Facility campus for nonincarcerated young people involved in sex trafficking and serving youth and young adults transitioning from homelessness and the child welfare, juvenile justice, and mental health care systems.



## Q: What have you learned through the reform process?

**Chinen:** They are universal lessons. It's hard work, committed work, and every day is a new adventure. You have to build trust. The relationships are critical. We need to support each other in doing the best we can.

**Bunkers:** What I've learned and continue to struggle with is that adults can be especially punitive. We still struggle with appreciating the fact that kids are fundamentally different than adults. There's a reason we have a separate system of justice for young people. We know from the research on brain development that young people are less able to regulate their emotions. They engage in more risk-taking behavior, and there are developmental reasons for that. As adults, we shouldn't settle for a system that treats kids more harshly than adults.

**Bowman:** Thinking back, I don't know if I fully appreciated just how many stakeholders recognized the need for change and wanted it to happen. You'd hear people mention it, but it seemed like there were so many barriers. But when we started doing roundtables around the state, it gave everybody the opportunity to have that conversation, and it all blossomed into the passage of the reform act and some real, measurable improvements. I underestimated that desire for change.



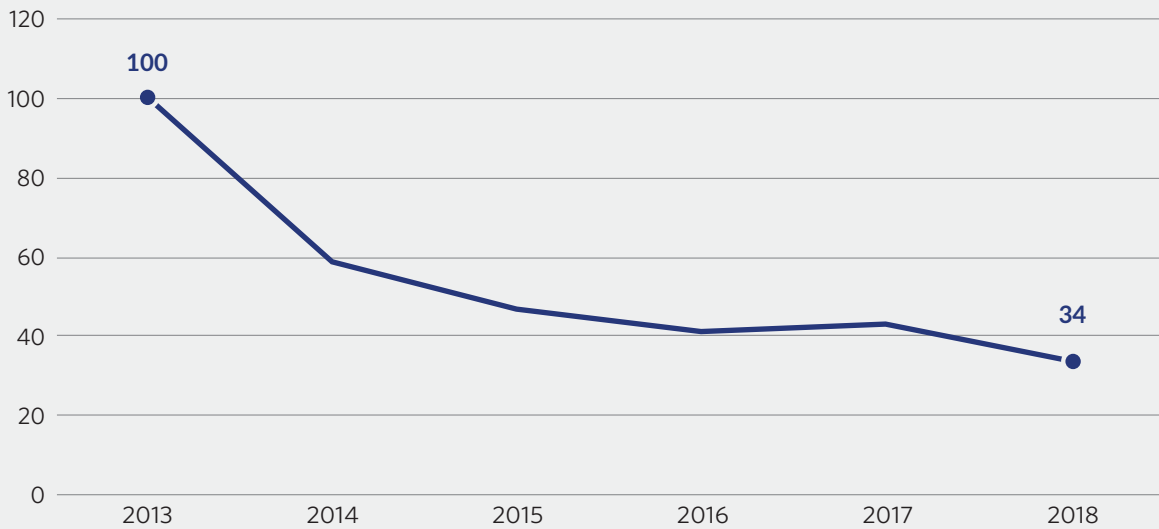
## Hawaii

In 2013, the Hawaii Juvenile Justice Working Group found that taxpayers were spending about \$200,000 per confined juvenile at the Hawaii Youth Correctional Facility, but the state still struggled to control recidivism.<sup>5</sup> Three out of 4 juveniles released from custody were adjudicated as delinquent again or convicted of new crimes as adults within three years of their release.<sup>6</sup> The state Legislature approved the working group's recommendations to reduce the use of secure confinement, increase proven community-based options, and strengthen probation supervision and unanimously passed House Bill 2490, which then-Governor Neil Abercrombie (D) signed into law July 2, 2014. Since 2013, Hawaii has seen a 66 percent reduction in the number of young people sent each year to the state's secure youth correctional facility.<sup>7</sup> (See Figure 3.)

Figure 3

### Hawaii's Confined Youth Population Dropped 66% Over 5 Years

Number of young people sent to secure placement, 2013-18



Source: C.T. Matsuoka, program specialist, Hawaii State Judiciary

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## **Q: What advice would you give to juvenile justice leaders in other states who are interested in pursuing reform?**

**Chinen:** We're all in this together, so always be cognizant of the relationships between different systems that provide care to young people, both at the macro and micro levels. Support and nurture those relationships, because in terms of collaboration, the more the better. Also, be open to getting help from the outside because you can't do it all yourself. Be willing to engage and have the courage to acknowledge what needs improvement. And of course, I'd encourage them to pursue reform, 110 percent.

**Bowman:** Those of us who have the opportunity to spend time in these seats are really a catalyst to get this work done, so use that seat to influence others and get the conversation started. That's what Terri Williams did so admirably as my predecessor. It is the most challenging work you'll do in your career, but also the most rewarding. Get it started and then reach out to others who have been there to help you along the way. Also, do everything you can to make sure every voice can be heard. Those stakeholder roundtables are so important. Let everybody be heard and share the data and research.

**Bunkers:** Use data to drive your decisions. You also need to be ready to go all in and make it happen. Reach out to key stakeholders early and often. People struggle with change, but they like it even less if they feel they didn't have a seat at the table. If they understand the research and how we can do harm when we overrespond to low-risk kids, then they are more willing to walk with you on this path toward reform. Everyone in this system has a shared purpose, to help kids, but people differ on how best to get there. Listen to other perspectives.

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Randy Bowman, *former deputy director of juvenile services, Kansas Department of Corrections*

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## Endnotes

- 1 Kansas Juvenile Justice Oversight Committee, "2018 Kansas Juvenile Justice Oversight Committee Annual Report" (2018), <https://www.doc.ks.gov/juvenile-services/committee/2018/view>; Kansas Department of Corrections, "Court-Ordered Custody" (2018), <https://www.doc.ks.gov/publications/juvenile/archived-pop-reports/2018>.
- 2 Kansas Juvenile Justice Oversight Committee, "2018 Kansas Annual Report."
- 3 South Dakota Juvenile Justice Oversight Council, "South Dakota Juvenile Justice Public Safety Improvement Act 2018 Annual Report" (2019), [https://boardsandcommissions.sd.gov/bcuploads/PublicDocs/2018%20JJPSIA%20\(1-12%20Proof\).pdf](https://boardsandcommissions.sd.gov/bcuploads/PublicDocs/2018%20JJPSIA%20(1-12%20Proof).pdf).
- 4 Ibid.
- 5 The Pew Charitable Trusts, "Hawaii's 2014 Juvenile Justice Reform" (2014), <https://www.pewtrusts.org/research-and-analysis/issue-briefs/2014/07/hawaii-2014-juvenile-justice-reform>.
- 6 Ibid.
- 7 C.T. Matsuoka, program specialist, Hawaii State Judiciary, email to The Pew Charitable Trusts, Jan. 2, 2019.

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*Figure 3 has been updated for clarity.*

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