KANSAS SENATE BILL 123
A Process and Implementation Evaluation

Prepared for the Kansas Sentencing Commission

Don Stemen
Andres Rengifo

Vera Institute of Justice

July 2006

Executive Summary

In November 2003, Kansas implemented Senate Bill 123 (SB 123), creating a mandatory sentence of community-based drug abuse treatment and community supervision in lieu of incarceration for non-violent offenders convicted of a first- or second-offense drug possession. Under the provisions, eligible offenders receive a community corrections sentence of up to 18 months with treatment that may include any combination of detoxification, drug education, out-patient treatment, in-patient treatment, and relapse prevention.

Under the provisions of SB 123, the Kansas Sentencing Commission (KSC) was directed to conduct an evaluation of the legislation after 18 months of program operation. The KSC contracted the Vera Institute of Justice to carry out an implementation and process evaluation of SB 123, examining the functioning of the program and its impact on institutional processes.

Study Overview

During the fall of 2005, Vera researchers interviewed directors of community corrections district offices and drug treatment service agencies, conducted focus group interviews with selected community corrections officers and drug treatment counselors, administered a survey to all community corrections officers and drug treatment counselors serving SB 123 clients, and analyzed offender-level supervision and treatment data collected in the case management system maintained by the Kansas Department of Corrections (KDOC). The objective of the implementation and process evaluation was to examine the design of the sentencing and treatment scheme created by SB 123, the delivery of treatment services to SB 123 offenders, the institutional changes that occurred as a result of the legislation, and the specific interactions between system actors generated by the new legislation. The study period for the evaluation covered the period from November 1, 2003 through May 31, 2005.

Findings

SB 123 Offenders and Sentences

- The number of persons sentenced under SB 123 increased an average of 11 percent per month during the first 18 months of program operation.
    - Following lower than expected numbers of sentences to SB 123 in the early stages of implementation, the number of offenders sentenced under the legislation was nearing anticipated estimates by the end of the first 18 months of program operation.

    - Institutional arrangements were particularly effective at adjusting to the sustained increases in SB 123 offenders over time, with no significant delays in assessment or sentencing due to the increase in the number of SB 123 offenders.
- Only 72 percent of eligible cases received SB 123 sentences during the study period.
    - During the months immediately after implementation of SB 123, a large percentage of eligible cases – roughly 45 percent – received regular community corrections sentences.
    - However, the percentage of eligible cases receiving an SB 123 sentence increased throughout the study period; thus, the longer SB 123 was in existence, the more likely it was that eligible cases received an SB 123 sentence.
    - Yet, on average, eligible offenders sentenced to SB 123 received longer sentences – roughly 16.6 months – than eligible offenders sentenced to a regular community corrections sentence – roughly 15.3 months.
- Roughly 9 percent of all SB 123 sentences imposed during the study period were for ineligible offenders – offenders with disqualifying current offenses or prior criminal history scores.
    - Community corrections officers and drug treatment counselors maintained that this led to many SB 123 offenders who were not amenable to treatment, since their offenses were not driven primarily by substance abuse.
    - Officers and counselors have both found mechanisms for dealing with this apparent problem, weeding offenders without true substance abuse problems out of the system at assessment or by altering supervision tactics.
- Community corrections officers and drug treatment counselors generally agreed that the definition of "eligible" offender in the legislation led to some problems with the types of offenders entering the program.
    - Since eligibility under SB 123 was determined primarily by the offense of conviction – drug possession – it was believed that many offenders were pleading down from a sale or manufacture offense to be sentenced under SB 123.
    - Community corrections directors and officers in several districts also credited the low initial numbers of SB 123 clients, the relatively high percentage of eligible offenders receiving non-SB 123 sentences, and the perceived high number of ineligible offenders receiving SB 123 sentences to perceived misunderstandings of or resistance to the program on the part

of the judiciary in the initial months of the program; in some districts, this perception continues even after 18 months of program operation.[1]

Availability of Drug Treatment Services

- Outpatient treatment modalities were the most often-employed type of treatment intervention over the study period, although the use of relapse prevention and reintegration approaches increased steadily over time.
    - However, while outpatient services were emphasized in almost all treatment plans, community corrections officers tended to believe more in residential settings as the most effective approach to treating offenders.
    - Thus, there were important disproportions in terms of the services offered through treatment plans and what officers believed to be the most successful approaches to the treatment of SB 123 offenders.
- Only 60 percent of community corrections officers and drug treatment counselors believed that SB 123 offenders were getting the treatment they needed the most.
    - Thus, there was a general concern among officers and counselors that appropriate treatment was not always delivered to offenders.
- The availability of drug treatment in rural parts of the state remains a significant problem and inhibits the proper functioning of SB 123 in many instances.
    - Community corrections officers and drug treatment counselors in the Western, less populated part of the state noted significant problems with the general availability of treatment, with officers noting constant frustration in placing SB 123 offenders in the proper modality of treatment.
    - Officers in Western districts often have only one or two service providers from which to choose and such providers generally do not offer all necessary treatment modalities.
    - In many instances, officers and counselors noted that SB 123 offenders in Western counties do not receive the modality of treatment necessary or must be transferred to other community corrections districts to receive proper treatment.
    - The lack of availability of treatment and the generally long distances SB 123 offenders must travel to access treatment in the Western part of the state have resulted in conflicts with employment and created burdens on SB 123 offenders not encountered by offenders in the Eastern part of the state, according to officers and counselors.

---

[1] These findings are based on the observations and perceptions of community corrections actors. Additional interviews with judges would be necessary to determine if such initial misunderstandings or resistance on the part of the judiciary were actually contributing to the slow program implementation.

- Treatment providers remained heavily concentrated in the Eastern part of the state throughout the study period.
    - In Eastern districts, officers had up to 14 different providers to whom they could send clients and each of these providers generally offered an array of different treatment modalities.
    - Yet, statewide, new providers and increases in treatment availability had yet to materialize after the first 18 months of program operation, although the state provided funding for SB 123 and anticipated new treatment providers entering the market soon after implementation.

Balancing Treatment and Supervision

- Survey data suggest that SB 123 offenders interact more with supervising officers and counselors when compared to other groups of probationers.
    - But community corrections districts varied significantly in how they balanced supervision and treatment for SB 123 offenders.
    - Districts in the Eastern part of the state showed a higher frequency of supervision interventions than treatment interventions, indicating a heavier reliance on supervision as way to deal with SB 123 offenders.
    - Districts in the Western part of the state showed a heavier reliance on treatment as a way to deal with SB 123 offenders.
    - This appears to be at odds with the finding that treatment was generally less available in the Western part of the state. However, this may indicate that, while SB 123 offenders in the Western part of the state may receive few treatment interventions, they received even fewer supervision interventions.
- Community corrections officers and drug treatment counselors noted few conflicts between the conditions of supervision and the needs of treatment.
    - However, a small yet significant fraction of surveyed counselors expressed their desire for a more "balanced" approach in which treatment decisions would have a higher priority than supervision decisions.

Inter-Agency Collaboration

- System actors in Kansas have partially succeeded in improving inter-agency collaboration necessary for treatment provision under SB 123.
    - Community corrections officers and drug treatment counselors appear to have incorporated a team setting into their work with SB 123 offenders, generating more interactions and new channels of communication relative to both pre-SB 123 interactions and standard community corrections sentences.

- Community corrections officers and drug treatment counselors noted that they are spending more time with SB 123 cases than with other probation cases.
    - Both officers and counselors are conducting a slightly higher number of meetings per case which are also taking longer to conduct.
    - The increase in interactions has been concentrated largely in specific offender-centered contacts, although contacts between providers and officers which are not related to individual clients are also increasing.
- Community corrections officers and drug treatment counselors believe their interaction is positive and mutually supportive and leading to better understanding across agencies.
    - However, some treatment providers highlighted significant problems in their interactions with specific community corrections agencies – mainly related to the client referral process and disagreements over treatment decisions.

Early Outcomes

- Only 20 percent of the offenders sentenced to SB 123 during the first 18 months of program operation were discharged from supervision by the end of the study period.
    - Despite the low numbers of offenders discharged from the program, SB 123 offenders had a higher successful termination rate and a lower incidence of revocations for violation of conditions than drug possessors sentenced to regular community corrections.
    - More intensive treatment and supervision settings seem to be associated with successful discharge from SB 123.

Table of Contents

Introduction 1

Chapter One: Characteristics of SB 123 Sentences and Offenders..... 6

Chapter Two: Supervision and Treatment Interventions 25

Chapter Three: The Delivery of Drug Treatment Services 41

Chapter Four: Early Outcomes 61

Conclusion: Next Steps in the Evaluation of SB 123..... 70

Appendix 72

Introduction

By the beginning of 2000, Kansas faced an escalating prison population. Between 1990 and 2000, the state's prison population increased 54 percent, from 5,600 inmates to 8,700 inmates. By statutory mandate, the Kansas Sentencing Commission (KSC) was required to explore alternatives for reducing or slowing the rate of prison population growth whenever population projections showed that capacity would be exceeded within three years. And in the summer of 2000, the state's prison population was at 98 percent of capacity and growing, expected to exceed capacity in the near future.

Analyses showed that the increase in the incarcerated population during the 1990s was driven primarily by the growth in drug offenders entering the criminal justice system. Between 1993 and 2000, the number of drug offenders in Kansas prisons increased 68 percent; by 2000, 1,620 drug offenders were in Kansas prisons, representing just over 19 percent of the inmate population. In exploring ways to reduce prison populations, the KSC began focusing on offenders it deemed least likely to cause a public safety concern if diverted from prison: those convicted of possessing relatively small quantities of drugs. The trend had been toward incarceration; in just three years from 1997 to 1999, the number of offenders sentenced to prison for first-offense, low-level drug possession had increased by 65 percent, from 324 to 534 offenders per year, while the number sentenced to probation had remained steady at just below 900 offenders per year. Moreover, most people being sent to prison for first- and second-offense possession had originally been sentenced to probation but were remanded for violating the conditions of their supervision – a trend that underscored the need for adequate and effective treatment services for such offenders to reduce recidivism and violations.

In late 2001, the KSC decided to propose legislation that would both divert nonviolent drug possessors from prison and institute a comprehensive regimen of drug treatment options in the community. After two months of debate in the spring of 2003, the legislature enacted Senate Bill 123 (SB 123), which created mandatory drug abuse treatment and community supervision for low-level first- and second-offense drug possession. Eligibility was narrowly defined to minimize the risk to public safety – offenders with a prior conviction for a person offense or for a drug sale or manufacture offense were ineligible for sentencing under the program. An estimated 1,400 people were to be directed to community-based drug treatment each year as a result of SB 123, roughly 475 of whom would have gone to prison absent the new legislation. The legislature underscored its determination to provide rehabilitation by appropriating $5.7 million for drug treatment services for offenders sentenced under the new legislation.

SB 123 was designed to rely on the existing network of primarily private (i.e. non-state) community-based drug treatment providers in the state, which offered any combination of detoxification, drug education, out-patient treatment, in-patient treatment, and relapse prevention. In most of the state's 31 community corrections districts, several

potential drug treatment providers were available at the time SB 123 was enacted. Providers seeking to work with SB 123 offenders were then required to acquire certification from the Kansas Department of Corrections (KDOC). This certification involved formal training for individual counselors in working with SB 123 offenders and approval of drug treatment plans submitted by the provider, which detailed the modalities of treatment offered and the specific content of those modalities. In the Eastern, more populated part of the state, this resulted in the certification of multiple drug treatment providers in each community corrections district. However, in the Western, less populated part of the state, this resulted in the certification of few providers (as few as one) in many districts.

SB 123 was formally implemented in November 2003. Under the provisions, judges are required to sentence eligible offenders to up to 18 months of community-based drug abuse treatment in lieu of incarceration. Judges may sentence offenders to any duration of treatment and supervision, up to the 18-month maximum, and may impose any conditions of supervision generally imposed as part of a sentence to community corrections. To ensure that participants receive appropriate treatment, the bill called for a two-pronged assessment of safety risk and substance abuse needs. Following conviction of a first- or second-offense of drug possession, eligible offenders are placed under the supervision of a community corrections officer who chooses a local drug treatment provider to conduct a drug abuse assessment of the offender. Based on the assessment score, the provider then gives a recommendation for a particular treatment modality. The supervising community corrections officer chooses an appropriate drug treatment provider that offers the recommended treatment modality and generally meets with a counselor at the chosen provider agency to determine initial treatment modality and to discuss the offender's planned supervision and treatment regimen for the duration of the program period.

As designed, SB 123 intended more frequent interactions between community corrections officers and counselors. Routine "team meetings" were recommended to ensure that community corrections officers and drug treatment counselors collaborated on the treatment plans for individual offenders and quickly addressed problems offenders encountered in meeting treatment or supervision conditions. Failure from SB 123 was defined broadly as "a pattern of intentional noncompliance" with treatment or supervision requirements. Positive drug tests or even subsequent convictions for possession were not automatic triggers for termination of treatment, removal from SB 123, or revocation of the community corrections sentence. Individual community corrections officers, drug treatment counselors, and sentencing judges were left with the discretion to determine what factors rose to the level of noncompliance to justify revocation of an SB 123 sentence. Judges also retained discretion to release an offender from SB 123 for completion of treatment prior to the end of the sentence imposed or to revoke an offender

from SB 123 for noncompliance with either treatment or the conditions of the community corrections sentence.

In addition to the new lines of communication between community corrections officers and drug treatment counselors at the ground level, SB 123 also created new levels of oversight within the state and involved new agencies in the provision of drug treatment to offenders. Under SB 123, all drug treatment providers must be trained and certified by the Kansas Department of Corrections (KDOC) in providing treatment to offenders, which involves providers incorporating cognitive behavior therapy into all drug treatment programming for offenders; the KDOC also approves providers' service plans for delivering treatment under SB 123 and verifies the licenses of individual counselors treating SB 123 offenders. Community corrections officers certify invoices from treatment providers for services provided to offenders and submit these invoices to the KSC for payment. The KSC then oversees the $5.7 million appropriated by the state for SB 123 drug treatment, administers all payments made to treatment providers for services delivered, and is responsible for monitoring and reporting on the sentencing, enrollment, and discharge of offenders from the program.

Under the provisions of SB 123, the KSC was also directed to conduct an evaluation of SB 123 after 18 months of program operation. While the specific tasks of the evaluation were not set forth in the legislation, the KSC decided to conduct an implementation and process evaluation of SB 123, examining the functioning of the program and its impact on institutional processes. The Vera Institute of Justice was contracted to perform this analysis.

During the fall of 2005, Vera researchers interviewed directors of community corrections districts and drug treatment provider agencies, conducted focus groups with selected community corrections officers and drug treatment counselors, administered a survey to all community corrections officers and drug treatment providers serving SB 123 clients in the state, and analyzed offender-level supervision and treatment data collected in the case-management system maintained by the KDOC. The evaluation examined the implementation and functioning of the program during the first 18 months of the program – from November 1, 2003 through May 31, 2005. The objective of the implementation and process evaluation was to examine the design of the sentencing and treatment scheme created by SB 123, the delivery of treatment services to SB 123 offenders, the specific interactions between system actors generated by the new legislation, and the institutional changes that occurred as a result of the legislation.

This report presents the findings from this implementation and process evaluation. Chapter 1 examines the characteristics of SB 123 offenders and sentences. Chapter 2 then examines the numbers and types of supervision and treatment interventions used during the study period. Chapter 3 explores the processes involved in providing drug treatment to SB 123 offenders and the institutional changes and level of inter-agency collaboration resulting from the implementation of SB 123. Chapter 4 considers the early

outcomes of SB 123 sentences. Finally, the Conclusion Chapter suggests several avenues for future research into the impact of SB 123 in Kansas.

Chapter One: Characteristics of SB 123 Sentences and Offenders

As designed, SB 123 requires judges to sentence eligible offenders to community-based drug treatment for up to 18 months. Eligible offenders are defined as individuals convicted of a first- or second-offense drug possession with no prior convictions for a person offense or for a drug sale or manufacture offense.[2] Prior to the passage of the legislation, the Kansas Sentencing Commission estimated 1,400 people per year would be directed to community-based drug treatment as a result of SB 123, roughly 475 of whom would have gone to prison absent the new legislation. This section provides information on the number of SB 123 eligible cases, the characteristics of offenders sentenced to treatment under the program, and the lengths of sentences imposed under SB 123.

SB 123 Eligible Cases

Between November 2003 and May 2005, a total of 1,733 cases were eligible for sentencing under SB 123. Eligible cases included all offenders convicted of first- or second-offense drug possession in which the offender's criminal history score fell into Criminal History Categories E through I.[3] The number of eligible cases each month was initially small, but increased steadily over the first 18 months of program operation, growing approximately 12 percent per month (see Figure 1-1). For example, in January 2004, the third month of the program, a total of 44 cases were eligible for sentencing under SB 123; one year later, the number of eligible cases had increased threefold to 148 cases per month.

While SB 123 was designed as a mandatory program – requiring judges to sentence all eligible offenders to community-based treatment – not all eligible cases resulted in SB 123 sentences. Of the 1,733 eligible cases, only 72 percent, or 1,254 cases, resulted in SB 123 sentences.[4] Eligible cases not sentenced under SB 123 resulted in regular probation sentences (479 cases or 28 percent). The percent of eligible cases actually resulting in an SB 123 sentence remained relatively stable over the study period, fluctuating between 60 percent and 70 percent of cases (Figure 1-1). While fairly stable, there was a small but significant increase in this percentage over time; in other words, the longer SB 123 was in existence the more likely it was that eligible cases received SB 123

---

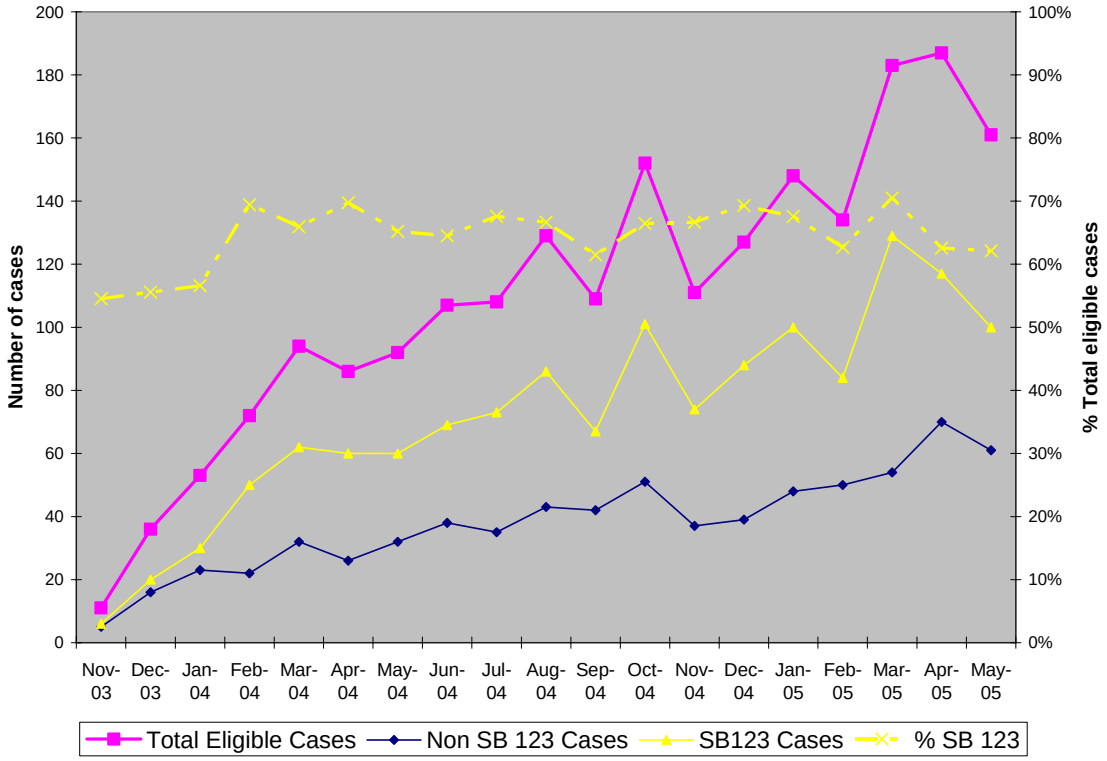
[2] KSA 21-4729

[3] The administrative data provided by the KDOC included only the prior criminal history score; it did not provide information on the type of prior offense; as such, we were unable to discern whether offenders had a prior conviction for drug sale, possession with intent to sell, or manufacture. Thus, we relied only on the prior criminal history score. Offenders with prior criminal history scores in Criminal History Category A through D all have prior convictions for a person offense, as defined by the criminal history category; as such, these offenders were not eligible for sentencing under SB 123.

[4] The reasons for these discrepencies may include data entry errors or missing prior criminal histories for some offenders. However, judges may be departing from SB 123 or incorrectly sentencing under the provision; these are discussed below in Section XXX.

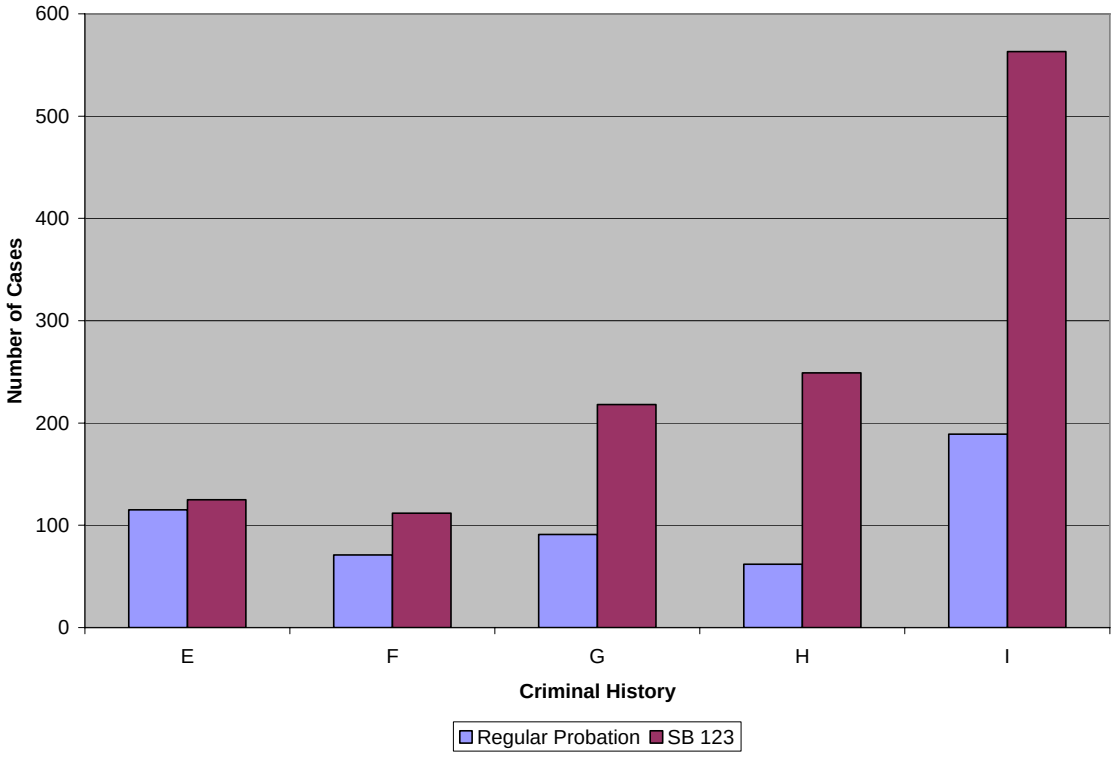
sentences. This trend appears to be determined by a small number of counties that sentence SB 123 eligible cases to regular probation more often than other jurisdictions. For example, Wyandotte County accounted for 15.5 percent of all SB 123 eligible cases sentenced to regular probation during the study period.

Figure 1-1. SB 123 Eligible Cases and Dispositions, November 2003 – May 2005



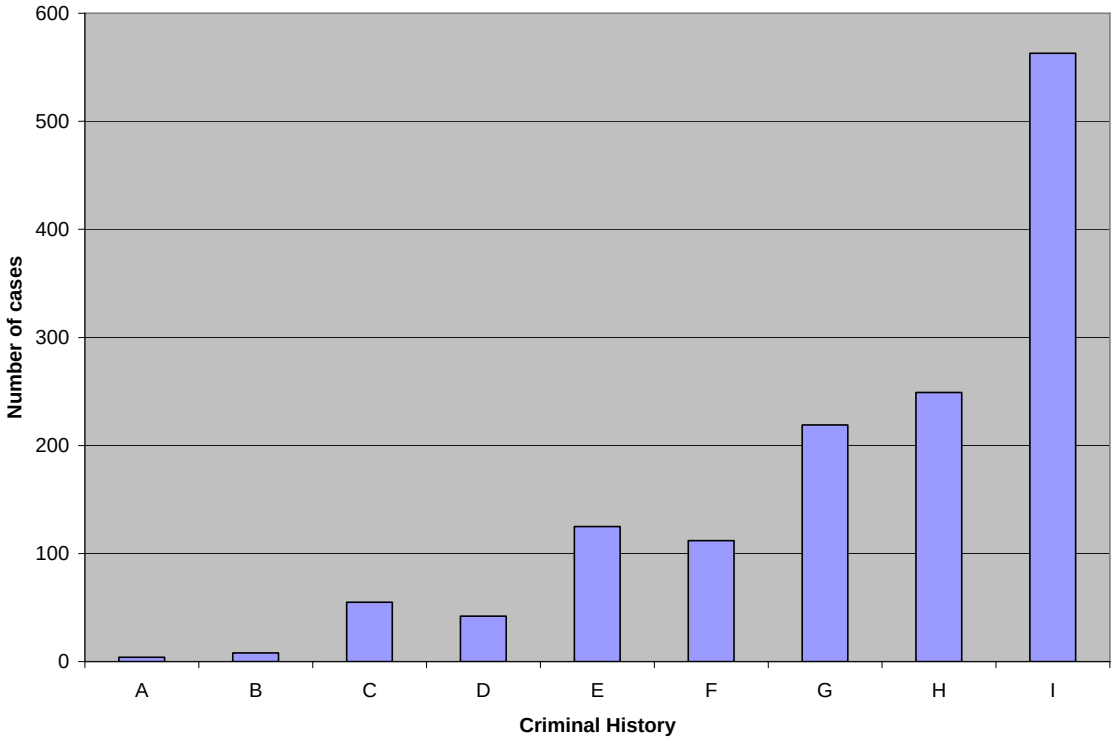
Criminal history also played a significant part in the disposition of SB 123 eligible cases. As Figure 1-2 indicates, nearly 200 eligible offenders with more serious criminal histories (Criminal History Category E or F) received a sentence to regular probation rather than to SB 123. In addition, a significant number of eligible offenders (186) with little or no criminal history (Criminal History Category I) received sentences to regular probation. This appears to contradict the intent of SB 123; offenders with only prior misdemeanor convictions or no prior convictions clearly have no prior disqualifying offenses that would prohibit a sentence to SB 123, yet 186 such offenders received a non-SB 123 sentence. As SB 123 was designed, all offenders without a disqualifying prior record should receive SB 123 sentences; yet, as Figure 1-2 indicates, this is clearly not happening with between 10 and 33 percent of eligible cases (those offenders with criminal histories in Criminal History Categories E through I who received non-SB 123 sentences).

Figure 1-2. SB 123 Eligible Cases and Dispositions by Criminal History, November 2003 – May 2005



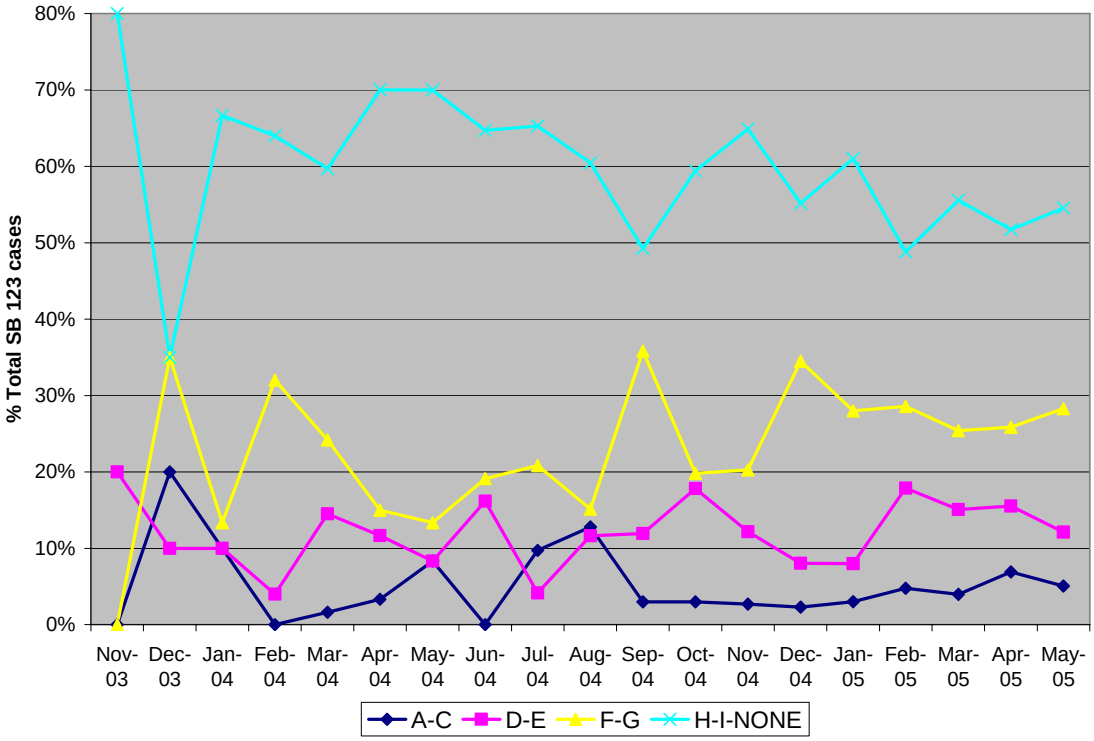
Conversely, several cases *not eligible* for SB 123, nonetheless, received SB 123 sentences during the study period. Figure 1-3 shows offenders' criminal histories for all cases receiving SB 123 sentences during the study period. As Figure 1-3 indicates, 109 cases involving offenders with criminal histories in Criminal History Categories A through D received sentences to SB 123; Criminal History Categories A through D all involve prior convictions for person offenses and, thus, disqualify an offender for sentencing under SB 123. As noted above, 1,254 eligible cases received sentences to SB 123; as this indicates, an additional 109 *ineligible cases* received sentences to SB 123 as well, representing 8.7 percent of all SB 123 sentences during the study period. As this indicates, the state is spending resources on drug treatment under SB 123 for a significant number of offenders who *are not* eligible for the program and not spending those resources for a significant number of offenders who *are* eligible.

Figure 1-3. SB 123 Sentences by Criminal History, November 2003 – May 2005



The criminal history background of SB 123 offenders has also been changing over time. While most offenders can still be categorized as having a minor criminal record, trend data for the study period suggests that there were several important changes over time. According to Figure 1-4, the proportion of SB 123 cases involving offenders with less serious criminal histories (Criminal History Category H to I) declined during the first 18 months of the program. During the first four months of SB 123 operation, roughly 70 percent of offenders receiving sentences to SB 123 had criminal histories in these categories; conversely, by the beginning of 2005, only 50 percent of cases involved such offenders. Offenders with moderate criminal histories (Criminal History Category F or G) increased as a proportion of the SB 123 population, reaching approximately 30 percent of the total number of cases sentenced under this provision by 2005.

Figure 1-4. Criminal History for SB 123 Offenders, November 2003 – May 2005



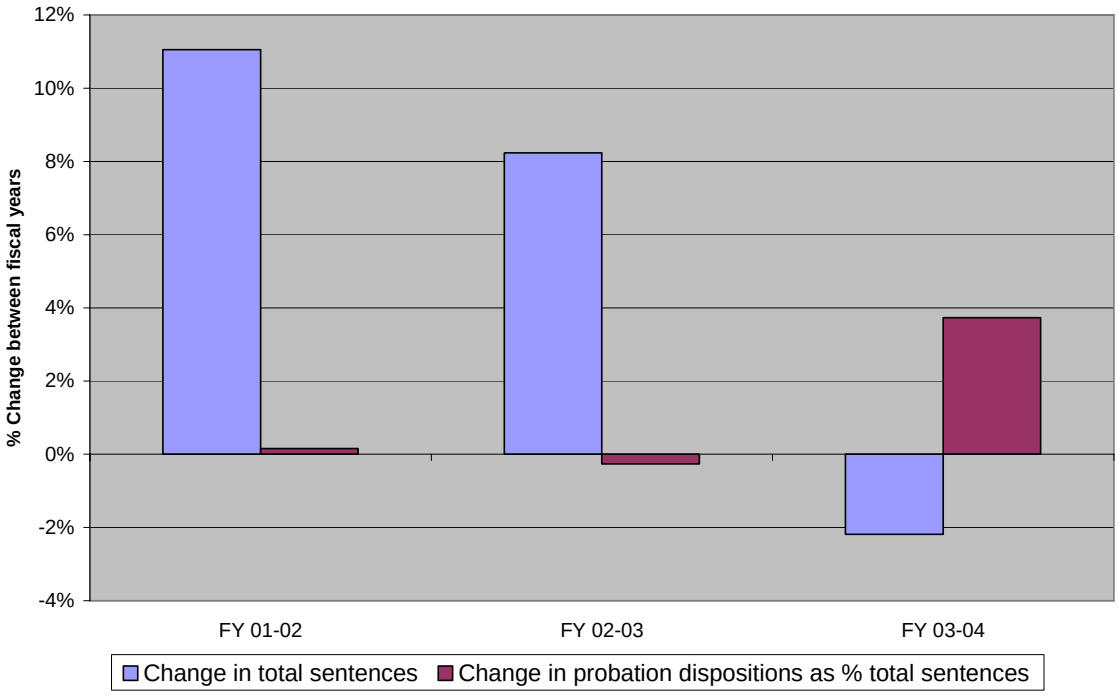
Sentencing Practices After SB 123

While many SB 123 eligible cases were disposed of as regular probation sentences during the study period, SB 123 also coincided with a general increase in the use of probation across the state for both possess-related offenses and general offenses;[5] possession-related offenses include all convictions for simple possession – both SB 123 eligible and SB 123 ineligible cases. For example, between 2001 and 2003, the number of possession-related offenses grew 20 percent, reaching a yearly total of 1,827 cases in 2003; during 2004, the first year of SB 123 implementation, the number of possession-related cases decreased 2.2 percent to 1,787 cases.[6] However, during this period, the number of such cases resulting in non-incarceration sentences grew from 1,256 cases in 2001 to 1,530 cases in 2003. By 2004, 96 percent of possession-related cases received non-incarceration sentences. As Figure 1-5 shows, most of the growth in the use of non-incarceration sentences occurred between 2003 and 2004; while non-incarceration

[5] In order to describe the impact of SB 123 on sentencing processes across jurisdictions we first examined dispositions for possession-related offenses at the county level for fiscal years 2001 to 2004. This analysis included all cases involving drug possession as the most serious offense, regardless of prior criminal history; as such, the analysis includes offenses that are not necessarily SB 123 eligible. Our objective was to document any changes in sentencing patterns for low-level drug offenses between the period prior to the enactment of SB 123 (fiscal years 2001-2003) and the first year after implementation (fiscal year 2004).
[6] Years are fiscal years.

sentences increased by 3.7 percent, the total number of sentences decreased by 2.2 percent. These figures suggest that, in the year SB 123 was implemented, probation was employed more often for all possession-related offenses, despite a small decline in the total number of sentences imposed.

Figure 1-5. Change in Sentences and Probation Dispositions, FY 2001 - 2004

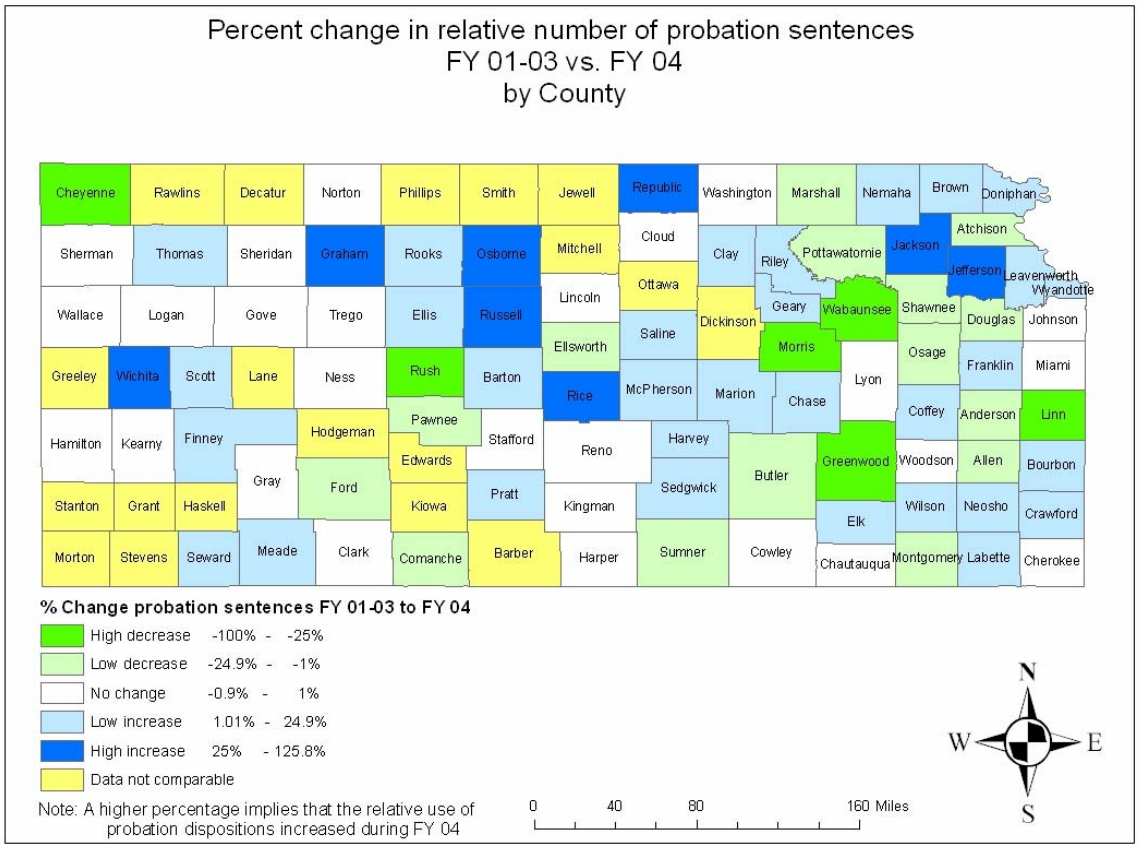


This general assessment underestimates the significance of changes in sentencing practices between jurisdictions. In terms of the volume of possession-related offenses processed, Sedgwick County accounted for 17 percent of all drug possession sentences in the state between 2001 and 2004. Overall, 60 percent of possession-related sentences were imposed in just eight counties, while the remaining 40 percent of sentences were spread across the remaining 97 counties. Indicators of case processing not only vary across counties but also within counties over time. For example, in 2001, Reno County accounted for 4 percent of sentences for possession-related offenses; by 2004, the county accounted for 7 percent of such sentences. Other jurisdictions of the same relative size decreased their share of the total number of sentences (Saline and Shawnee Counties) or maintained their share (Sedgwick County).

Beyond possession-related offenses, the implementation of SB 123 coincided with a general increase in the use of probation for all offenses in the state. In the first year of SB 123 implementation, 2004, probation sentences represented 86 percent of the total

number of dispositions imposed for all types of offenses (i.e. for both drug and non-drug offenses); between 2001 and 2003, probation sentences represented roughly 83 percent of all dispositions imposed. Figure 1-6 shows the percent change in the use of probation by county from the pre-SB 123 period (2001 to 2003) to the post-SB 123 period (2004). Out of the 86 counties with comparable data, 45 percent (39 counties) experienced an increase in probation sentences for all offenses, while 24 percent (21 counties) experienced a decrease. In 26 counties, no significant changes were observed.

Figure 1-6. Percent Change in the Use of Probation for All Offenses, by County[7]



[7] These indicators need to be interpreted with caution; sentencing decisions are not necessarily stable over time, especially when examining jurisdictions of small size. Probation dispositions are determined by a vast array of structural and systemic factors ranging from criminal behavior to informal relationships between judicial actors. While some precautionary measures were taken to remove the instability of probation ratios, it is likely that changes in probation sentences for FY 04 in some counties were not related to SB 123 adjustments. For instance, probation dispositions may have taken the form of regular probation terms, rather than SB 123 cases. Despite the mandatory character of SB 123 for drug possession offenders there are several circumstances in which judges depart from this directive. See following section for clarification. The analysis presented here also disregarded the fact that some counties tend to use probation more frequently than others, even when comparing the same set of drug possession cases. Counties in this category are unlikely to show an increase in the use of probation –due to their already high probation disposition rates.

SB 123 Sentence Lengths Imposed

While SB 123 grants judges discretion to impose any duration of sentence up to 18 months, over 78 percent of the SB 123 cases resulted in sentences for the full 18 months (56 percent resulted in indeterminate sentences of "up to" 18 months while 22 percent resulted in determinate sentences of 18 months). The remaining 22 percent of SB 123 cases resulted in determinate sentences of 12 months; roughly 10 percent of these cases with 12-month sentences were extended beyond the original term imposed. In contrast, SB 123 eligible cases resulting in a sentence to regular probation received significantly shorter sentences; of the cases with sentences to regular probation, 63 percent received determinate sentences of 12 months and just 22 percent received sentences of 18 months; this includes offenders with more serious criminal histories. Figure 1-7 displays the average sentence length imposed for SB 123 eligible offenders sentenced to regular probation or SB 123. As Figure 1-7 indicates, SB 123 eligible offenders sentenced to SB 123 received sentences that were roughly 1.5 months longer than eligible offenders sentenced to regular probation. As Figure 1-8 indicates, this was true for all criminal history categories, even for offenders not eligible for sentencing under SB 123. Thus, SB 123 may be resulting in longer community corrections sentences than would normally be imposed in the absence of the legislation, even for offenders with serious criminal histories.

Figure 1-7. Average Length of Sentence Imposed for SB 123 Eligible Cases, Regular Probation and SB 123

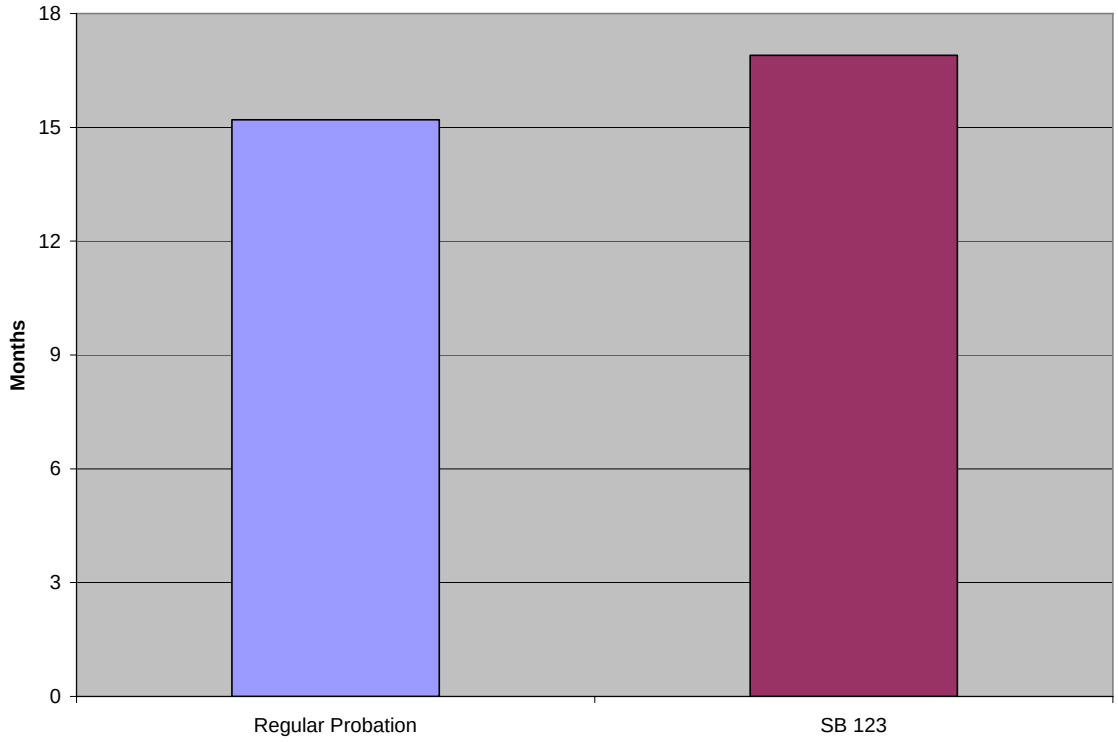
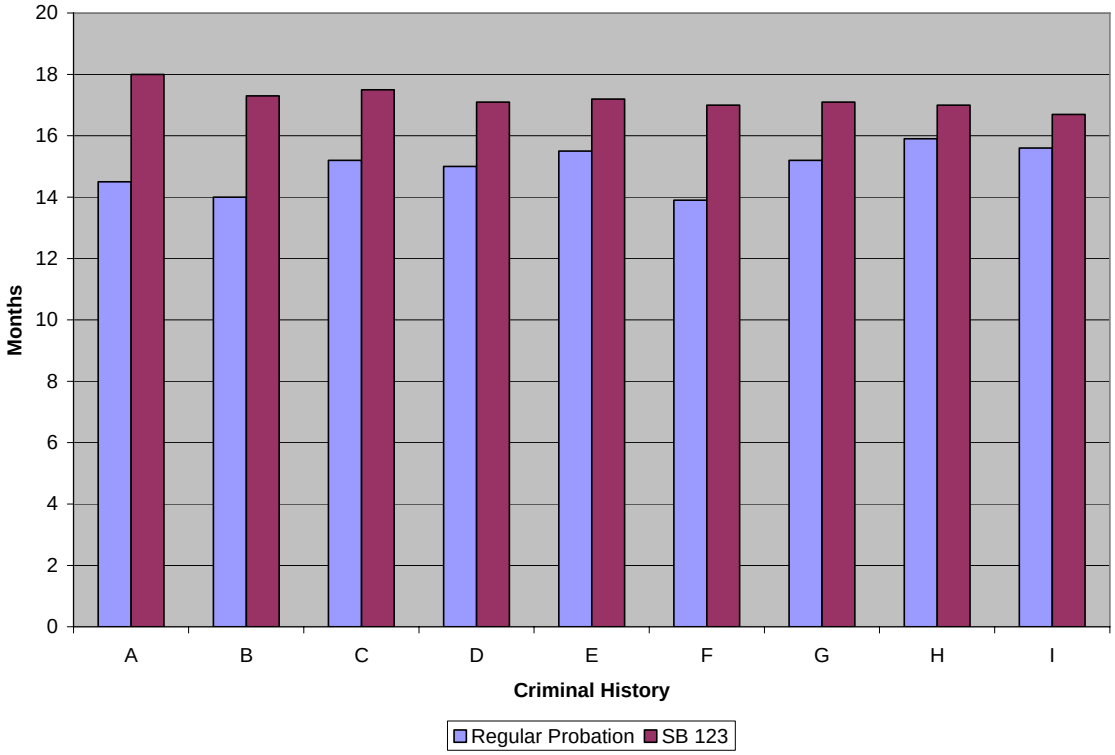


Figure 1-8. Average Length of Sentence Imposed for Drug Possession, Regular Probation and SB 123 by Criminal History



SB 123 Offenders

During the study period, there were 1,376 SB 123 cases, representing 1,306 individual offenders. While the difference is explained by the fact that some offenders had multiple concurrent cases, a total of 57 offenders were also re-admitted into the program after termination, representing 4.1 percent of all SB 123 offenders sentenced during the study period. Table 1-1 shows the race, ethnicity, and gender breakdown of the state's general population, the offender population, and the SB 123 population. As Table 1-1 indicates, most of the SB 123 offenders sentenced during the study period were white, male, non-Hispanic defendants.[8] However, on average, the demographic characteristics of SB 123 offenders were slightly different than those of the larger offender population in the state; there were more female offenders and more white offenders sentenced under SB 123 than were sentenced to regular probation, jail, or prison for other offenses. This pattern is likely due to differences in offending behavior (see Table 1-1).

[8] During the study period, there were 1,319 individual defendants sentenced to SB 123; 70 defendants had more than one case processed. The demographics of the SB population reported here correspond to individual offenders.

Table 1-1. Demographic Characteristics of State Population, Offenders, and SB 123 Offenders

	Census 2000	Sentenced individuals*	SB 123 cases
% White**	88%	72.7%	80%
% Non-Hispanic	92.7%	90.7%	91.4%
% Male	49.4%	83.6%	70%

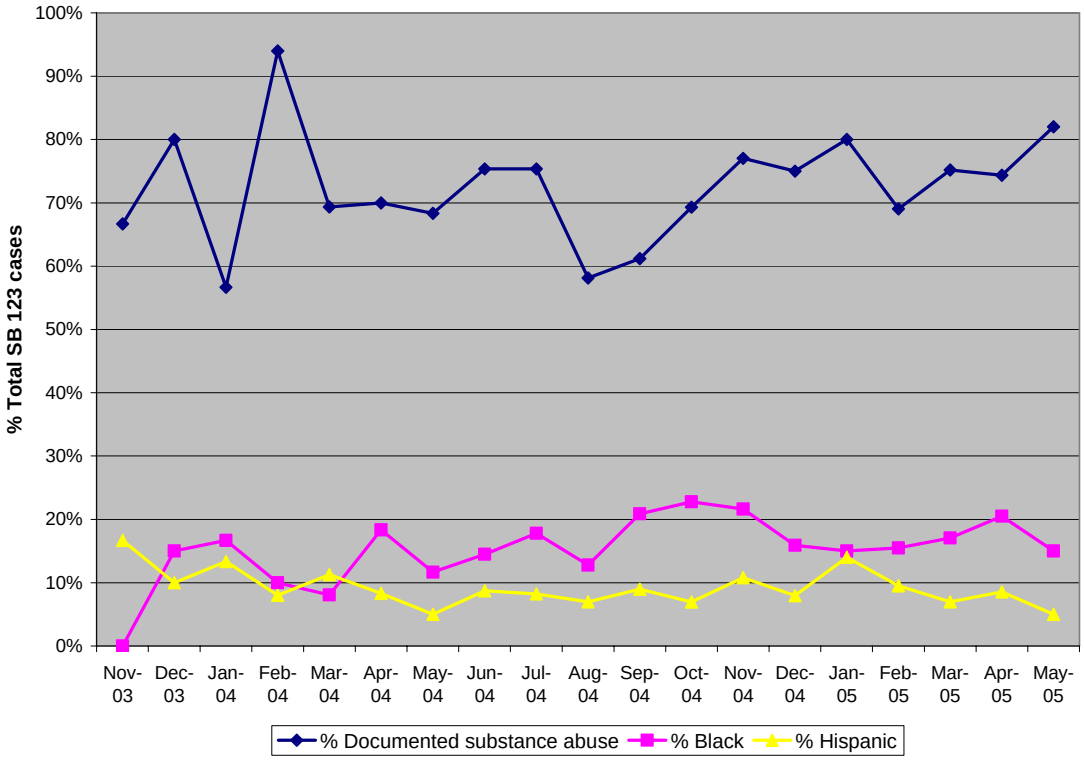
* Based on single race counts
** Based on KSC FY 2004 estimates (individual offenders).

As Figure 1-9 suggests, the number of black and Hispanic offenders sentenced under SB 123 remained relatively stable during the study period. About 15 percent of the cases sentenced through May 2005 involved black defendants and 5 percent involved Hispanic defendants. While these figures are too small to generate reliable estimates, both subsets of the SB 123 population tend to be concentrated in specific geographic areas. Roughly one-third of the Hispanic offenders had addresses in just three zip codes in the state; similarly, one-third of black offenders had addresses in just six zip codes.

Figure 1-9 also includes data on the percentage of SB 123 offenders with a documented history of substance abuse.[9] Overall, 73 percent of the offenders sentenced under SB 123 had a history of substance abuse; the proportion of offenders with such a history increased throughout the study period. During the first three months of program operation, roughly 69 percent of offenders had a history of substance abuse; conversely, over 82 percent of offenders sentenced under SB 123 in May 2005 had a documented substance abuse history. In addition, during the study period, 2.5 percent of the SB 123 offenders reported a dual diagnosis of mental illness and substance abuse.

[9] Files contained a substantial number of missing information on substance abuse history; roughly 19 percent of the cases contained no such information. Figures on documented substance abuse employed in this report are based on the total number of valid cases.

Figure 1-9. Demographics and Substance Abuse History for SB 123 Offenders November 2003 – May 2005



SB 123 Across Counties

While a state-wide program, SB 123 naturally impacts each county differently. Figure 1-10 shows the geographic distribution of SB 123 offenders, community corrections offices, and drug treatment providers across the state.[10] Boundaries represent census block groups and county divisions. Consistent with the distribution of the general population, most of the SB 123 offenders reside in the Eastern part of the state. The highest concentration of SB 123 offenders appears to be in Wichita, which also exhibits a significant number of service providers. Overall, service providers are located near community corrections agencies and clusters of potential clients. Smaller cities such as Topeka and Salina have a lower number of offenders and, perhaps more importantly, a relatively lower number of service providers (especially in Salina). Figure 1-11 focuses

[10] The information on the addresses of the SB 123 clients was geocoded using a standard software package allowing for the plotting of coordinate pairs in map templates. In several occasions the available data was transformed in order to correct the spelling of street names, street types and zip codes. The addresses of service providers were referenced using a list provided by the Kansas Sentencing Commission (N=158). Maps also included the location for the main office of community corrections agencies by judicial district. Using ArcGIS we were able to successfully identify 96.8 percent of the total number of addresses for SB 123 offenders, providers and community corrections agencies. Most of the unidentifiable records (3.2 percent) corresponded to incomplete case/offender data.

on the distribution of offenders, agencies and service providers in the four main urban areas in Kansas.

Figure 1-10. Distribution of SB 123 Offender, Service Providers, and Community Corrections Offices

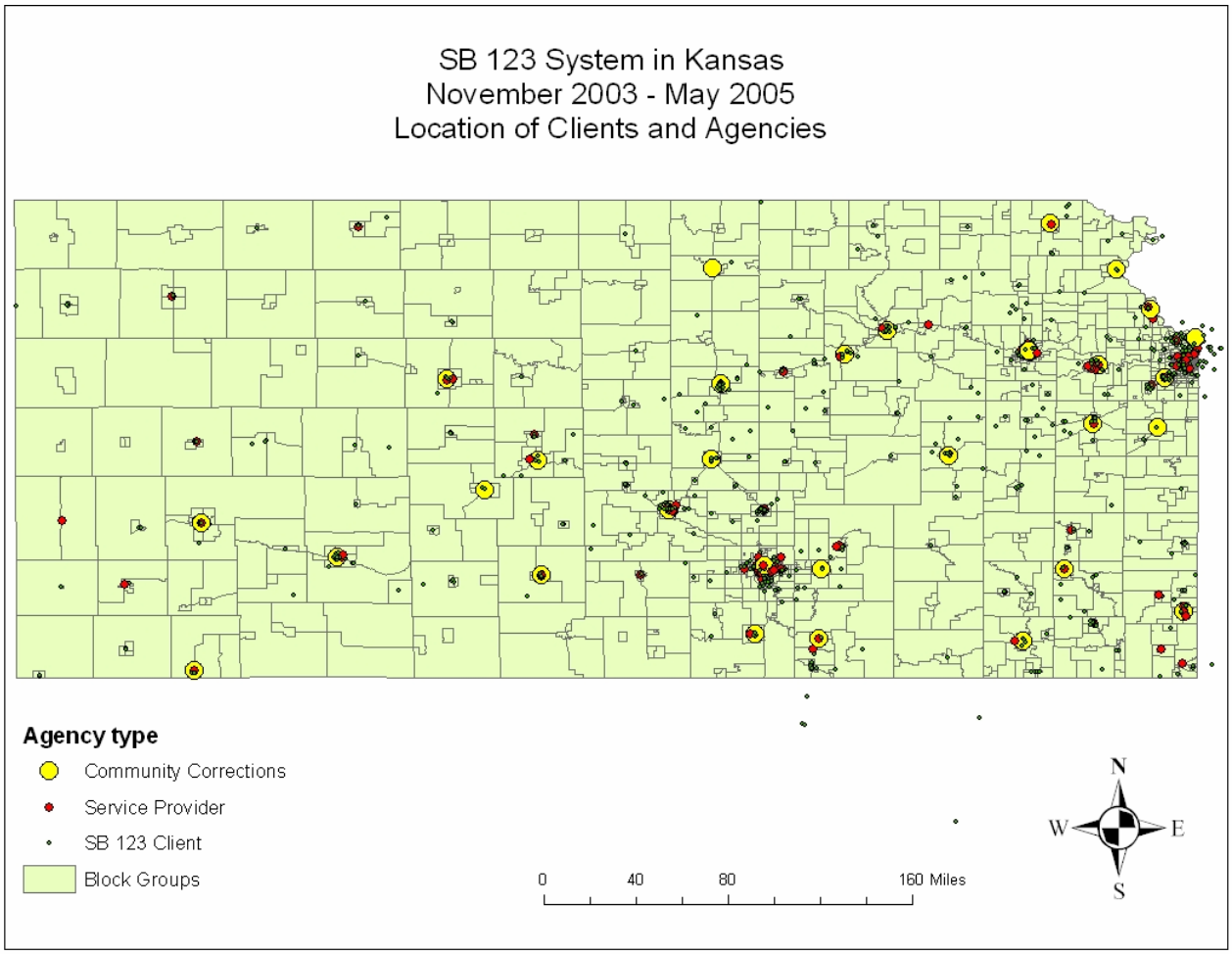
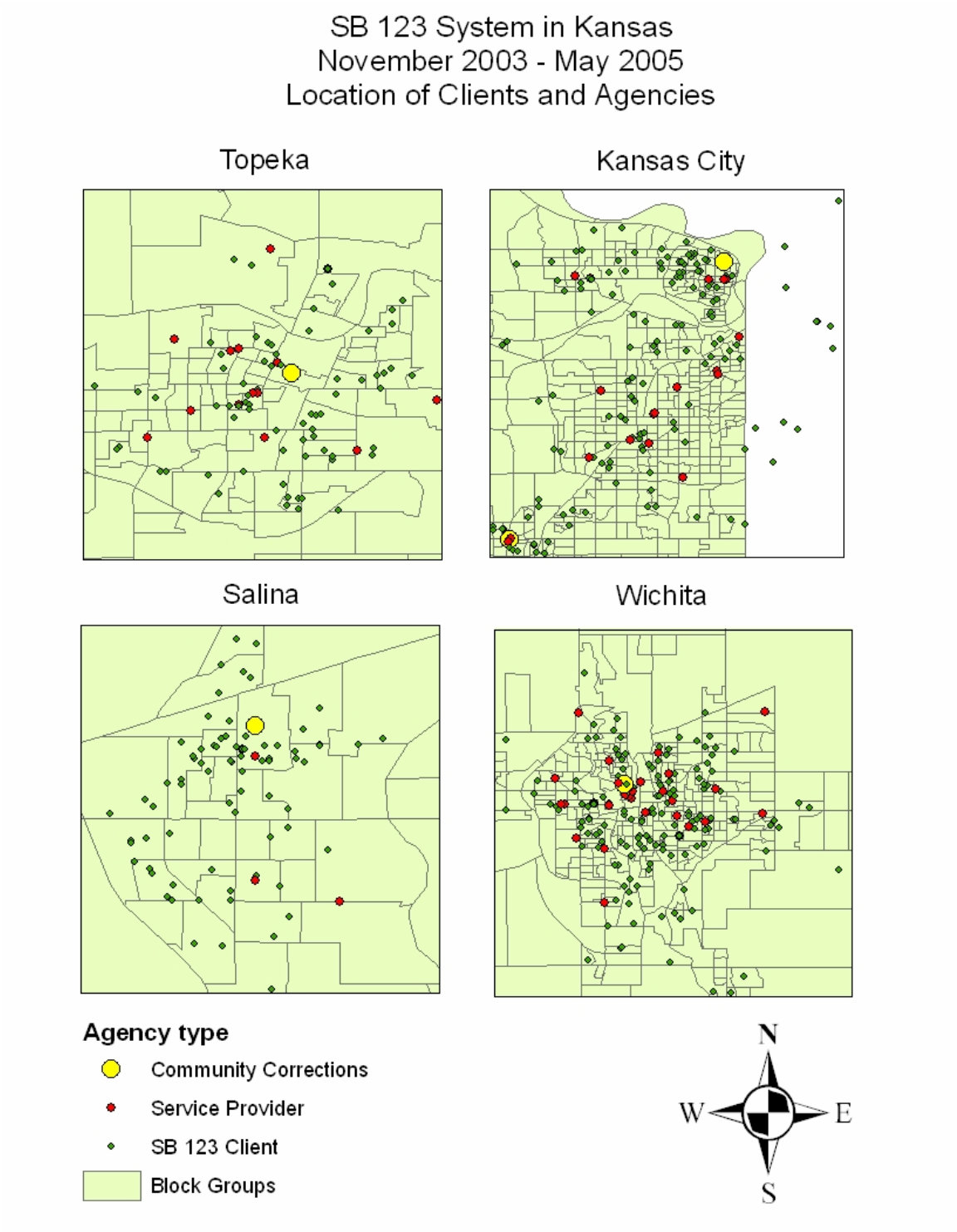
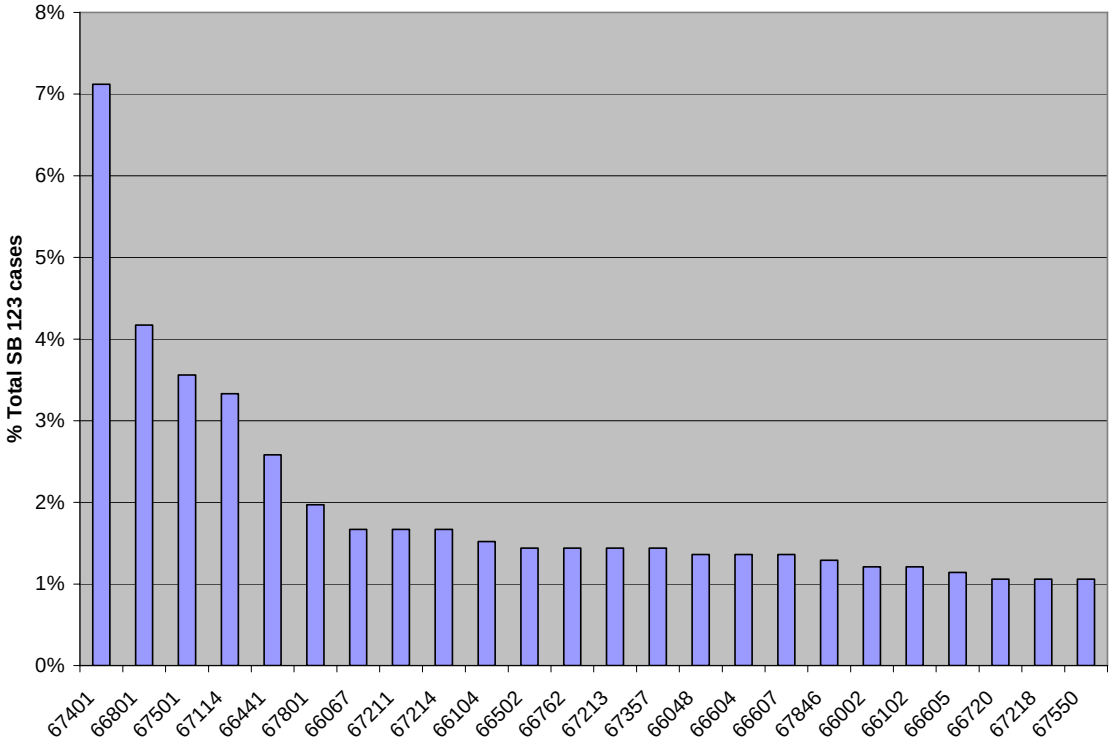


Figure 1-11. Distribution of SB 123 Offender, Service Providers, and Community Corrections Offices: Topeka, Kansas City, Salina, Wichita.



There were 1,320 SB 123 cases processed during the study period for which there was a valid zip code. While cases are distributed across 300 different zip codes, about 50 percent of the SB 123 offenders were localized in 24 zip codes (see Figure 1-12); 25 percent of offenders resided in just seven zip codes. The zip code with the highest concentration of SB 123 cases was located in Salina (7.1 percent of all offenders).[11] SB 123 offenders residing out of the state of Kansas represented about 2 percent of the valid addresses; most of these cases were in Missouri (21) and Oklahoma (5).

Figure 1-12. Distribution of SB 123 Cases by Zip Code of the Offender



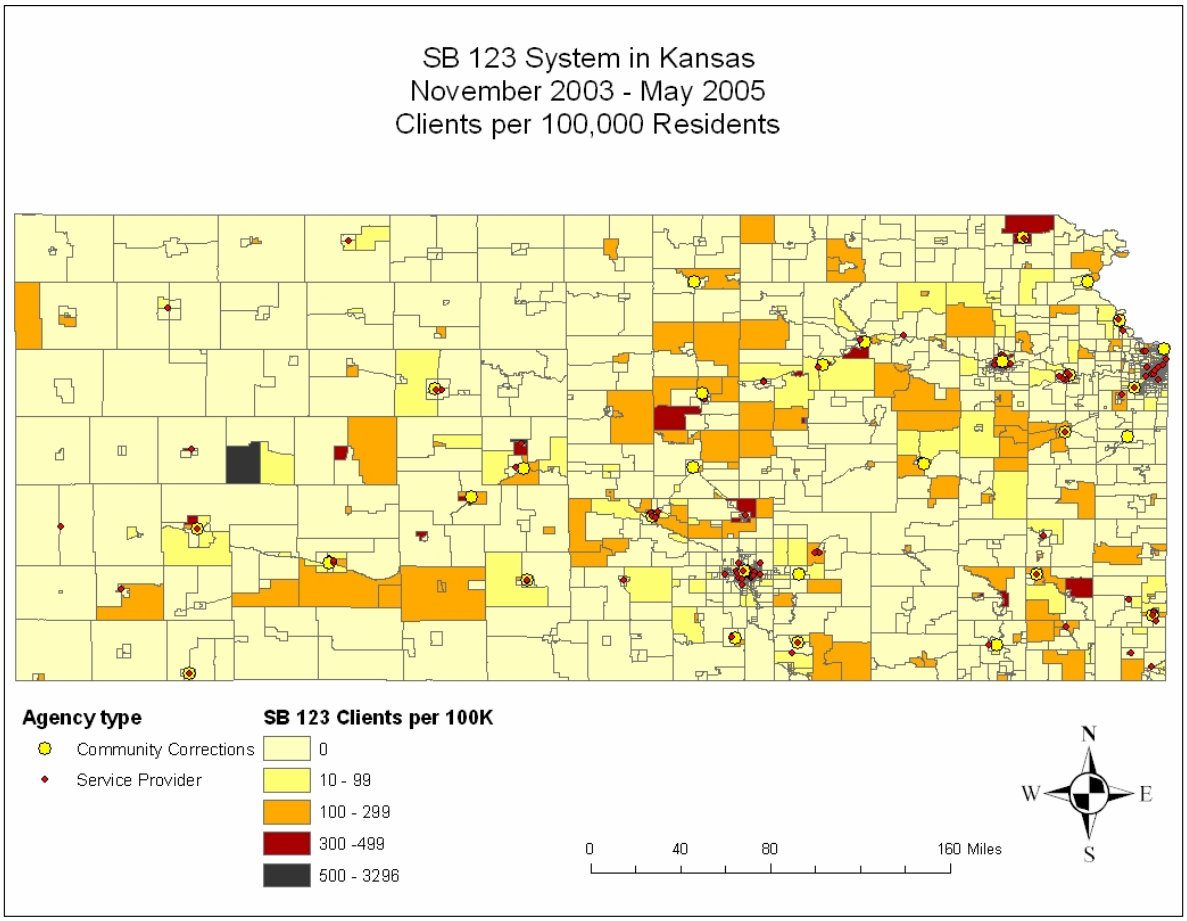
Note: These 24 zip codes represent 48 percent of all SB 123 cases. The remaining zip codes each have less than 1 percent of the total SB 123 cases.

Overall, there were roughly 50 SB 123 cases per 100,000 residents in Kansas during the study period. But, as mentioned above, 50 percent of SB 123 cases fall within just 24 zip code areas. Estimates of the rate of SB 123 offenders per population are significantly different when contrasting rates across geographical areas. Figure 1-13 depicts the rates of SB 123 offenders per 100,000 residents using census block boundaries. Most of the

[11] When studying the spatial distribution of cases using zip codes it may be the case that rural areas would be portrayed as having a higher number of occurrences. This is due to the fact that these areas tend to cover larger sections (but they also tend to have a lower concentration of residents)

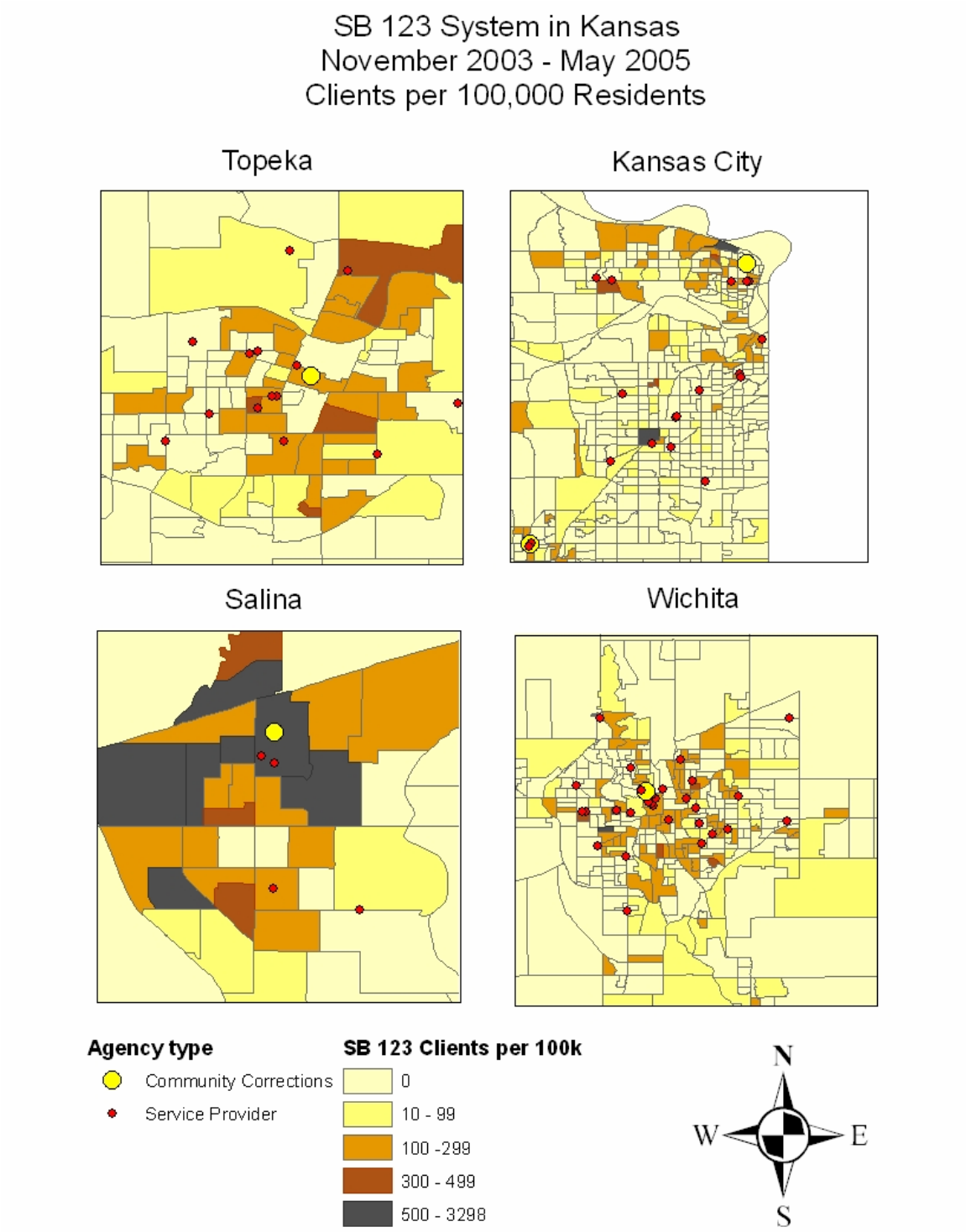
block groups with a high incidence rate are located in the Eastern part of the state, near main urban centers. It is important to note that a spatial analysis using rates may be misleading due to the difference in population levels across census blocks. For instance, the highest scoring census block on the Western part of the state reported only 3 SB 123 cases; however, due to the fact that the population of this area as indicated by the U.S. Census is 580 residents, the corresponding incidence rate is extraordinarily high (517 SB 123 cases per 100,000 residents).

Figure 1-13. Rates of SB 123 Offenders per 100,000 Residents by Census Track



As Figure 1-14 indicates, when examining the four main urban areas in the state, differences across census blocks tend to be less critical for the calculation of rates. While in the less-densely populated city of Salina, rates of SB 123 cases per 100,000 residents seem high in some Census tracks, more populated areas such as Wichita and Kansas City show a different pattern, despite the fact that these two cities have a higher absolute number of SB 123 cases. Yet, as this series of figures indicates, SB 123 offenders and service providers remain highly concentrated in the state.

Figure 1-14. Rates of SB 123 Offenders per 100,000 Residents by Census Track



Community Corrections Officers and Counselors Perceptions of SB 123 Offenders

The perceptions of community corrections officers and drug treatment counselors are important to the proper functioning of SB 123 in the state. The experiences of these groups can highlight a number of potential problems with the implementation and process of SB 123 across the state – problems, perhaps, not evident when examining administrative data alone. When asked about SB 123 offenders and sentences, community corrections officers and counselors noted problems due to three primary factors: a flawed definition of "eligible" offenders under SB 123, a perceived lack of understanding of the program by judges and prosecutors, and the lack of availability of drug treatment in some parts of the state.

As noted above, while the proportion of SB 123 offenders with substance abuse problems increased throughout the study period, after 18 months of program operation community corrections officers and drug treatment counselors maintained that many offenders without current substance abuse problems were, nonetheless, being sentenced to SB 123. As a result, officers and counselors generally thought about their caseloads as split between two different types of SB 123 offenders – offenders with true substance abuse problems and offenders who pleaded down to drug possession for sentencing under SB 123. This perception of many offenders pleading down to possession and, therefore, receiving a sentence to SB 123 was common across groups of officers and counselors and across the state. Officers and counselors argued that the primary reasons for this occurring were a combination of a flawed definition of "eligible" offenders under SB 123 and a lack of understanding of the program by judges and prosecutors.

By defining eligibility for sentencing under SB 123 primarily in terms of the offense of conviction, many offenders may be sentenced under the provision without actually having committed a possession offense. The primary problem noted by both officers and counselors was one of offenders initially charged with sale or possession with intent and then pleading down to simple possession, thereby making them eligible for sentencing under SB 123. While it was not possible to confirm this with the administrative data available, the nearly universal perception by officers and counselors indicates that the problem may be occurring with some regularity. Officers believed that this problem could be avoided if offenders were deemed ineligible for sentencing under SB 123 if originally charged with sale, possession with intent, or manufacture.

Officers and counselors believed that these eligibility problems were compounded by problems of judicial interpretation of SB 123. Officers argued that judges were interpreting SB 123 differently across the state, particularly in terms of offenses and prior criminal history eligible for sentencing under the provision. For example, one officer argued that in his county judges placed all offenders who agreed to the conditions of SB 123 in the program, regardless of the charge, conviction offense, or prior criminal history. Another officer maintained that this occurred in his county only in the early months after SB 123 implementation (e.g. with judges sentencing offenders convicted of possession

with intent to sell to the program), but had since changed. Other officers noted that judges often made a "special consideration" for many ineligible offenders and sentenced them to SB 123, even if the offender was not convicted of a qualifying offense or had a disqualifying criminal history. This perception appears to be confirmed by the administrative data; as noted above, a significant number of offenders with disqualifying criminal histories are, nonetheless, receiving SB 123 sentences.

As a result of this perceived problem, officers and counselors felt that judges had great discretion over entry into SB 123. Officers generally agreed that SB 123 was being abused and being used for offenders who were not amenable to treatment; they generally agreed that SB 123 was not always being used for otherwise prison-bound offenders. A common theme throughout the discussions with community corrections officers and counselors was, thus, a need to educate judges and prosecutors on the eligibility requirements for SB 123 and the substance of drug treatment programs. As officers argued, all community corrections officers and counselors were required to receive training on SB 123; however, there was a perception among officers and counselors that judges and prosecutors received no such training. Additional research may be needed to determine the level of familiarity with and knowledge of the eligibility rules for SB 123 among judges and prosecutors in the state.

Officers from several counties also noted a slightly different problem – that all offenders convicted of any drug offense were being sent to community corrections for an assessment; officers maintained that judges and court services were then relying on community corrections to determine those offenders not eligible for SB 123. As a result of numerous referrals for non-qualifying offenders, community corrections officials noted that, in many instances, community corrections districts were having to do and pay for assessments that should not be done for ineligible offenders. In one county, the community corrections director had instructed his staff to send letters to the judges noting the ineligibility of such offenders and asking the judge if he or she still wished to have the assessment performed. In contrast, in some jurisdictions, officers liked the pre-sentence assessment for all offenders, arguing that community corrections *should* ultimately determine entry into SB 123. Officers noted the ability of community corrections to either weed out ineligible offenders or non-users, for those pleading down to possession. Counselors similarly noted that, while many offenders may plead down to possession to gain an SB 123 sentence, the assessment would divert such offenders from costly drug treatment; as the counselors noted, if the ASI or SASSI assessments produced a low score, counselors could send offenders to Alcoholic's Anonymous, Narcotics Anonymous, or other less costly programs. While both of these approaches may ultimately weed offenders without current substance abuse problems out of costly drug

treatment, it still results in the state unnecessarily paying for some assessments for ineligible offenders.[12]

As the above figures indicate, SB 123 offenders and services also remain fairly concentrated in the state. As a result, many community corrections officers expressed frustration with the low number of SB 123 offenders in their districts, with officers expecting many more SB 123 offenders than they had received during the study period. The concentration of services has also led to frustration among some officers who supervise an increased number of SB 123 offenders from other counties. For example, one officer noted that the majority of his caseload consisted of female offenders from outside his district and that this was because his district housed the only female-specific treatment facility. Other officers noted that a majority of their caseloads were from outside the county as well, but were unclear as to why this might be. These officers were all from the Eastern part of the state; thus, the shift in offenders into their districts may be due to a lack of treatment facilities in the Western part of the state. Because of this lack of treatment in Western counties, many offenders in these counties may have been transferred to community corrections districts in the Eastern counties, where the types of drug treatment are more diversified, the number of facilities is greater, and bed space is more readily available.[13]

[12] See Chapter 3 for a discussion of the assessment process.
[13] See Chapter 3 for a discussion of the availablity of treatment across the state.

Chapter Two: Supervision and Treatment Interventions

As a mandatory drug treatment program, SB 123 potentially calls for a shift in the use of supervision and treatment services in Kansas. Community corrections officers are now asked to supervise offenders who have been sanctioned for the *primary* purpose of receiving drug treatment. This primacy of treatment may lead to a change in the balance of supervision and treatment interventions throughout the community corrections sentence. Further, as the previous chapter indicated, SB 123 cases remain fairly concentrated in the state. Thus, the provision of drug treatment and the use of treatment interventions may be fairly concentrated in the state as well. This section provides information on the treatment and supervision interventions delivered to SB 123 offenders during the study period.

Types and Frequency of Supervision and Treatment Interventions

As noted in the previous chapter, 1,376 cases resulted in SB 123 sentences during the first 18 months of the program. These 1,376 cases received 7,799 interventions by either treatment providers or community corrections officers. Approximately 79 percent of these interventions (6,162) were specific incidents of drug treatment, while the remaining 21 percent of interventions (1,637) were supervision/probation conditions or sanctions such as day reporting, increased supervision, and the imposition of certain community restrictions. The ratio of treatment interventions to supervision interventions – roughly 4 to 1 – remained relatively constant over the study period. Figures 2-1 and 2-2 show the distribution of supervision and treatment interventions for the study period.[14]

[14] The interventions examined here extend beyond the 18-month study period. While cases were selected between the months of November 2003 and May 2005, interventions were reported through August 2005. Some of the supervision interventions include health-related events not covered by SB 123, such as mental health evaluations; thus, mental health services reported in Figure 2-1 are not necessarily connected to the SB 123 treatment program. However, the frequency of these events is extremely low compared to more traditional indicators of supervision. The "Additional Interventions" category in Figure 2-1 includes a wide array of probation interactions ranging from life skills counseling to different levels of sanctions. Assessments represented 26 percent of all treatment interventions examined; as expected, the number of monthly assessment interventions tracks the number of monthly admissions to SB 123, steadily increasing throughout the study period. However, assessments are not included in Figure 2-2.

Figure 2-1
Supervision Interventions (N=1,637)
November 2003 – August 2005

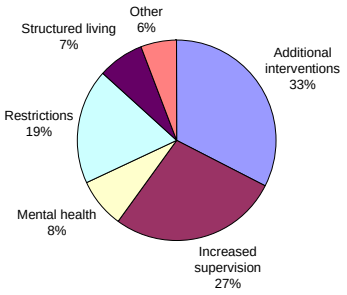
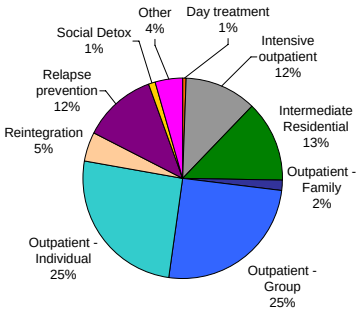


Figure 2-2
Treatment Interventions (N=6,612)
November 2003 – August 2005



As Figure 2-2 indicates, outpatient services represented the majority of treatment interventions employed. While outpatient services represented the majority of treatment interventions used throughout the study period, the distribution of treatment interventions changed throughout the first 18 months of the program. Figures 2-3 and 2-4 show trend data on treatment interventions by modality type (excluding assessments). Overall, general outpatient services (individual/group) represented about 50 percent of all treatment interventions over the entire study period; their share of the total number of treatment interventions was more significant at the early stages of SB 123 implementation (fluctuating between 55 percent and 65 percent of all interventions in the early months of the program) than at the end of the study period (stabilizing at roughly 40 percent of interventions). Figure 2-4 shows the non-outpatient treatment modalities; intermediate residential services tended to stabilize (due probably to a cohort cycle of SB 123 cases) in the middle of the study period, while relapse prevention interventions increased steadily throughout the period as more SB 123 offenders entered and exited other treatment modalities, increasing from 5 percent of interventions in early 2004 to 17 percent by May 2005. Some of these fluctuations were related to cycles in the admissions process and the delivery of services. For instance, it is expected that relapse prevention interventions will not occur during the first months of substance abuse treatment. While the frequency of these interventions would tend to stabilize as more cohorts enter into the program, this pattern is difficult to observe within a new program.

Figure 2-3. Outpatient Modalities as a Percent of Treatment Interventions November 2003 – May 2005

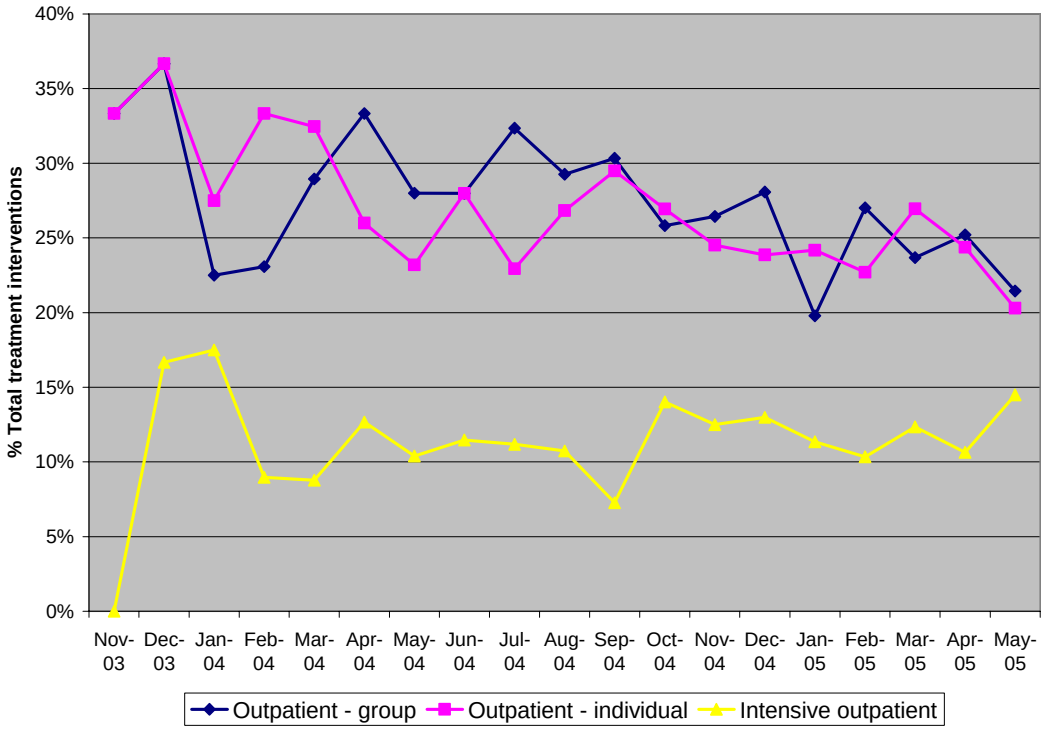
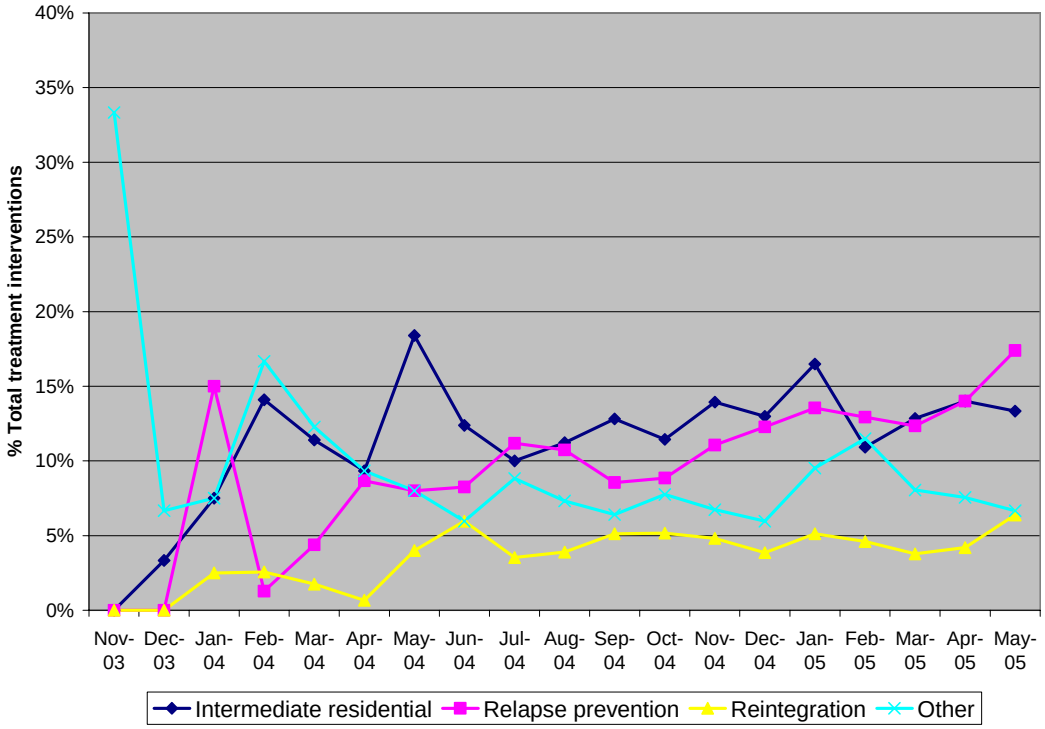
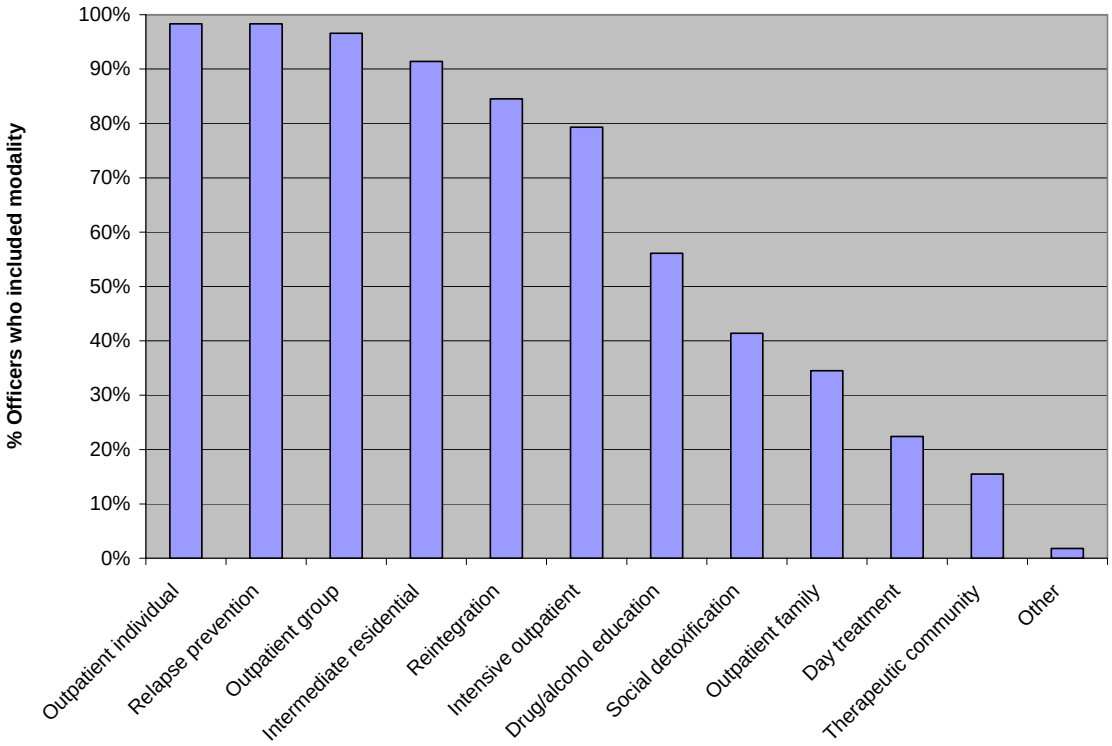


Figure 2-4. Modalities of Continuing Care as a Percent of Treatment Interventions November 2003 – May 2005



The high use of outpatient services over the study period was consistent with community corrections officers' perceptions of the most used treatment interventions. From a list of 12 treatment modalities, community corrections officers were asked to identify those modalities that they had included in their treatment plans for SB 123 offenders. As Figure 2-5 indicates, almost all officers reported the use of outpatient (individual/group) and relapse prevention treatments. Short-term therapies such as social detoxification and day treatment were rarely indicated by respondents as components of their treatment plans. Most respondents reported the use of up to seven different modalities when preparing treatment plans.

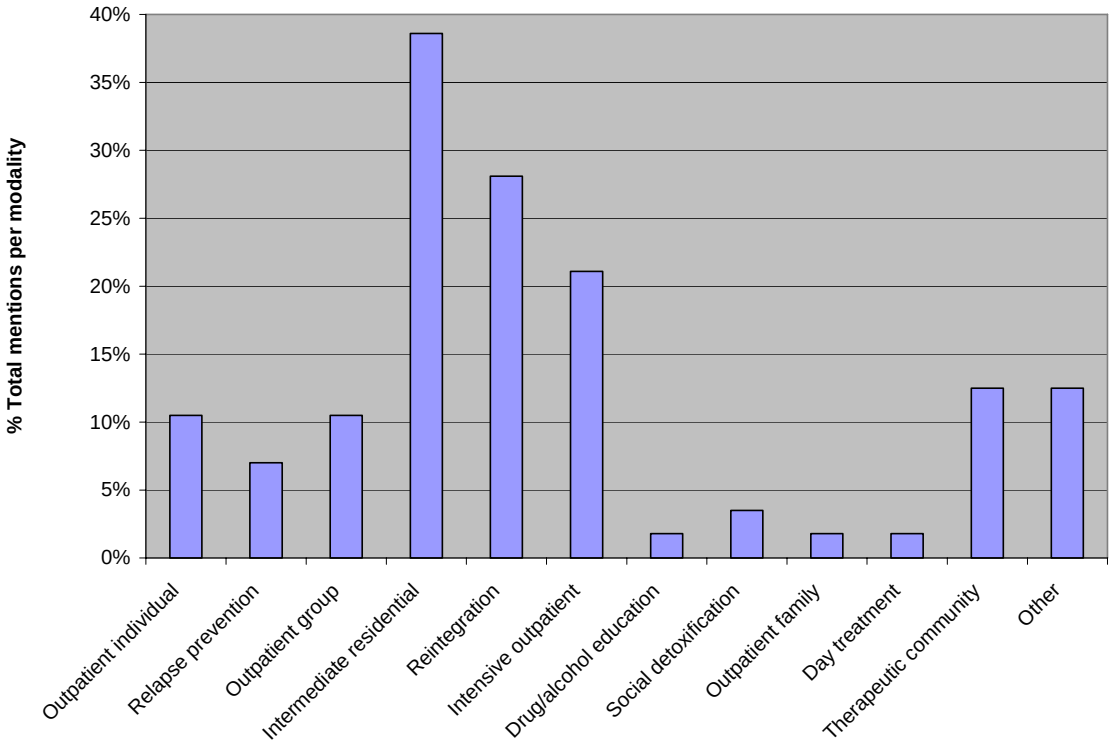
Figure 2-5. Treatment Modalities Included in Treatment Plans, Community Corrections Officer Perceptions



However, community corrections officers' perceptions of the "most successful" treatment modality for treating SB 123 offenders did not match their usage of those modalities. As Figure 2-6 indicates, there exists a significant imbalance between officers' perceptions of the most effective treatment interventions and the actual usage of those treatment interventions. While more than 90 percent of the community corrections officers surveyed included outpatient approaches in their rehabilitation plans, only 10 percent of officers considered this the most effective approach to treating drug abuse; a similar discontinuity is observed for relapse prevention and intensive outpatient services.

This imbalance may be due to the availability of treatment modalities in certain districts or the availability of treatment beds in individual treatment provider agencies. Nonetheless, overall, officers indicated that residential settings (intermediate or re-integration) were the most effective therapeutic environments for SB 123 offenders; and, as Figure 2-3 shows (above), these treatment modalities were employed quite often in treatment plans.

Figure 2-6. Community Corrections Officers' Perceptions of Most Effective Treatment Modality



Drug treatment counselors agreed on the most frequently-employed approaches to treatment, with roughly 90 percent of the respondents indicating that outpatient services (group/individual) and relapse-prevention initiatives were included most often in treatment plans (see Figure 2-7). However, counselors stated a significantly lower reliance on residential settings, such as reintegration and intermediate-residential, than officers (35 percent versus 85 percent). When asked about the use of therapeutic approaches in treatment, counselors stated that they relied heavily on personal skills (96 percent), life skills (95 percent) and spiritual skills (80 percent) training as part of treatment plans (see Figure 2-8).

Figure 2-7. Treatment Modalities Included in Treatment Plans, Treatment Counselor Perceptions

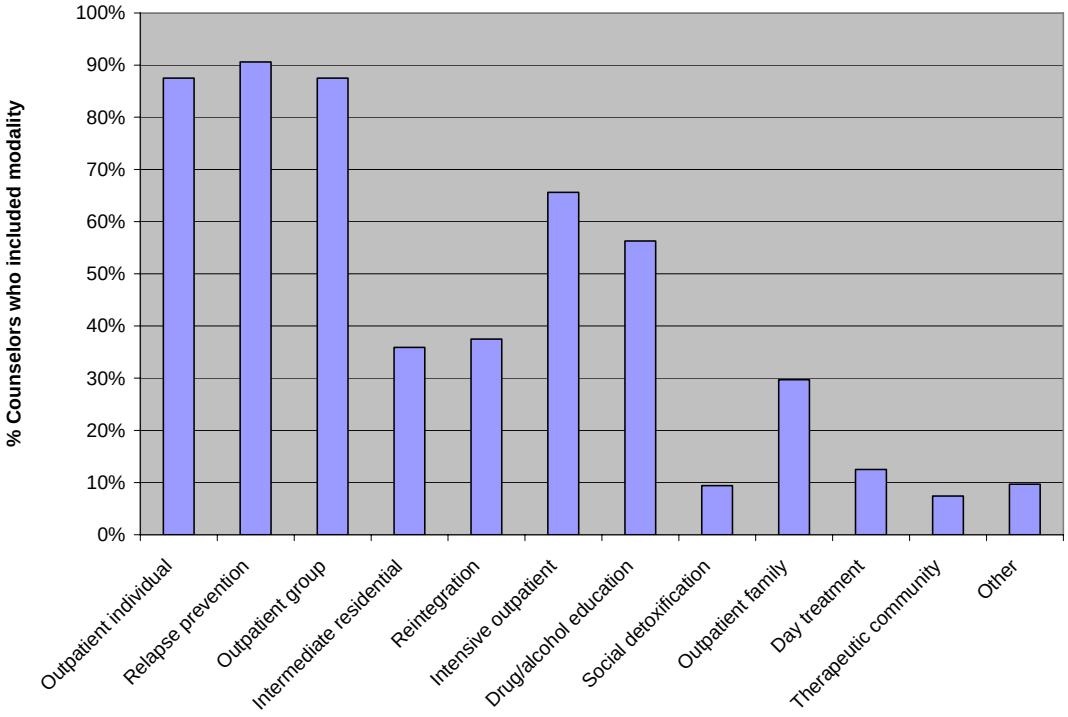
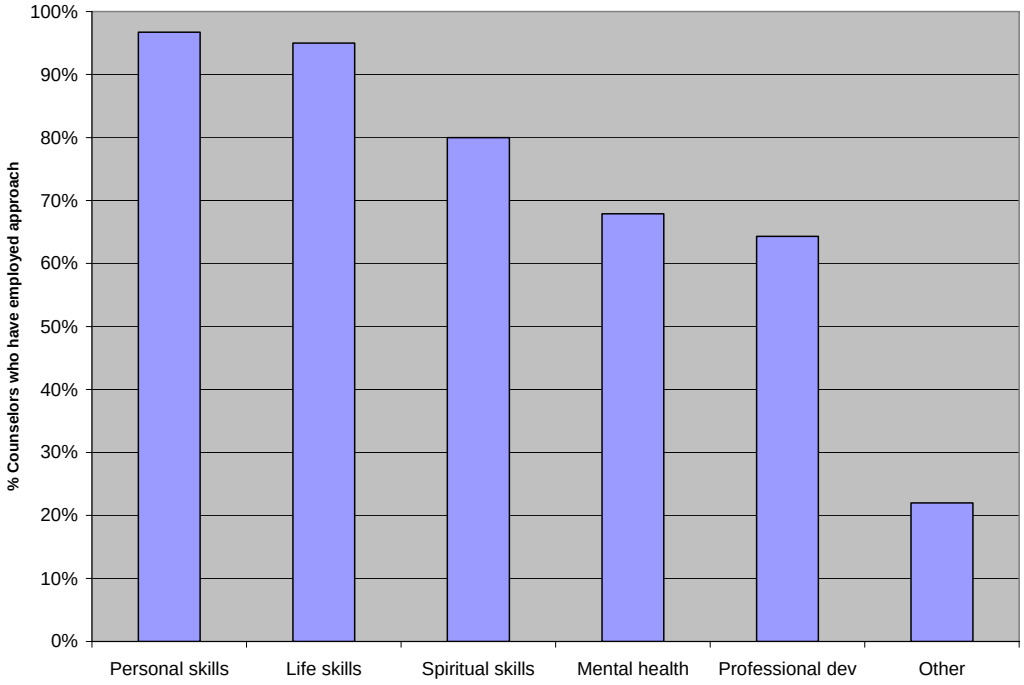


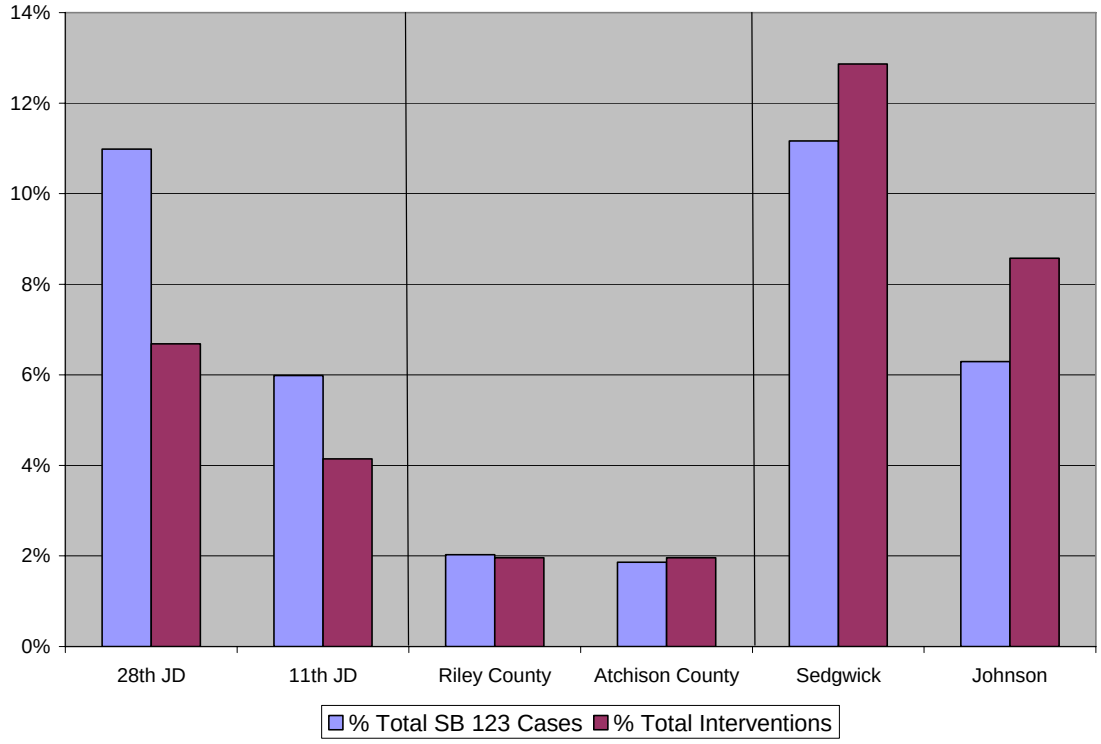
Figure 2-8. Therapeutic Approaches Employed in Drug Treatment



Interventions Across Community Corrections Agencies

While certain modalities of treatment were used universally by most community corrections officers, the number and type of interventions varied significantly across community corrections districts. For instance, it would be expected that agencies with more SB 123 offenders would have a higher number of treatment and supervision events than other agencies with a smaller number of offenders. As mentioned in Chapter One, counties in Kansas differ greatly in the number of processed cases, with 60 percent of sentences imposed in just eight counties.[15] We contrasted the proportion of SB 123 cases monitored by the 31 community corrections districts with their share of the total number of interventions. Figure 2-9 shows a sample of the three main patterns we identified in our analysis. In five districts, there was a disproportionately low number of interventions relative to the district's actual share of the state's SB 123 caseload. In 18 districts, there was a moderate balance of cases and interventions. And, in eight community corrections districts there was a disproportionately high number of interventions relative to the district's actual share of the state's SB 123 caseload. For instance, while Johnson County supervised 6.3 percent of the SB 123 cases in the state, the district employed 8.6 percent of all interventions used in the state.

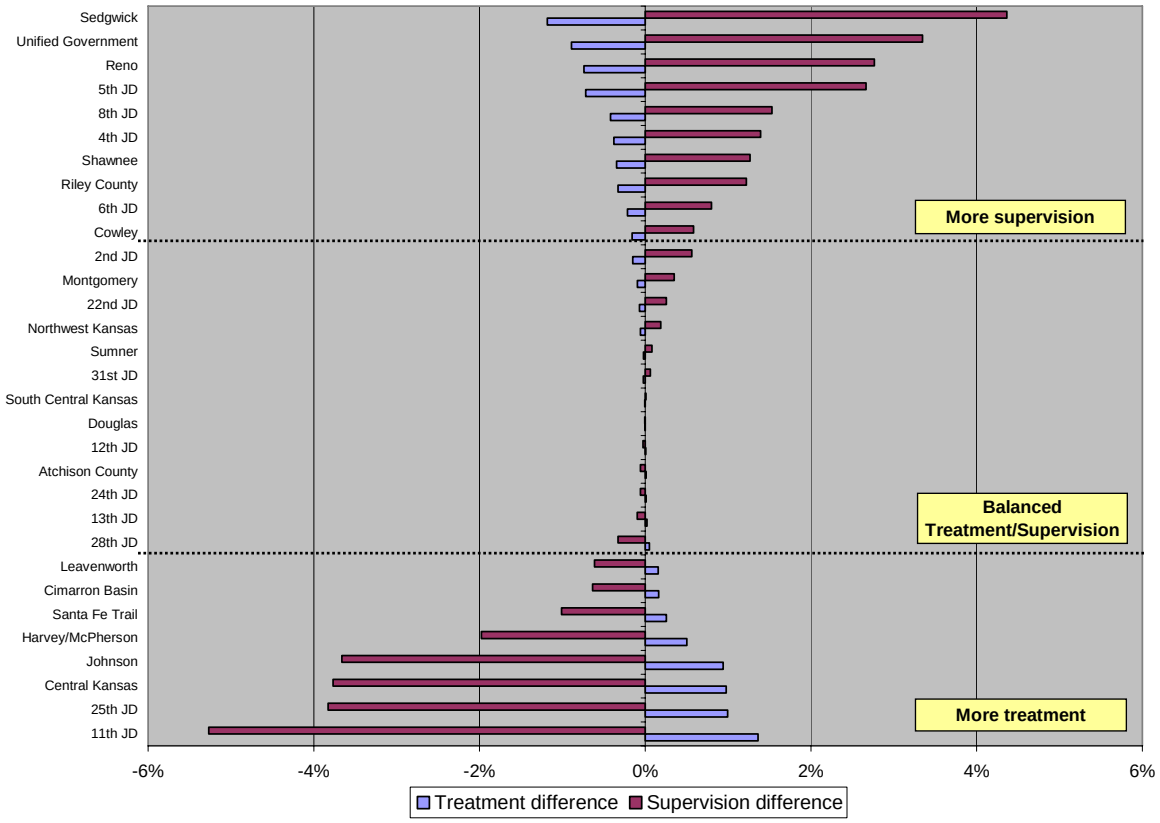
Figure 2-9. Proportion of SB 123 Cases and Interventions (Selected Districts)



[15] The concentration of SB 123 cases is less pronounced than this general assessment, with 52 percent of the total number of cases originating in eight counties. County figures aggregated by community

While the observed disproportions are likely related to differences in the characteristics of the SB 123 population supervised by each district, they may also be related to the use of different approaches used to monitor SB 123 offenders. Some jurisdictions may be limited in the number or type of treatment interventions employed due to the low availability of treatment services; others may emphasize supervision interactions rather than treatment interactions. In order to further understand the relationship between SB 123 caseloads and interventions, we calculated the difference between the proportion of SB 123 cases and the proportion of both supervision interventions and treatment interventions in each community corrections district – a greater difference between a district's share of SB 123 cases and its share of supervision interventions would indicate a greater emphasis on supervision in the district; a greater difference between a district's share of SB 123 cases and its share of treatment interventions would indicate greater emphasis on treatment. Figure 2-10 shows the results of this analysis for each intervention type (treatment and supervision).

Figure 2-10. Difference in Proportion of SB 123 Cases and Interventions



corrections agency reveal smaller concentration effects with 50 percent of SB 123 clients being monitored by seven agencies (out of 31).

While the disparities between caseloads and interventions tend to fall within a small range, there are important trends to note. As Figure 2-10 indicates, for most community corrections districts (18 districts) there appears to be a tradeoff between the relative use of treatment interventions and supervision interventions; those districts in the upper and lower thirds of Figure 2-10 show some imbalance between the use of treatment and supervision. The disparities between caseloads and interventions indicated the clustering of districts into three distinct groups: those that show a disproportionately higher number of supervision interventions (10); those districts that show a disproportionately higher number of treatment interventions (8); and those with a "balanced" number of interventions relative to their SB 123 caseloads (13). As Figure 2-10 indicates, Sedgwick County Community Corrections had a significantly higher number of supervision interventions than otherwise expected given their share of the state's total number of SB 123 cases; conversely, this agency had a lower-than-expected number of treatment interventions using the same weighting procedure. Thus, Sedgwick County appears to rely more heavily on supervision than treatment in dealing with SB 123 offenders. Conversely, the 11th Judicial District had a significantly higher number of treatment interventions and a lower share of supervision interventions given their share of SB 123 cases; thus, the 11th Judicial District appears to rely more heavily on treatment than supervision.

As Figure 2-10 also indicates, it appears that districts in the Eastern part of the state show a higher frequency of supervision interventions than agencies in the Western part of the state. Further, these districts have a significant number of all SB 123 cases in the state (43 percent); in contrast, districts with a greater frequency of treatment interventions have a smaller number of all SB 123 cases (29 percent). Thus, those community corrections districts responsible for the greatest number of SB 123 offenders rely more heavily on supervision interventions than other districts.

However, community corrections officers and counselors in the Western part of the state described a practice that may be masked by some of the imbalance between supervision and treatment interventions – the use of detention to ensure treatment. Officers in many counties stated that they were making use of detention as a way to hold SB 123 offenders while awaiting space in a drug treatment program. Community corrections officers in some counties are authorized by the court to detain offenders for up to 60 days as part of community corrections sentence; officers noted that this helps with SB 123 offenders. For example, officers stated that if an offender needed in-patient treatment but no space was available, the offender was often placed in jail to make sure they stayed clean until an in-patient bed opened. Counselors confirmed this pattern, noting that clients were often sent to jail awaiting a bed in an in-patient program; counselors found this worked well since offenders were then clean before starting treatment. On the whole, counselors generally thought jail was a constructive part of the treatment process. These perceptions were confined to officers and counselors in

Western counties, where particular modalities of treatment are scare and bed space limited. However, as Figure 2-10 indicates, while this pattern may be common, it is not translating into a disproportionate use of supervision interventions by Western districts.

While Figure 2-10 shows significant differences in terms of the relative use of interventions by districts, it is important to complement this analysis with a comparison of the raw number of interventions per case employed across jurisdictions. A comparison of the raw number of interventions per case is not dependant on the overall distribution of events and often portrays a more unambiguous message than the comparisons of relative usage. In terms of this specific project, having a comparison of both the relative and raw usage of interventions across jurisdictions allows a more comprehensive description of program implementation patterns. Overall, the average number of treatment interventions per SB 123 case throughout the study period was 4.5 interventions; in contrast, the average number of supervision interventions was 1.2. Results by community corrections district are presented in Figures 2-11 and 2-12.[16]

As Figure 2-11 indicates, there is a great deal of inter-district variation in the number of treatment interventions per case, ranging from less than three interventions per case in Sumner County, the 22nd Judicial District and Johnson County to more than seven interventions per case in Douglas County and the 23rd Judicial District. Variations are even higher when examining averages for supervision interventions (Figure 2-12), ranging from just 2.3 interventions per case in the Sumner County, Reno County, and 6th Judicial District to over 4 interventions per case in the Central Kansas district. Overall, the analysis of the number of interventions per case provides mixed support for the trade-off pattern between supervision and treatment interventions suggested by Figure 2-10. In some instances, community corrections districts showing a balanced pattern of interventions and cases (as indicated in Figure 2-10) also show a pattern of average interventions per case (e.g. the 31st Judicial District); in other instances, districts with a balanced pattern of interventions and cases also show patterns of consistent higher-than-average treatment and supervision interventions per case (e.g. Douglas County, the 12th Judicial District, the 28th Judicial District). However, districts who appear to disproportionately enforce supervision or treatment interventions do not report correspondingly higher interventions per case (e.g. Sedgwick County, Unified Government district, the 25th Judicial District).

[16] We counted the number of SB 123 cases sentenced by counties assigned to each community corrections agency during the study period (November 2003 to May 2005). Interventions were tracked for the resulting set of cases until August 2005. Treatment interventions include assessments.

Figure 2-11. Treatment Interventions per Case by Community Corrections Agency

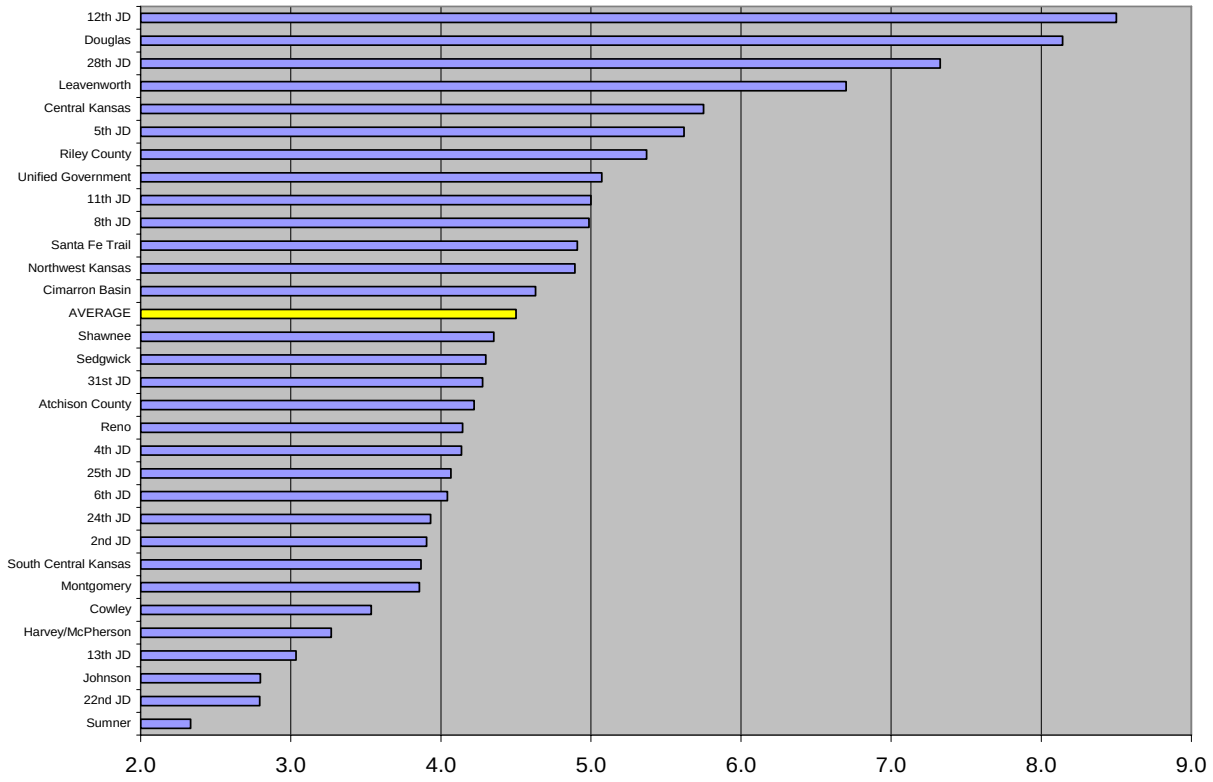
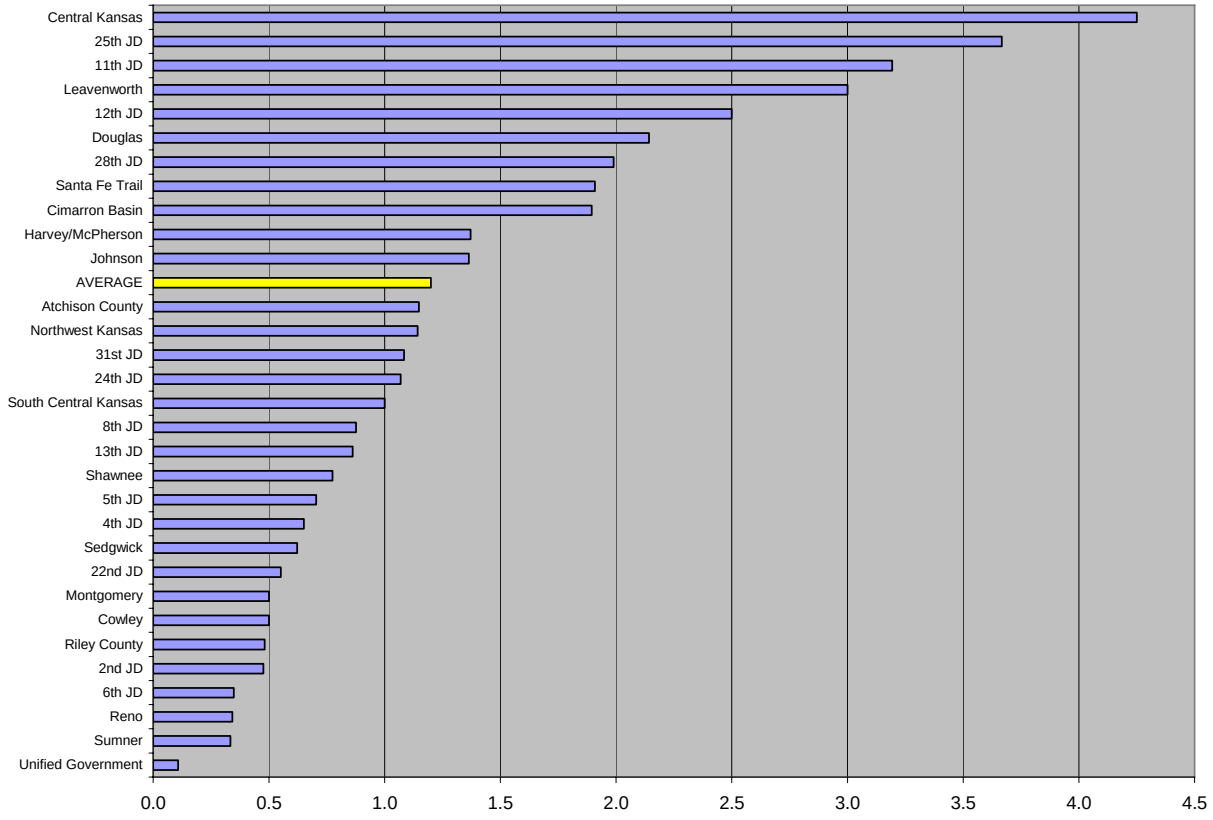


Figure 2-12. Supervision Interventions per Case by Community Corrections Agency



SB 123 Caseloads for Community Corrections Officers and Counselors

Community corrections officers reported an average caseload of 31 cases. As shown by Figure 2-13 the distribution of supervised cases across officers is fairly normal. A different pattern was observed using a more precise formulation of the active cases; most respondents indicated that their SB 123 caseload comprised about 30 percent of their overall number of cases under supervision, with just six respondents indicating that 100 percent of their caseload consisted of SB 123 clients (see Figure 2-14). Officers reported that mixed caseloads were significantly more prevalent than specialized caseloads; 88 percent of officers reported mixed caseloads while just 12 percent of officers maintained specialized SB 123 caseloads. However, this estimation is based on sample statistics and may not be representative of all community corrections officers across the state.

Figure 2-13.
Distribution of General Caseloads

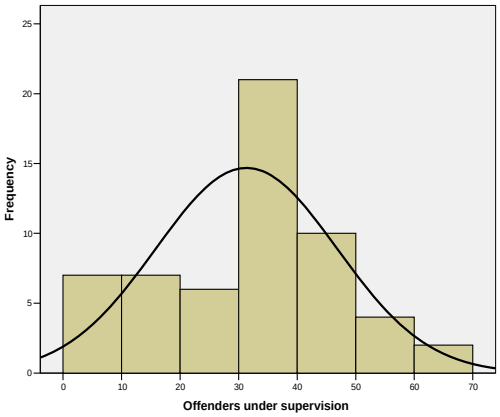
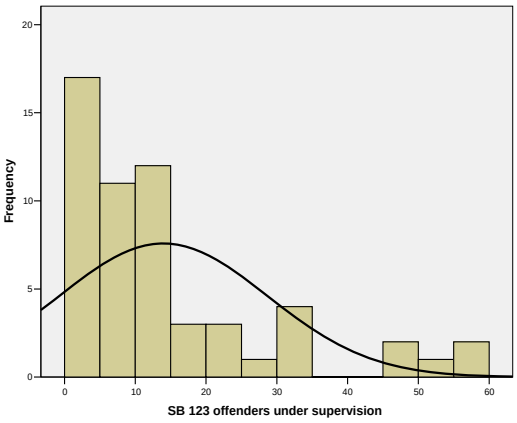


Figure 2-14.
Distribution of SB 123 Caseloads



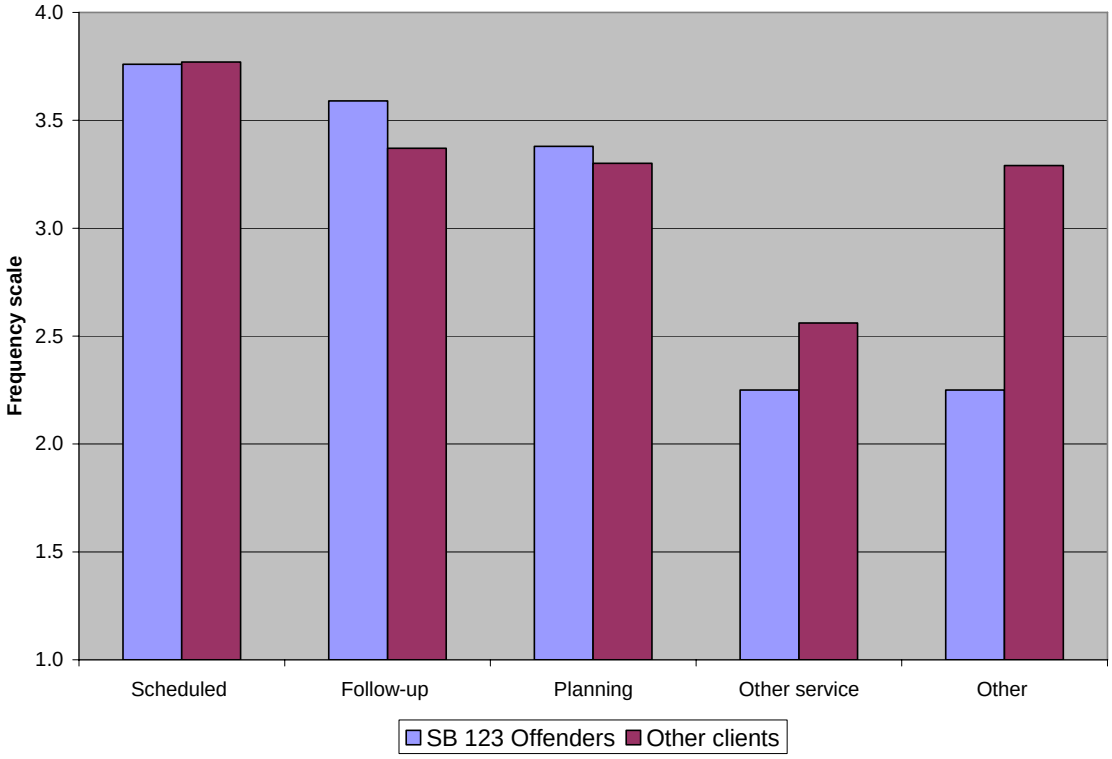
About 79 percent of officers who were employed by community corrections prior to implementation of SB 123 participated in informational meetings about SB 123 prior to its implementation and 84 percent received special training for dealing with SB 123 cases after implementation. Among those who joined community corrections after November 2003, only 54 percent received special SB 123 training. Overall, 80 percent of respondents perceived that training was a helpful tool in the supervision of SB 123 offenders. Thus, while helpful, training does not appear to be continuing for new community corrections officers.

Over 80 percent of officers stated that SB 123 offenders required "somewhat more" or "much more" supervision time than non-SB 123 offenders.[17] Figure 2-15 shows that while differences between offender groups were relatively small, there was a consistent pattern of increased contacts with SB 123 offenders relative to non-SB 123 offenders,

[17] Most community corrections officers (48 percent) indicated that their SB 123 cases required "somewhat more" supervision time and slightly more than one third (34 percent) of the officers reported that SB 123 offenders required "much more" supervision time.

especially in the context of follow-up and planning during the supervision term.[18] The increased number of such contacts is likely expected given the planning requirements of SB 123; it is likely that non-SB 123 offenders get more auxiliary services under "other," such as support groups or family therapy. Yet, while officers reported more contacts with SB 123 offenders around planning and follow-up, the actual median number of meetings with SB 123 offenders was not significantly different from those conducted with other non-SB 123 probationers – roughly 4 meetings per month.[19] However, the majority of officers indicated that SB 123 meetings tended to last slightly longer than meetings with non-SB 123 offenders.

Figure 2-15. Frequency of Officer Meetings for SB 123 and Non-SB 123 Offenders



While SB 123 resulted in longer interactions with SB 123 offenders and placed drug treatment at the forefront of a community corrections sentence for SB 123 offenders, officers indicated that SB 123 had no impact on their daily work routines for other non-SB 123 offenders. Officers were asked if SB 123 altered their interactions with

[18] Our survey instrument allowed us to further examine different components of the type of work conducted by officers when monitoring SB 123 offenders. We asked respondents to rate the frequency of meetings with SB 123 and non-SB 123 offenders in different settings, using a 4-point scale ranging from 1 (never) to 4 (often).

[19] Meetings include informal interactions and phone conversations.

providers, supervision of offenders, or attitudes toward drug treatment for non-SB 123 offenders (see Figures 2-16 to 2-18). The greatest stability was observed in the supervision of offenders, with 75 percent of officers reporting no changes in their supervision approach of general probationers. When slight changes in work routines were noted, a preliminary correlation analysis suggests that those reporting changes in one domain also reported changes in the remaining domains (especially in terms of interactions with providers and offenders). When restricting the analysis to include only officers working for community corrections before the implementation of SB 123 (n=32), a majority of officers changed their interactions with providers (53.1 percent) and changed their view of drug treatment (50 percent) after implementation of SB 123. Finally, while officers generally did not feel SB 123 changed their approach to supervision, it is worth highlighting that a higher proportion of officers think that the goal of SB 123 is to reduce drug abuse (83 percent) than who think safety is the main driving force of this program (52 percent).

Figure 2-16.
Change in Interactions with Service Providers

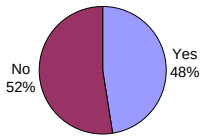


Figure 2-17.
Change in Supervision

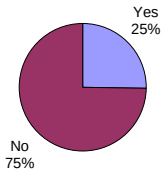
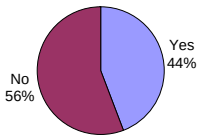


Figure 2-18.
Change in View of Drug Treatment

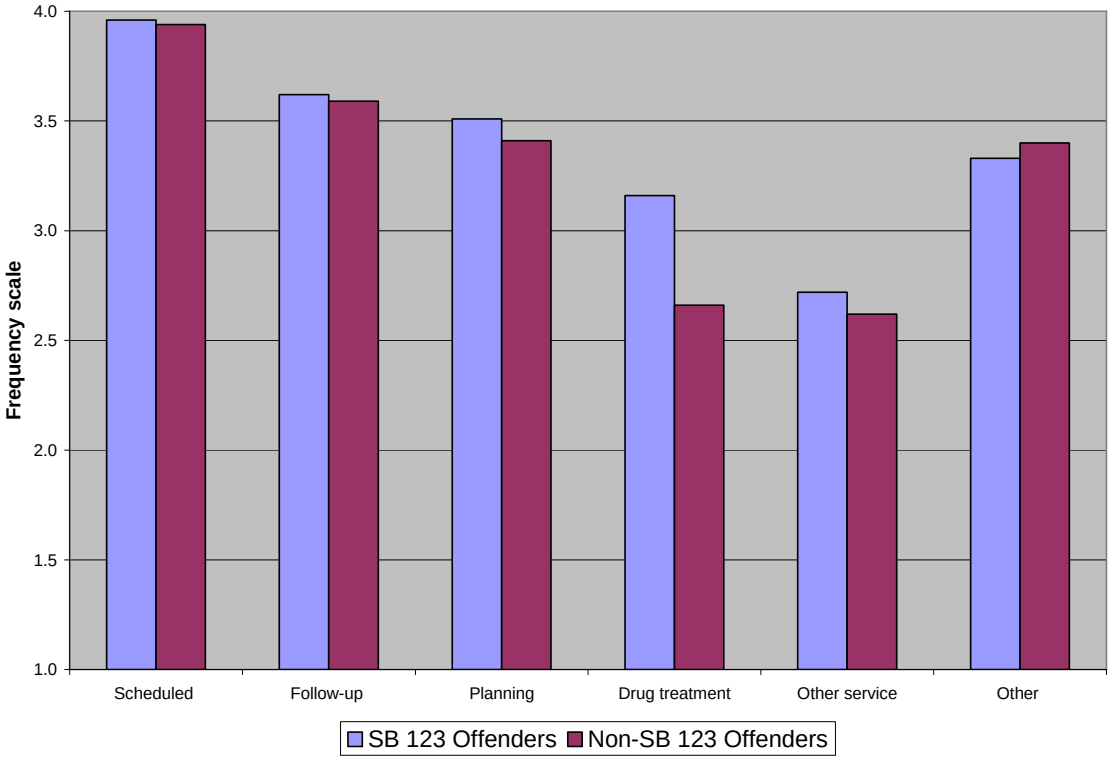


Counselors reported caseloads similar to those of community corrections officers, with a median caseload of 20 cases. The average number of active SB 123 cases per counselor was 3.3. Eleven percent of counselors maintained a specialized caseload consisting only of SB 123 cases; thus, similar to community corrections officers, most counselors have mixed caseloads (89 percent). Compared to community corrections officers, a higher proportion of counselors reported that their specific training was helpful for their work with this offender population – 95 percent of counselors felt training was helpful while 82 percent of officers felt the same way.

While over 80 percent of officers stated SB 123 offenders required more time to supervise than other offenders, just 53 percent of counselors made the same judgment. However, when asked about the frequency of particular contacts with SB 123 offenders and non-SB 123 offenders, counselors consistently stated that they have more contacts with SB 123 offenders. Again, this response tracks the perception of community corrections officers. Figure 2-19 shows that while differences between offender groups were relatively small, there was a consistent pattern of increased contacts with SB 123

offenders relative to non-SB 123 offenders, especially in the context of drug treatment, planning, and other services.[20] As noted above, the increased number of such contacts is likely expected given the planning requirements of SB 123. Yet, while counselors reported more contacts with SB 123 offenders around drug treatment, planning, and other services, the actual median number of meetings with SB 123 offenders was not significantly different from those conducted with other non-SB 123 clients – roughly 3 contacts per month.

Figure 2-19. Frequency of Counselor Meetings for SB 123 and Non-SB 123 Offenders



Given the relatively low volume of SB 123 cases processed by individual counselors (as noted above, 3.3 cases), the majority of providers did not adjust their professional practices due to SB 123 (see Figures 2-20 and 2-21). These results mirror the responses of community corrections officers. While the low impact of SB 123 on officers' perceptions is conditioned by the officers' prior experiences with probationers (e.g. more tenured officers did adjust their practices), the lack of effect of SB 123 on counselors may

[20] Our survey instrument allowed us to further examine different components of the type of work conducted by officers when monitoring SB 123 offenders. We asked respondents to rate the frequency of meetings with SB 123 and non-SB 123 offenders in different settings, using a 4-point scale ranging from 1 (never) to 4 (often).

be related to different circumstances. For example, there is some evidence suggesting that SB 123 did not bring anything new to the treatment sphere – 95 percent of counselors surveyed were already conducting cognitive behavioral therapy with non-SB 123 clients. In addition, counselors reported that the quantity and intensity of meetings were not significantly different for SB 123 and non-SB 123 clients. These factors, combined with a relatively low number of SB 123 cases, likely explain the lack of important changes in work interactions for providers.

Figure 2-20.
Change in Interactions with Supervising Officers

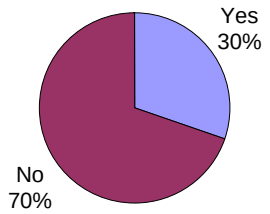
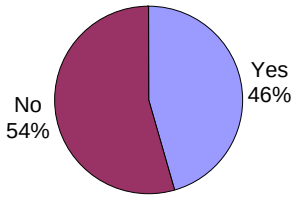


Figure 2-21.
Change in Treatment



Chapter Three: The Delivery of Drug Treatment Services

Examining the variation in the use of treatment and supervision interventions across community corrections districts provides only a partial view of the provision of drug treatment services under SB 123. The legislation purposefully created a new process for delivering drug treatment to offenders in the state and new links between supervision and treatment in the community. Under the legislation, community corrections officers and drug treatment counselors are expected to maintain ongoing, multiple contacts throughout the 18-month treatment period for SB 123 offenders and to coordinate drug treatment services with other conditions of the community corrections sentence. This chapter examines the different stages in the delivery of drug treatment services to SB 123 offenders, the obstacles encountered by community corrections officers and counselors in navigating those stages, and the interactions and inter-agency collaboration between officers and counselors in the delivery of drug treatment under SB 123.

Assessing the Treatment Needs of Offenders

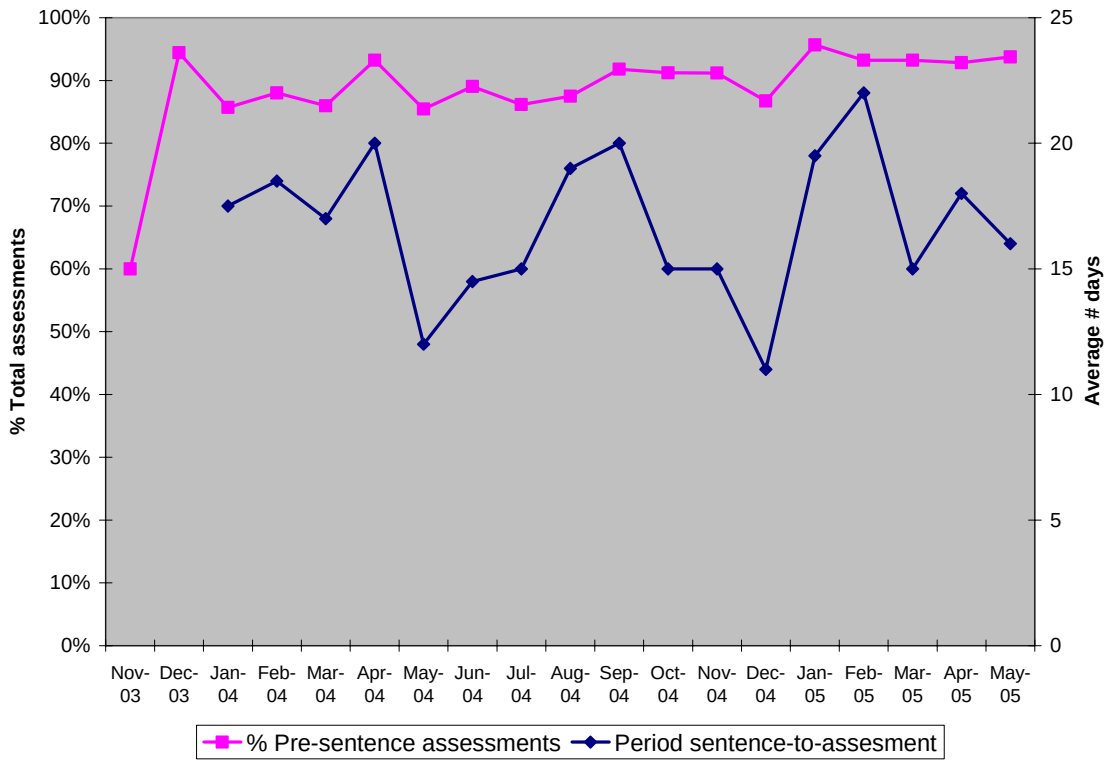
A significant fraction of treatment interventions delivered during the study period consisted of mandatory assessments designed to complement the sentencing process and provide the basis for the treatment plans of SB 123 offenders. As noted in the previous chapter, the number of assessments conducted during the study period paralleled the number of admissions to SB 123, suggesting that the intake process for SB 123 offenders adjusted correctly to the increasing demand for services. We were able to confirm this observation by examining intervention data related to the administration of the initial assessment instrument. Based on 1,276 intervention records, we mapped the proportion of assessments occurring at pre-sentence over time, as well as the average waiting period between assessments and sentencing.

Overall, 90 percent of the assessments for SB 123 offenders were conducted pre-sentence; the average waiting period between assessment and sentencing was 16.7 days. Trend data presented in Figure 2-13 suggests that these figures remained relatively stable throughout the study period. It is important to note that both indicators – percent of assessments conducted pre-sentence and waiting period between assessment and sentencing – remained relatively unchanged while the number of assessments conducted per month increased threefold – from an average of 31 assessments per month during the first five months of program operation to an average of 98 assessments per month during the last five months.[21] Thus, despite the increase in demand for assessments, the timing of assessments and the length of time between assessment and sentencing did not change.

---

[21] In total, the SB 123 cases involved 1,601 assessment records. 1,498 (93.6 percent) were successful assessments and the rest were blank or could not be completed for different reasons (non-compliance or administrative). Data was cleaned for possible data entry errors matching by provider name and date entered.

Figure 3-1. Pre-sentence Assessments and Average Waiting Time to Assessment, November 2003 – May 2005



While the system itself adapted well to the increase in demand for assessments throughout the study period, community corrections officers and drug treatment counselors noted several problems with the assessment procedures. The primary debate among officers and counselors revolved around problems encountered when conducting assessments pre-sentence. These problems fell into three main categories: logistical problems, accuracy problems, and independence problems.

Most officers argued that doing assessments pre-sentence posed logistical problems, noting that it was difficult to arrange assessments for people who were not yet officially under community corrections supervision; officers noted that there was no way to compel people to undergo the assessment pre-sentence.[22] Other officers argued that doing assessment pre-sentence wasted money because many offenders who were ineligible for SB 123 were, nonetheless, assessed. Since the assessments were done prior to the pre-sentence report, community corrections officers stated that they often conducted an assessment of an offender and only found out later that the offender had a prior criminal

[22] Counselors noted similar problems in conducting post-release assessments, arguing that it was impossible to conduct the post-release ASIs as required by statute because of difficulties in tracking down offenders who were no longer under state supervision and, thus, could not be compelled to submit to an assessment. They also noted that it was unclear what the consequences were for not doing a follow-up.

history that made him or her ineligible for SB 123. Officers argued that, as a result, a lot of money was being spent for assessing people who did not qualify for the program.

Counselors noted other logistical problems with the communication of assessment scores between community corrections districts and providers, when the assessment was conducted by one provider and treatment was ultimately provided by another provider. Counselors maintained that, when treatment started, providers often did not have the assessment scores, due largely to the untimely delivery of assessment scores with the offender. According to counselors, other state systems have paperwork, such as assessment scores, travel with the client; so the assessment goes from provider to provider. However, SB 123 requires community corrections to make a referral based on an assessment done by another provider; thus, the assessment goes from provider to community corrections to provider. Counselors maintained that some community corrections districts did not send assessment scores in a timely manner, requiring providers to redo the assessments prior to starting treatment – assessments for which the state will not reimburse. Thus, according to officers and counselors, assessments in many cases were either conducted for offenders who were ultimately ineligible for SB 123 or were conducted by providers but ultimately not used by subsequent providers because of untimely delivery.

Officers generally maintained that these logistical problems led to problems with the accuracy of the pre-sentence assessments. Officers believed that offenders were not entirely truthful at pre-sentence; since the assessment made a recommendation for treatment modality based solely on the offender's self-reported drug use habits, officers believed that offenders were often reluctant to admit drug use, under-reporting usage to avoid greater supervision or more intensive treatment based on a more severe assessment of drug abuse. Further, since the offender was not under the supervision of community corrections, officers argued that the offender could not be compelled to submit to urinalysis (UA); thus, there was no way to determine the type of drug the offender was taking. According to some officers, if the assessment was done post-sentence, community corrections could compel a UA. Finally, officers noted that assessments in general did not capture everything necessary to properly determine the treatment needs of SB 123 offenders; for example, the LSI-R, the assessment tool used pre-sentence, did not capture mental health needs. As a result, some officers noted that they often did not follow the recommendations of the LSI-R; rather, they received the score, but then met with the offenders as often as they thought necessary to determine needs.

As a result of these problems, officers argued that the pre-sentence assessment may not be an accurate indicator of actual drug abuse and treatment needs. Officers further believed that judges did not use the assessments in setting sentences anyway, regardless of the score; rather, officers believed that judges simply sentenced offenders to SB 123 without using the assessment to set conditions of supervision or to set initial treatment modalities. While this sentiment was commonly held across districts, in other counties,

officers stated that they made recommendations at sentencing based on the assessment. Additional research would be required to determine whether initial treatment modality matched the assessment score created at pre-sentencing.

Counselors were more divided in their opinions about assessments conducted pre-sentence. Some counselors agreed with community corrections officers – arguing that assessments conducted pre-sentence were inaccurate because too much time passed between assessment and the beginning of treatment. However, other counselors generally agreed that doing assessments pre-sentence gave judges direction on setting conditions and allowed providers to assist in getting people out of the criminal justice system, allowing for placement directly into treatment after sentencing.

A separate problem with the accuracy of the pre-sentence assessment involved the ability to reassess an offender's treatment needs after sentencing. Officers maintained that there was no override of the assessment score after sentencing; according to officers, if an offender did not seem to match the assessment score once on supervision, there was no formalized mechanism for re-assessing needs in the middle of treatment and no way to change the assessment or request a second assessment. Indeed, since by statute the state will only reimburse for a single assessment at the beginning of treatment and a second at the end of treatment, SB 123 does not allow for a formal assessment in the middle of an SB 123 sentence. Officers noted that there was often a clear need for a re-assessment after initial treatment to see if additional treatment or a change in treatment was necessary.

These accuracy problems are related to a third problem noted by officers and counselors – the independence of the initial assessment. Officers noted that there was no requirement that assessments be independent; thus, officers expressed a worry that some providers would simply assess offenders as needing only the services provided by the assessor; this sentiment was particularly salient in counties with only one or two providers. Counselors expressed similar opinions, noting that the provider doing the original assessment had a great deal of power to determine the modality of treatment. Counselors also noted that the availability of treatment had some impact on the assessment score; a person may be assessed to out-patient because that was all that was available, even if the person needed in-patient treatment. Officers argued that in other instances, outside of SB 123, the state requires independent assessments to prevent assessors from only referring to themselves. Officers argued that a similar arrangement, with one agency that did nothing but SB 123 assessments, would correct this and other problems with the SB 123 assessment process. Such an agency would be objective and would not seek to "feed its own pockets," as officers and counselors argued. Several counselors agreed that the ideal situation would consist of one assessing agency that did nothing but assessments and then referred offenders to other agencies. This would eliminate agencies referring to themselves; however, counselors acknowledged that this

likely would not work in rural parts of the state, where there is often only one assessor and only one or two providers.

Choosing a Drug Treatment Provider

Once an assessment has been completed, community corrections officers must choose a drug treatment provider for an offender. Since officers in most parts of the state have several providers to which offenders may be referred, the criteria used to choose that provider becomes quite important in the delivery of treatment. Officers noted several common factors used in choosing a provider: ability to contact a counselor and maintain good, open communication; a pattern of success with the provider and an investment by the provider in helping offenders; the location of the provider and availability of treatment beds; informal bonds between the officer and a counselor based on past experiences;[23] and the offender's view of the provider. In some districts, officers sit down with offenders and go through the list of available providers, asking the client to choose a provider based on location, transportation considerations, or familiarity with the provider; however, this appeared to occur with only a few officers. Counselors noted that they had no idea how clients were referred to a particular service provider; they hoped that geographical consideration was a factor, but maintained that it was the officer's decision to make.

Officers in the Western, more rural, community corrections districts expressed feeling constrained in their ability to choose a drug treatment provider for an offender. When asked how they choose a drug treatment provider, officers in less populated counties noted that *availability* dictated everything, being more important than quality of the provider or good communication with the provider. As noted in Chapter 1 and articulated by officers and counselors, the availability of treatment varies significantly by county, with some counties having only one or two treatment providers. Officers noted that, given the limited space in such circumstances and the demand for treatment in those counties, the treatment beds were generally always full and difficult to get offenders into. In such cases, offenders either waited long periods to begin the proper treatment modality, underwent a readily available treatment modality that may not have been what their assessment called for, or traveled long distances to access the proper treatment modality in another county. Counselors maintained that availability of treatment for SB 123 offenders was not a large problem, noting that providers often made room for SB 123 offenders because they involved a more reliable payment source; thus, counselors argued that other non-SB 123 clients often were required to wait for treatment spots.

---

[23] Officers stated that knowing which provider to send an offender to depended on informal connections. Officers noted that they had favorite providers which was based on good treatment rather than cronyism. If favorite providers were unavailable, officers often returned to the judge and asked that the offender be sent out of county. For counties with scarce availability, officers relied on informal connections to get people into particular treatment providers.

Officers in Western, rural counties continually referred back to the problem of few treatment providers in their counties and the attendant problems in getting offenders into proper treatment. In most instances, SB 123 offenders in rural counties were required to drive 45 to 60 miles to access treatment, burdening offenders with costly travel expenses and conflicts with work schedules. The lack of additional treatment providers in several Western counties was compounded by the poor quality of some providers; in several instances, officers in these counties recognized the poor quality of the one provider readily available to them, and lamented the fact that they had little choice but to refer offenders to the provider anyway to avoid imposing travel burdens on offenders or transferring offenders to other community corrections districts. Some officers stated that they refused to refer offenders locally because the local provider was of such poor quality and that, therefore, many of their SB 123 offenders were sent out of the county for treatment. Officers in Western counties noted the lack of available treatment or quality treatment as a constant struggle. Indeed, officers generally did not think that offenders were getting the services they needed; only 50 percent of the officers surveyed thought that offenders were getting the treatment they needed. As a result, some community corrections districts are offering additional services, such as physically driving offenders to treatment or having the local sheriff drive offenders to treatment.

The problems of the availability of treatment manifested themselves in other ways as well. Many officers noted that in Western counties, many offenders were Spanish speakers; however, few providers have Spanish speaking counselors. Thus, some Spanish speaking offenders were required to travel long distances to reach available language-accessible treatment. Officers across the state also noted the lack of facilities for offenders with dual-diagnoses and the lack of sufficient numbers of half-way houses; as a result, officers stated that they placed many offenders in in-patient treatment – a much more costly treatment modality – in lieu of a half-way house. Finally, officers noted that the policies of particular providers also affected availability of treatment and frustrated placing offenders in the proper treatment modality; for example, some providers maintain closed group treatment and only admit new clients into the groups at certain times. As a result of these problems, officers often picked providers based solely on available space rather than good treatment, particularly for intermediate beds.

Officers from larger counties noted that these problems were not generally an issue for them. Indeed, in districts with many providers, officers believed that competition among drug treatment providers created better treatment and services and more choices for officers. For example, some providers offer evening treatment or weekend treatment, transportation to treatment, or child care for clients. In contrast, in rural counties with one or few providers, no such competition or services exist; as a result, few options exist for treatment, which is often available only during the day on weekdays. Officers across the state noted a need for more flexible treatment schedules, arguing that providers should be required to provide treatment on the weekends and after normal working hours.

They noted that weekday only hours conflicted with offenders' need for employment and other conditions of probation – conditions or obstacles that officers believed providers often did not understand. While counselors in the Eastern part of the state argued that most good providers offered group treatment sessions in the day and evenings, counselors in the Western part of the state were much less flexible; several counselors in Western counties stated that they refused to provide treatment at night, arguing that is was the offender's responsibility to find a way to attend treatment during the day.

While both officers and counselors recognized the lack of providers in some areas of the state, all respondents also acknowledged the difficulty of getting new providers to enter the market, particularly in rural parts of the state. Officers noted that opening a new treatment facility required a great deal of work, money, paperwork, and training for KDOC certification; several officers noted that their community corrections district offices were assisting providers in getting certified. There appeared to be some confusion in the state over who should take responsibility for recruiting new treatment providers – most officers wanted KDOC to do more marketing to get more treatment providers in the market and KDOC wanted local community corrections offices to take on that task. Regardless of which agency is ultimately tasked with increasing the market, providers stated that the investment necessary to get a license and certification to work with SB 123 offenders was often not worth it. Providers noted that KDOC was making providers go through the entire certification process to open a new location, even if the provider is certified to operate in another location; many providers saw this as burdensome. Rather than trying to get new providers to enter the market or existing providers to open satellite officers, some rural community corrections officers are getting providers from other counties to conduct treatment in community corrections offices, which overcomes the burden on providers of opening new locations. However, officers noted that this was not a long-term solution to the problem of few providers in the market.

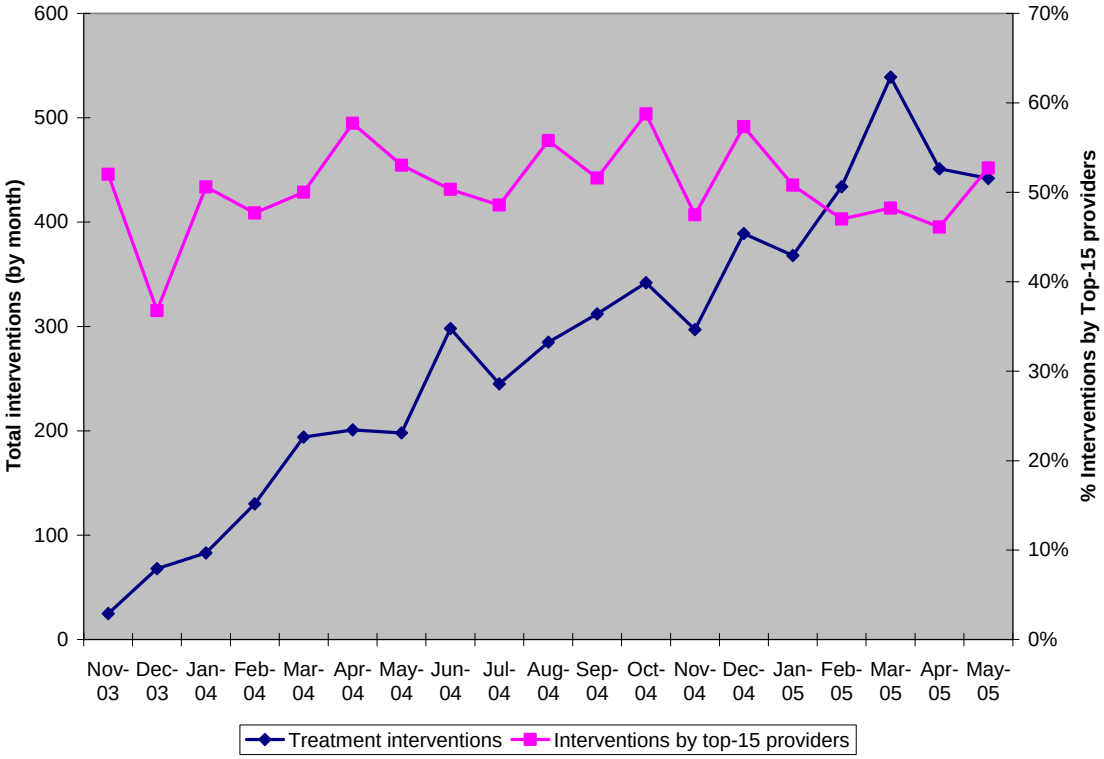
The problems of availability of treatment, difficulties in getting new providers to enter the market, and the perceived lack of quality of treatment in some areas have led to a concentration of treatment in a few providers across the state. A total of 120 drug treatment providers provided services to SB 123 offenders during the study period.[24] Just 15 providers were responsible for approximately 51 percent of all interventions, with one single provider accounting for 17 percent of the total number of interventions.[25] This distribution remained fairly stable over time, despite the increasing number of SB 123 cases and interventions (see Figure 3-2).

---

[24] Here we include agencies in different counties by the same firm as well as community corrections agencies which provide treatment services. About 5 percent of the treatment intervention records are missing (6.2 percent if assessments are not taken into account). They are not counted in the percentages.

[25] This provider has a single office with 12.1 percent of the interventions and several satellite offices accounting for the remaining 5 percent of interventions.

Figure 3-2. Treatment Interventions for Top-15 Providers, November 2003 – May 2005



The types of interventions available appear to be concentrated in just a few service provider agencies, with concentration varying by the specific services to be delivered. Table 3-1 presents some indicators of the concentration of services by treatment modality and service provider. The modalities listed in Table 3-1 represent 97 percent of the 6,162 treatment interventions recorded in the dataset (the remaining three percent of interventions consist of drug education, or therapeutic community). As Table 3-1 indicates, some treatment services are concentrated in just a few service provider agencies. For example, intermediate residential treatment is provided by just 20 service providers in the state; and, 3 of these 20 providers account for more than 50 percent of all such interventions. Intensive outpatient, re-integration, support groups, and social detoxification treatment show similar concentration patters.

Table 3-1. Number of Providers by Modality of Treatment

Treatment modality	Total # interventions	# Providers with <=5% cases	# Providers with <=10% cases	# Providers with 50% interventions	Total # of providers
Assessments	1601	3	0	13	87
Outpatient - individual	1126	3	1	15	84
Outpatient - group	1160	4	0	14	83
Relapse prevention	536	4	1	9	62
Intermediate - residential	587	8	4	3	20
Intensive outpatient	533	5	2	4	48
Re-integration	218	9	1	5	25
Support Groups	128	0	0	1	10
Social detoxification	59	6	3	2	8

Given the concentration of treatment interventions provided by just a few providers, data indicated that offenders were often required to travel outside of their communities to receive treatment services. Of the 1,159 outpatient interventions, over 50 percent were conducted in a zip code different from the residence of the client. Just seven providers delivered services only to offenders living in the same community as the provider; for 41 providers, less than 25 percent of their clients resided in the same community. In more rural areas, the availability of specialized treatment options is reduced by the lack of a significant flow of clients. The number of SB 123 interventions appears to be insufficient in some regions to support the establishment of new providers providing unique services.

Content and Provision of Drug Treatment

In choosing a drug treatment provider, community corrections officers must also approve a specific treatment modality for an offender; the choice of the specific content of treatment is an ongoing process, with officers approving sometimes several different treatment modalities throughout an SB 123 sentence. Officers and counselors agreed that the ultimate decision on treatment modality rested with the drug treatment provider. However, officers across the state differed in their opinions of the level of involvement officers should have in that decision. Several officers noted that providers often tried to engage them in setting the modality of treatment; but these same officers stated that they were reluctant to help and usually deferred to the provider. These officers maintained

that the responsibility of the community corrections officer was to know the legal part of the sentence and to rely on the drug treatment counselor to know the treatment part of the sentence. However, this feeling was not universal; other officers sought a more active role in treatment, wanting to help set the treatment modality. This group of officers sought to approve all treatment, so, according to them, they could set caps on the amount of treatment delivered; officers used common sense notions to set these caps, stating that that "if it sounds like a logical amount of treatment" they would approve, but if it "looks like too much" they would not approve. Despite these differing, officers universally expressed a desire for more education on and definition of the modalities of treatment available. They expressed a desire for greater understanding of treatment so they could ensure that offenders were getting the right treatment and so that they could, in the future, engage in more conversations with providers about treatment provided.

As indicated by their comments, the amount of officers' engagement in drug treatment for SB 123 offenders currently varies considerably across the state. Yet, one goal of SB 123 included creating a "team approach" to treatment by encouraging increased contacts between officers and counselors through monthly "team meetings." Officers in the Eastern part of the state generally agreed that team meetings rarely occurred with treatment providers. In contrast, in Western counties, officers' routinely engaged in monthly "wrap-around meetings" involving the counselor, the SB 123 offender, and, in some instances, the offender's family; these wrap-around meetings were where new modalities of treatment were set. Officers in Western counties also reported routine weekly phone calls with providers; counselors confirmed this level of interaction, noting that they routinely had monthly in-person meetings and weekly phone meetings with officers.

In general, most officers reported an average of 9 meetings per month regarding each SB 123 case. Most of these meetings included only the offender (4) or only the drug treatment counselor (2). As Figure 3-3 indicates, meetings with service providers tended to last longer than those with offenders or any other actor in the system; officers reported spending roughly 20 minutes per meeting with counselors and roughly 15 minutes per meeting with others in the system. However, taking into account both frequency and duration of meetings, most of the officers' work, naturally, involved one-to-one meetings with offenders. Estimates on both duration and frequency of meetings with offenders pre-SB 123 were lower than those reported for SB 123 cases, confirming that the latter group of cases requires "somewhat more work" (as noted in the previous chapter) (see Figures 3-3 and 3-4). The most notable change in officers' interactions involved officer's work with treatment providers; while most respondents reported no meetings or only one meeting per month with counselors prior to SB 123, most of the officers now have an average of three meetings per month in a team environment with counselors. The actual time spent at these meetings has also increased by 15 percent, for meetings with offenders, and by 33 percent, for meetings with providers.

Figure 3-3. Frequency and Duration of Monthly Officer Meetings for SB 123 Cases

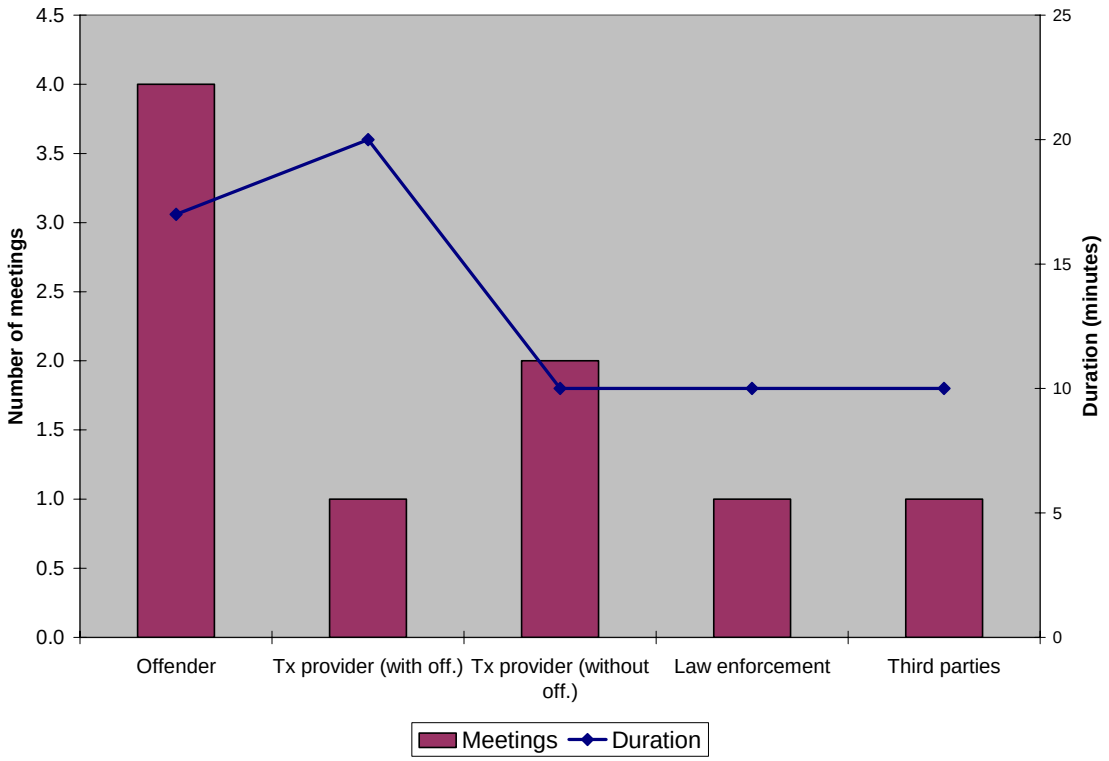
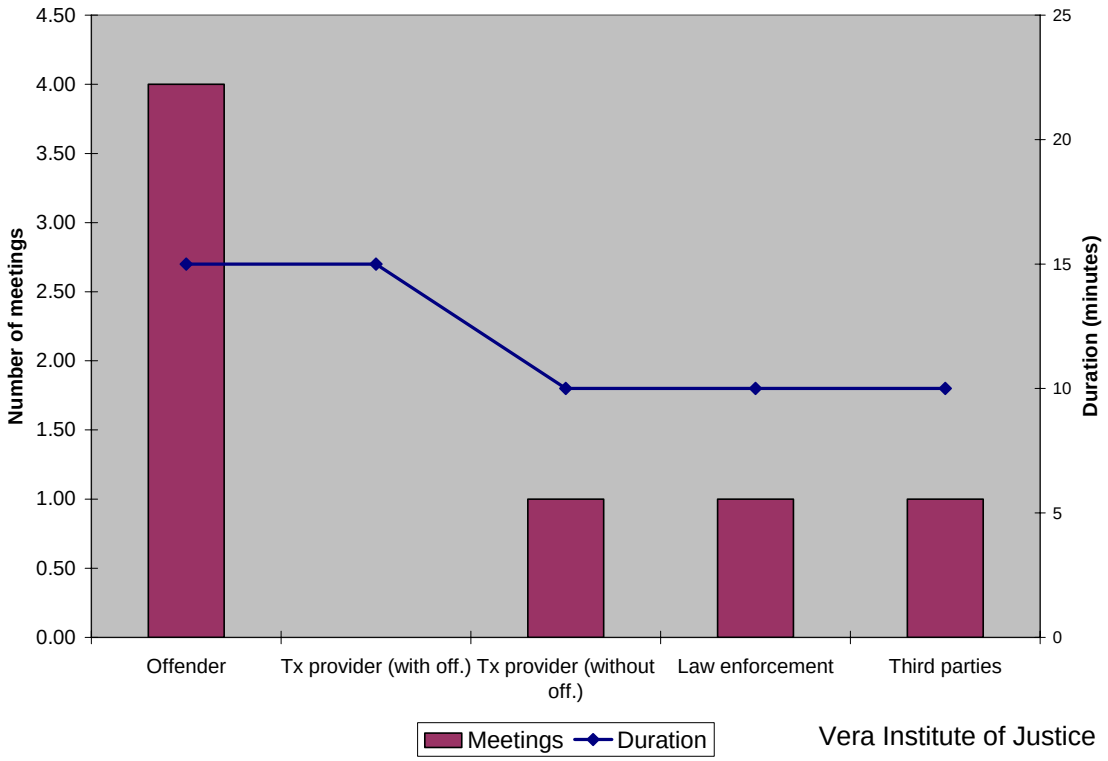


Figure 3-4. Frequency and Duration of Monthly Officer Meetings for Cases Prior to SB 123



Counselors' perceptions of interactions with officers were quite similar to those of officers. Counselors reported an average of 8 meetings per month regarding each SB 123 case. On average, counselors had one weekly meeting per month with each SB 123 offender, with most meetings lasting roughly 60 minutes (see Figure 3-5). Officers and counselors agreed that they meet, on average, 3 times per month; however, officers perceived a slightly higher number of meetings per month (3.16 meetings) than counselors (2.71 meetings). Counselors' estimates of the actual duration of these meetings were consistently higher those of officers – counselors estimated meetings with officers lasted approximately 30 minutes when the offender was present and 20 minutes when the offender was not present, compared to the 20 minute and 10 minute estimate, respectively, of officers.[26]

Counselors also reported a significant change in their interactions with officers after the implementation of SB 123. When comparing estimates of treatment interventions for SB 123 offenders and offenders treated prior to SB 123,[27] most of the services delivered were constant across these two populations (see Figures 3-5 and 3-6). However, most counselors reported a higher number of meetings with officers when working on SB 123 cases – prior to SB 123, counselors met individually with officers roughly 1 time per month concerning offenders sentenced to treatment; in contrast, counselors met with officers individually 2 times per month after implementation of SB 123. In addition, counselors reported that they engaged in longer meetings with officers after SB 123 (roughly 20 minutes per meeting post-SB 123 compared to 15 minutes per meeting pre-SB 123). However, general non-SB 123 treatment cases seem to be exposed to more contact with other service providers and receive additional support interventions (e.g. family counseling, AA/NA) than SB 123 offenders. Thus, both counselors and officers offer consistent accounts for the higher levels of meeting time and absolute number of meetings for SB 123 offenders.

[26] While we believe that differences in perceptions of work interactions are inherent to the roles of officers and counselors, the instability of estimates across surveys may be a feature of our small samples or our low response rates.

[27] The survey specifically instructed counselors to compare their SB 123 population with other clients on supervision of the justice system but not covered by SB 123.

Figure 3-5. Frequency and Duration of Monthly Counselor Meetings for SB 123 Cases

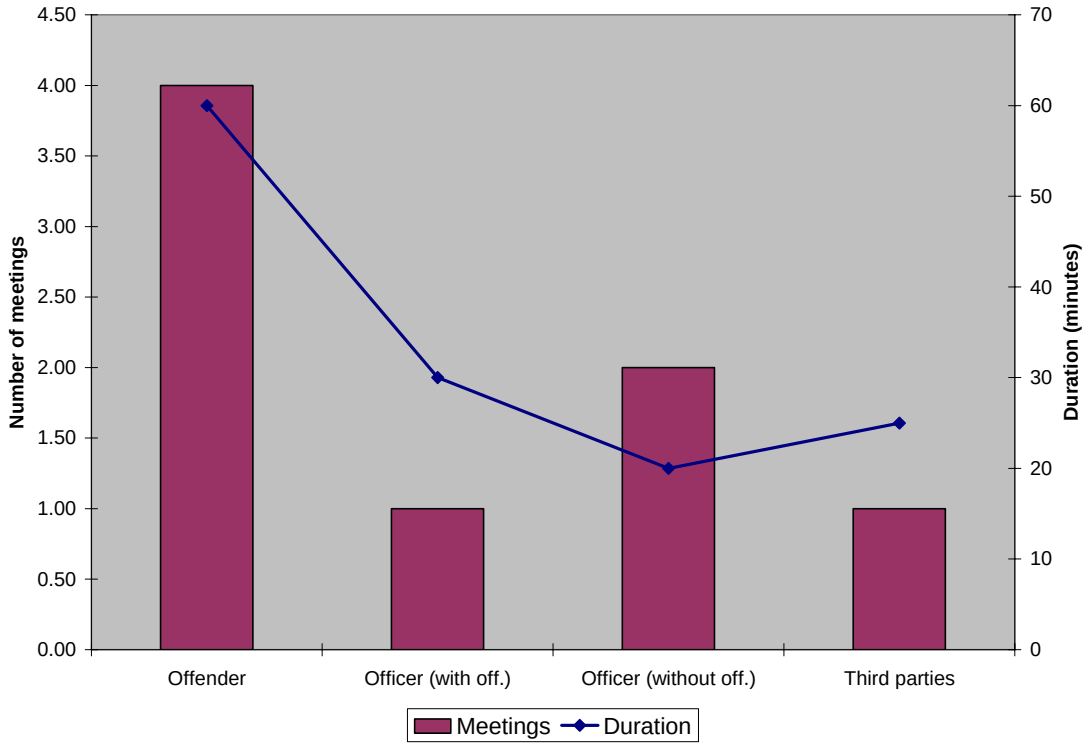
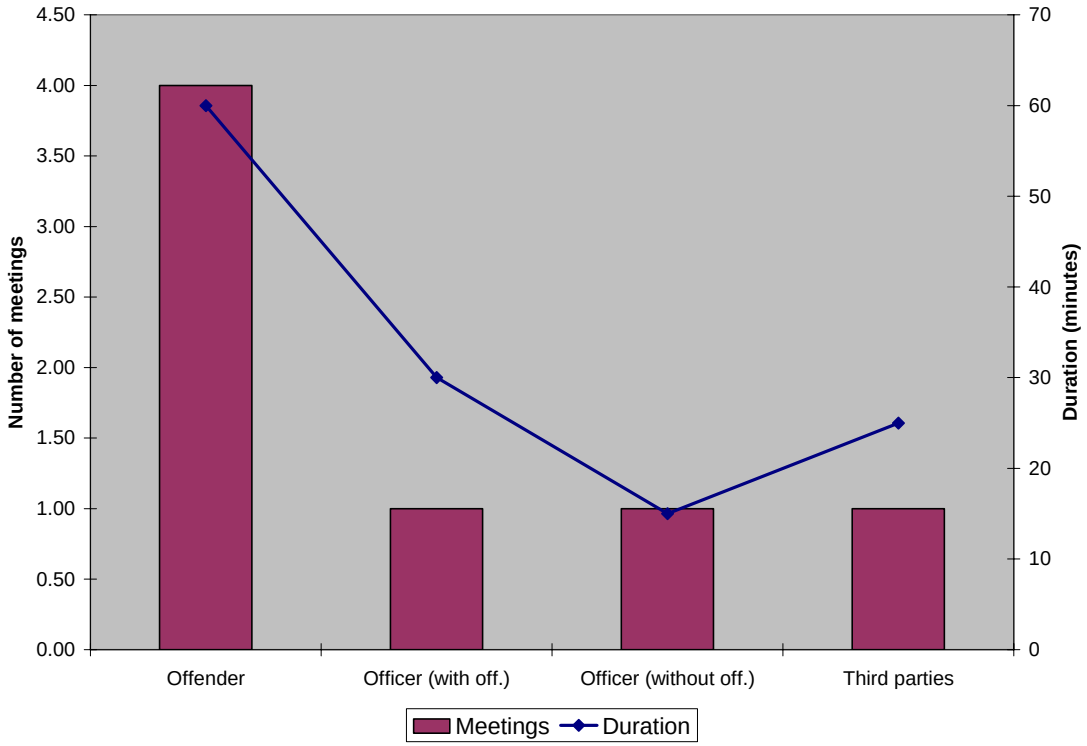


Figure 3-6. Frequency and Duration of Monthly Counselor Meetings for Cases Prior to SB 123



Thinking for a Change

After the implementation of SB 123, the KDOC required all drug treatment providers to include Thinking for a Change (TFAC) – a cognitive behavioral approach to drug treatment – in all treatment modalities they provided to SB 123 offenders, significantly changing the content of treatment for SB 123 offenders and creating some confusion among treatment providers in delivering the most used modalities of treatment. Counselors noted several problems with the way TFAC was implemented, arguing that the state did not consult with treatment providers on the most effective approaches to treatment and provided little information on how to implement TFAC as part of current treatment modalities. Providers in Western parts of the state also encountered difficulties common to such localities – distant travel required to attend training and disproportionate costs for such travel relative to providers in the Eastern part of the state. However, other counselors believed that, while the program required a lot of staff time to implement, those providers that expressed dissatisfaction with TFAC were the ones who did not work to implement it correctly.

Beyond implementation problems, some counselors thought that the actual functioning of TFAC required too much staff time and placed constraints on the way they generally delivered treatment. These providers believed the program was fairly inflexible, since they were required to follow the KDOC plan exactly, and, thus, prevented them from developing their own cognitive behavioral approaches, which many providers had developed and were using prior to the implementation of SB 123. However, other providers found TFAC to be beneficial and believed that it actually worked well for SB 123 offenders, noting that it provided structure that many of the offenders needed; counselors thought it worked well particularly for in-patient and in-facility programs but worked poorly for out-patient programs. Further, these counselors noted that non-SB 123 clients – both offenders and non-offenders – have benefited from TFAC. Indeed, counselors supportive of TFAC did not understand why the program was not required for all offenders sentenced to treatment (e.g. those offenders sentenced to treatment as part of a regular probation sentence).

In contrast, officers generally thought that TFAC was a bad approach to treatment. They had the impression that providers were not implementing the program correctly and believed that the burdens of being trained in TFAC and integrating it into existing treatment modalities was discouraging many new providers from entering the market; the certification by KDOC was perceived as too burdensome and costly for some providers given the small number of offenders they would actually see under SB 123. The negative impact of TFAC on the entry of additional providers into the market was echoed by counselors as well. However, since this evaluation did not include discussions with treatment providers not involved with SB 123, we are not able to confirm the impact of TFAC on the entry of new providers into the market.

Length of Treatment

Officers and counselors expressed strong and often conflicting opinions about the length of treatment necessary for SB 123 offenders. Officers in the Eastern part of the state generally believed that some providers kept SB 123 offenders in treatment longer than other offenders; officers maintained that this was in order to receive additional money from the state under the program. They also felt that providers were reluctant to move offenders down to less expensive modalities over the course of treatment. In response, some officers suggested a monetary cap that could be spent on treatment for SB 123 offenders. In contrast, officers in the Western part of the state thought that offenders should spend longer time in treatment, particularly in-patient treatment, arguing that providers often released offenders too early. While disagreements on the length of treatment were evident across the state, officers generally agreed that few state-wide standards existed for the length of specific treatment modalities and that is was difficult to routinely track the actual number of days individual offenders spent in treatment.

Unlike officers, counselors across the state generally agreed that the state did not allow for long enough treatment for some modalities. For example, counselors noted that the state will pay for and will allow offenders to remain on SB 123 treatment for up to 18 months; however, while the state would allow 18 months of individual treatment, it would not allow for more than 12 weeks of group treatment, one of the most used and, according to counselors, effective and cost-effective form of treatment. Counselors noted that, as a result of these restrictions, some SB 123 offenders were required to end treatment too soon. Counselors also argued that payment restrictions, particularly for aftercare, were prohibiting effective delivery of treatment, which providers saw as important to successful treatment; as a result, many providers redefined aftercare as out-patient treatment, which allowed SB 123 offenders to continue in treatment and allowed providers to continue to collect. Other counselors noted that some officers were also limiting the length of treatment for some modalities (e.g. 60 days for out-patient); however, this did not appear to be a common occurrence across the state.

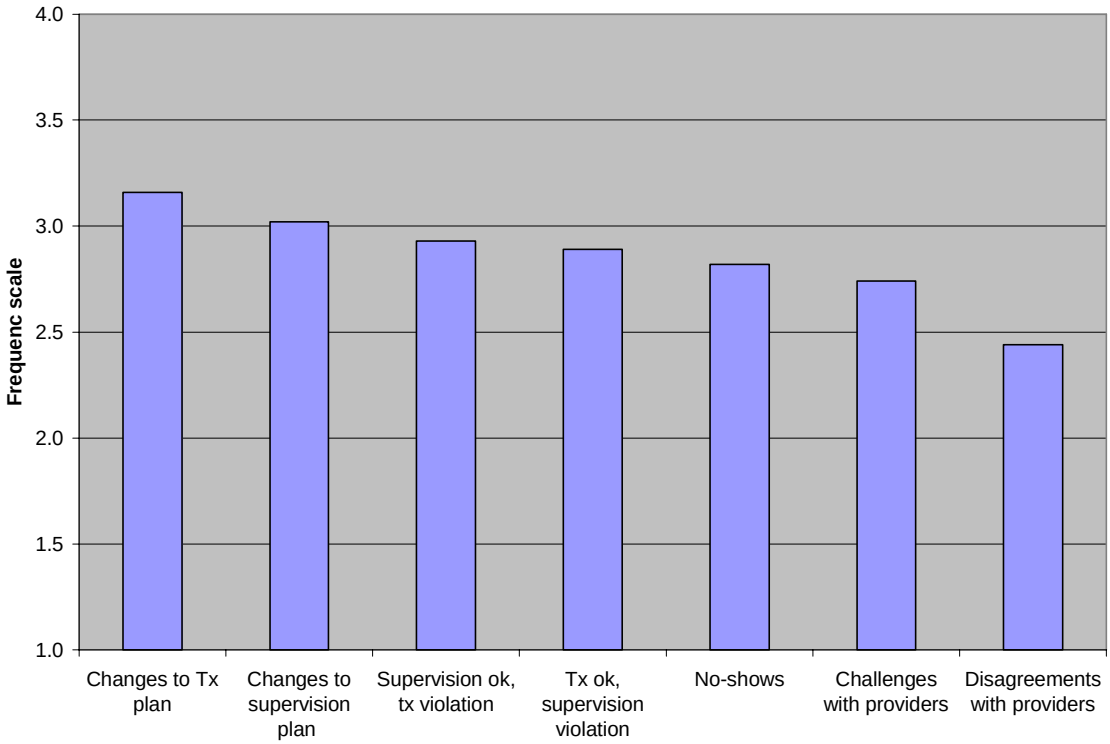
While counselors generally agreed that state restrictions limited the length of treatment, counselors also agreed with the perception that some providers were keeping SB 123 clients in treatment longer than other clients. They noted that some providers were holding onto SB 123 clients because they could make money and that this was pushing other offenders and non-criminal justice clients out of treatment beds. However, counselors did not think that more formalized guidelines on length of treatment were necessary to correct these problems, but that some examination between actual length of treatment provided and a provider's plan submitted to KDOC was appropriate.

Obstacles to Treatment

Officers and counselors noted several obstacles encountered in delivering drug treatment under SB 123. As Figure 3-7 indicates, the most frequent problem encountered by

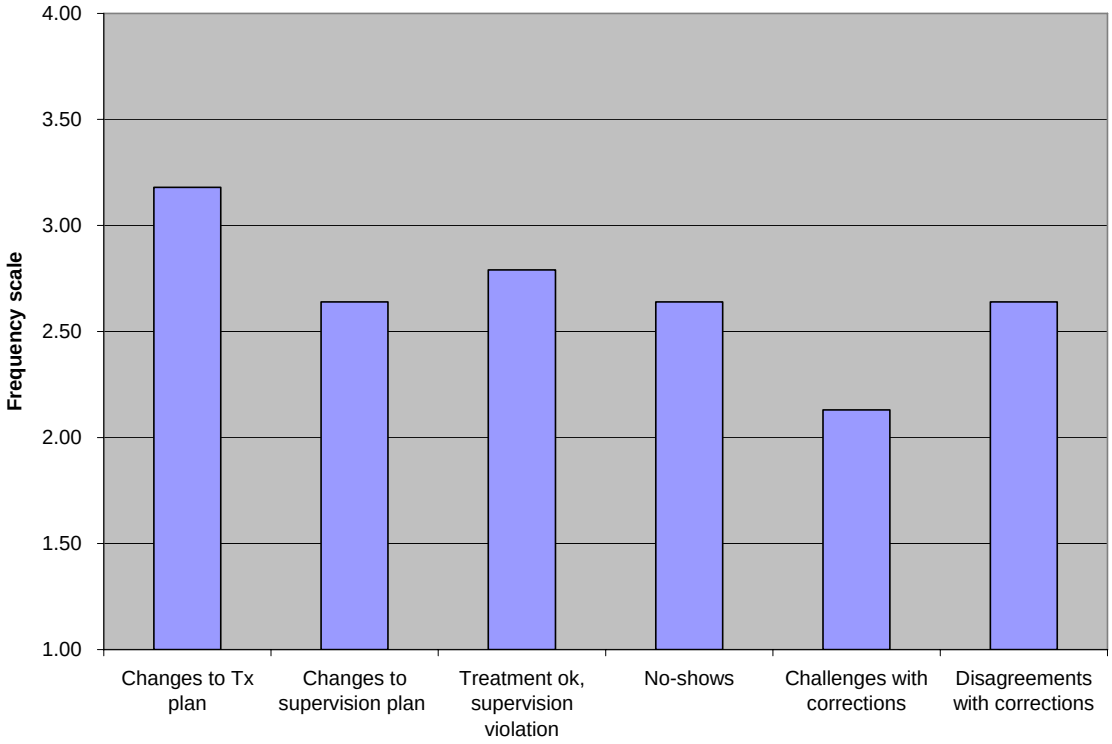
surveyed officers related to changes in treatment plans, with the mean response among officers indicating that this problem occurred frequently; all other potential obstacles to treatment were reported as occurring slightly more often than not, with the exception of disagreements with providers.[28] Responses by surveyed counselors were similar, with changes to treatment plans as the most frequent obstacle (Figure 3-8). It is interesting to note that, while problems between officers and counselors occurred "rarely" for both groups, officers reported a more frequent number of challenging interactions than their counterparts (2.74 versus 2.13), while counselors indicated a higher rate of disagreements (2.64 versus 2.44).

Figure 3-7. Frequency of Potential Problems Encountered by Officers When Working with SB 123 Offenders



[28] Respondents were ask to rate the frequency of occurrence for events that may have challenged their supervision work or the delivery of treatment services. Answers were ranked in a 4-point scale ranging from 1 (never) to 4 (often).

Figure 3-7. Frequency of Potential Problems Encountered by Counselors When Working with SB 123 Offenders



While both officers and counselors generally reported few obstacles encountered in the actual provision of drug treatment, respondents did report several obstacles specific to rural counties. Officers noted that the lack of providers in rural counties placed large burdens on offenders. In some instances, offenders were required to travel 60 miles each way to access treatment; thus, for a single treatment visit, offenders often traveled 120 miles. Officers noted several innovations for getting offenders to treatment. In some counties, officers hired drivers to take clients to treatment, billing clients for the travel costs (approximately $12/hour plus mileage); in other instances, jail ministries programs have assisted or the sheriff has transported SB 123 offenders to treatment or, in one county, officers provided clients with bikes. Counselors have also sought to accommodate offenders with transportation problems by conducting one day programs so clients only have to go to treatment once per week. However, these accommodations did not solve the transportation problems of rural offenders and, in many instances, officers noted that some offenders absconded because they could not find transportation to treatment. Counselors also noted that officers often placed offenders in in-patient treatment if they had no transportation, even though the offender would have done well in out-patient treatment.

Given the long distances, officers and counselors also acknowledged that it was difficult for offenders to get to treatment *and* maintain a job. Indeed, in several instances,

officers noted difficulties in balancing supervision and treatment conditions, with most problems arising around employment. For many offenders, treatment was often scheduled during work hours, presenting offenders with a dilemma of attending treatment and possibly losing their jobs by leaving early or missing a day of work. Again, several drug treatment providers have sought to accommodate employed offenders by scheduling treatment at night, by providing individual sessions to fulfill the group session requirements, or by providing transportation to jobs and mental health treatment. However, there was a clear split among counselors in how much they were willing to accommodate offenders' employment schedules. Several counselors noted that, while treatment may interfere with employment, that was not the concern of treatment providers; counselors noted that offenders had "gotten into trouble" and should, therefore, find a way to treatment. Several counselors went further, arguing that offenders often used employment as an excuse for missing treatment. As such, counselors commented that they would only be slightly flexible in when they provided treatment. These sentiments of some counselors were also perceived by officers. Officers argued that, while providers had been accommodating, they were becoming increasingly less accommodating; in the past, providers would travel to rural areas to hold sessions, but this appeared to have largely stopped after SB 123.

Counselors noted several supervision restrictions placed on clients that further complicated travel. According to counselors, community corrections often prohibited offenders from interacting outside of treatment, preventing SB 123 offenders from working in the same place or car-pooling to work and treatment. In rural locations with only one large employer, this prevented many offenders from getting jobs. According to counselors, a large part of treatment involved building support systems, and such conditions often prevented clients from building such systems. But these restrictions seemed to be imposed as an office rule by a single community corrections district or by a single officer, and were not a policy of the state; indeed, officers confirmed that some allowed offenders to car-pool to treatment, while others did not.

Billing and Oversight

While officers and counselors encountered few problems in the actual provision of drug treatment under SB 123, they did meet some obstacles in the billing and monitoring process established for SB 123. Officers were somewhat split in their opinions of the billing process and their role in that process. Some officers felt that the state was relying heavily on community corrections to provide the only mechanism of oversight of providers through the billing process; as such, officers felt that they were asked to constantly audit providers. Officers argued that this created an adversarial relationship between officers and counselors from the start – in contrast to the cooperative, "team" approach that SB 123 intended to foster. However, other officers liked being the

intermediary on invoices, allowing officers to know if providers were “milking” the state for money and to track where an offender was in treatment.

Despite these conflicting views on the value of overseeing the billing process, officers generally agreed that the current billing process was too cumbersome and confusing. Officers maintained that training and communication about billing was poor and that the billing forms and invoices were often changed without notification by KSC. As a result of this poor communication and routine changes in forms, officers noted that many invoices were rejected by KSC due to mistakes or inconsistent information in the state’s case management system (TOADS). Therefore, officers have started spending a large amount of time checking and filling out invoices and entering data into TOADS to ensure that information and forms are accurate.

Counselors were similarly split in their opinions of the current billing system. Counselors in the Eastern part of the state generally liked community corrections handling the invoices for treatment, arguing that it was easier to solve potential problems with invoices because officers and counselors already had established relationships and familiarity with treatment interventions. These counselors believed that if billing was moved from a local-level to a state-level function, it would do away with many of these local relationships and cause more confusion in the process; they saw the local-level arrangements beneficial because it was easier to resolve issues and created yet another means of communication between providers and community corrections. In contrast, counselors in the Western part of the state noted that having billing go through community corrections offices put an unnecessary new level of bureaucracy into the system. According to these counselors, sending invoices to community corrections officers generally delayed payment, arguing that it took longer to get paid for SB 123 treatment than it did for other offenders or state-funded clients. Since the money came directly to providers, counselors did not understand the need to have community corrections officers involved; they thought that sending the invoices directly to KSC, the office responsible for distributing the money, made more sense. Several counselors and officers believed that a centralized billing process would be beneficial. Officers believed that they should be involved only to verify that treatment was provided.

While the billing process provided some oversight of providers, the state has also contemplated a more structured audit or assessment of treatment providers across the state. Officers felt that community corrections could do some oversight of providers at the local level; however, they did not want to audit providers or oversee billing. Officers acknowledged a need to spot check providers, to ensure that providers were meeting local needs, but believed that KDOC or KSC should be responsible for auditing providers to ensure quality of and capacity to provide adequate treatment. Officers in Western counties noted that the state was not currently monitoring providers in rural areas. Some thought that the state may be keeping some providers just because in some areas there

was only a single provider willing to work with SB 123 offenders; with only one provider, officers thought the state was unwilling to de-certify such provider.

While officers saw the need for some form of state-level audit of providers, counselors unanimously opposed such as audit by either KDOC or KSC. Counselors noted that if audits were meant to check for the use of cognitive behavioral approach, then that was appropriate and easy. However, they noted that criminal justice agencies should not look at other therapies provided since KDOC or other criminal justice agencies in the state did not have the knowledge available to evaluate. Thus, auditing the cognitive skills aspect was acceptable; auditing other aspects of programs was not acceptable. Counselors noted that other state agencies had the authority to license providers and that, if an audit of treatment for SB 123 offenders was to be conducted, these other state-level licensing agencies should oversee the audit.

Interactions with KDOC and KSC

The strong negative reactions among counselors to auditing by KDOC may be the result of generally poor interactions with the agency during the implementation of SB 123. Counselors noted a lack of communication between KDOC and KSC and providers, particularly around changes to processes under SB 123. For example, counselors stated that plans for integrating TFAC into treatment were submitted to KDOC, but that there was no direction from KDOC on how such integration should look or what such plans should contain; counselors felt integration plans were rejected by KDOC without clear reasons. Further, the state has convened quarterly meetings to distribute information about SB 123 throughout the implementation period, but not all counselors knew about the meetings. Counselors also felt that SB 123 was developed by non-experts – "people who do not understand treatment" – with no effort on the part of state officials to understand what works in treatment or to understand how treatment was delivered in the state. As a result, providers felt largely neglected in the planning and implementation process of SB 123.

Officers also acknowledged that contact with KDOC concerning SB 123 was generally poor. Officers noted that KDOC and KSC should have done more research into provider availability in rural parts of the state before implementing SB 123. They noted that offenders were different, offenses were different, supervision was different and that the state did not realize this in the design of SB 123.

Chapter Four: Early Outcomes

While the objective of this report is to document the implementation process of SB 123, available administrative data provided by the KSC was employed to review a limited set of outcome indicators. This chapter examines the outcomes – successful discharges and cases revoked due to technical violations – for offenders sentenced to SB 123 during the first 18 months of the program. Since few offenders exited the program during the study period, the findings reported here should be read with a note of caution and should be interpreted as very preliminary indicators of program impact. Further, there are many factors leading to a successful discharge from supervision – some of these are related to the characteristics of the individual offender such as criminal history and substance abuse history and others are related to environmental factors such as the presence of a supportive family background. This report provides only a descriptive, non-statistical review of some of these circumstances as they relate to the SB 123 population, with a focus on program interventions. Thus, our findings are not intended to substitute for a full impact evaluation of SB 123.

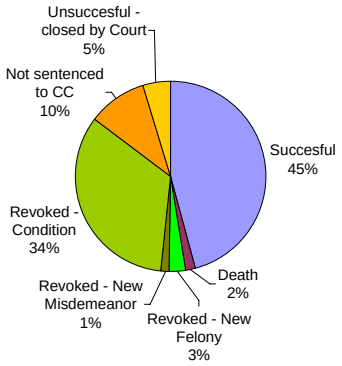
Termination and Treatment Modalities

During the study period, 280 of the 1,376 SB 123 cases (roughly 20 percent) were terminated either successfully or unsuccessfully from SB 123; thus, by the end of the study period, approximately 80 percent of offenders sentenced under SB 123 remained in the program. This low number of terminated cases is explained by the fact that a significant proportion of cases were still active at the end of the study period, having served only a small portion of the supervision term imposed at sentencing. As noted above, 78 percent of SB 123 sentences were for the full 18 months allowed under the legislation; thus, even offenders sentenced on the first day of program implementation may not have exited the program by the end of the first 18 months of operation.

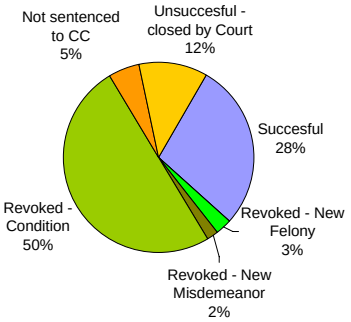
Of those SB 123 offenders that did exit the program, 79 percent exited due to either successful completion or for a technical violation. The most frequent reason for termination of an SB 123 case was successful completion (46 percent, n=129) followed by revocations for violation of program conditions (34 percent, n=95). While there were no significant differences in overall termination rates between SB 123 offenders and eligible offenders sentenced to regular probation, SB 123 cases tended to have higher rates of successful termination and lower technical revocation rates than regular probation cases (see Figure 4-1).

Figure 4-1. Termination Reasons for SB 123 Eligible Cases

SB 123 (n=280)



Regular Probation (n=170)



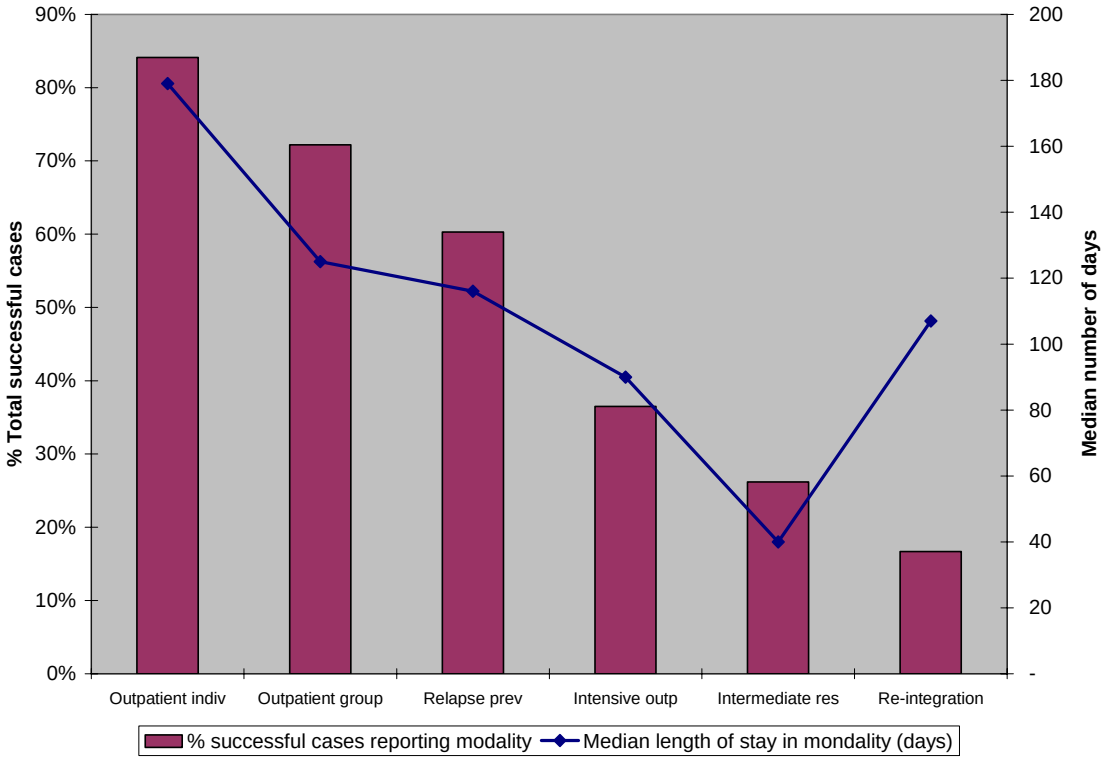
The length of stay on SB 123 varies significantly for successful cases and revoked cases – the median length of stay for successful cases was 11 months while the median length of stay for revoked cases was six months; for eligible offenders sentenced to regular probation, the median length of stay was 8 months. There appears to be a higher degree of correspondence between sentencing terms and actual time served for regular probationers than for cases sentenced under SB 123, although comparing these two variables for SB 123 offenders is complex due to the indeterminate nature of the statute.

A preliminary assessment of interventions and terminations from SB 123 indicates that the average number of treatment interventions per successful SB 123 case was significantly higher than for revoked cases; successful cases had an average of 4.91 treatment interventions compared to an average of 3.3 interventions for revoked cases. Conversely, the average number of supervision interventions was lower for successful cases than for revoked cases; successful cases had an average of just 0.77 supervision interventions compared to 1.1 interventions for revoked cases.

We examined the six most-frequently employed treatment interventions for both successful and unsuccessful discharges (outpatient-individual, outpatient-group, relapse prevention, intensive outpatient, intermediate residential and reintegration). Together, these treatment modalities represent about 92 percent of the treatment interventions of the successful discharge group and about 90 percent of those for revoked cases. For both groups, we calculated the percentage of cases exposed to these treatment modalities and the median number of days offenders spent in each modality. Figure 4-2 shows the results of our analysis for the group of successful cases. As Figure 4-2 indicates, successful offenders were often subject to multiple treatment modalities during their supervision tenure, with outpatient-individual services being the most frequent approach (about 85 percent of successful cases had at least one intervention of this type). More than half of successful cases had a combination of outpatient settings (individual and

group) and relapse prevention therapy. The median duration of each treatment modality is indicated by the blue line (right axis). The majority of offenders who successfully completed their supervision term had about 180 days of outpatient-individual sessions, as well as 120 days of both outpatient-group and relapse prevention sessions. Interestingly, while less than 20 percent of the offenders went through a halfway house, their tenure was significantly higher than in other settings (110 days versus 40 days of intermediate residential). Some of these treatment modalities may have operated concurrently while others were likely part of a succession of interventions.

Figure 4-2. Use and Length of Stay by Treatment Modality for Successful SB 123 Cases (n=129)

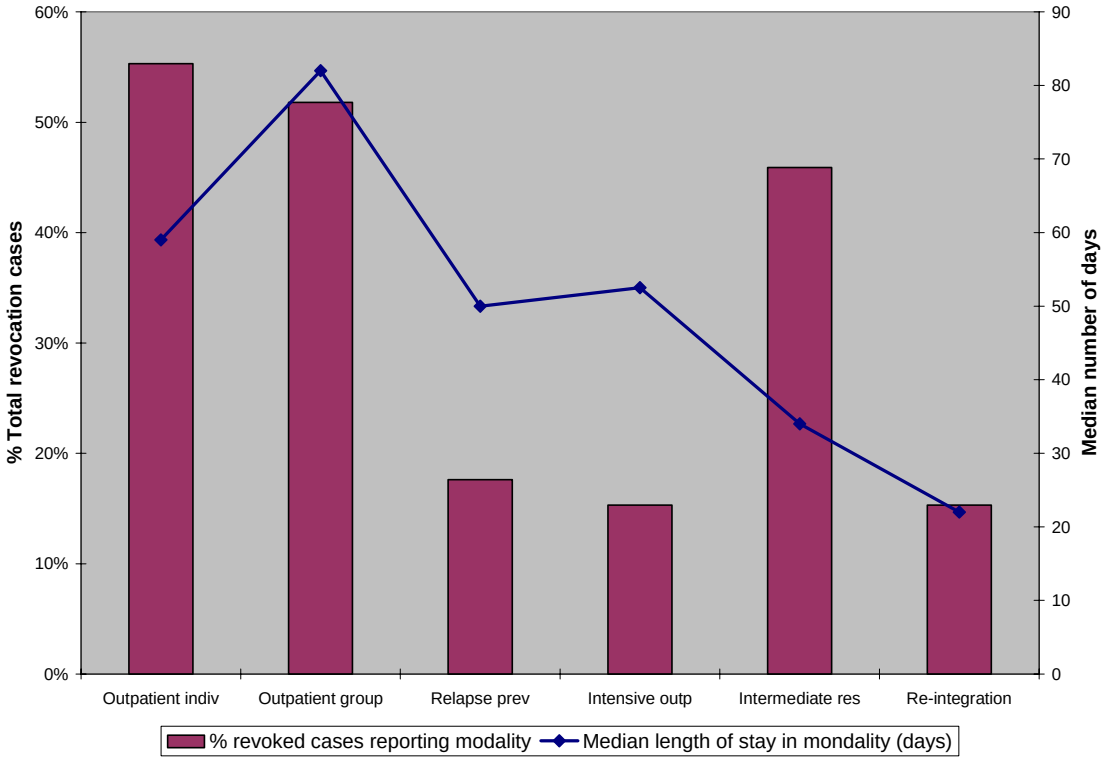


We reproduced the same analysis for cases revoked from SB 123 for a violation of the conditions of supervision (see Figure 4-3).[29] Revoked cases involved a relatively lower use of outpatient modalities balanced with a significantly higher reliance on intermediate-residential settings. While relapse prevention was used by more than 60 percent of the successful offenders, only about 20 percent of the revoked cases received this modality of treatment. In terms of the average length of stay by treatment modality, the overall number of treatment days tends to be lower than those reported by successful

[29] 85 out of the 94 revocation cases had complete intervention data.

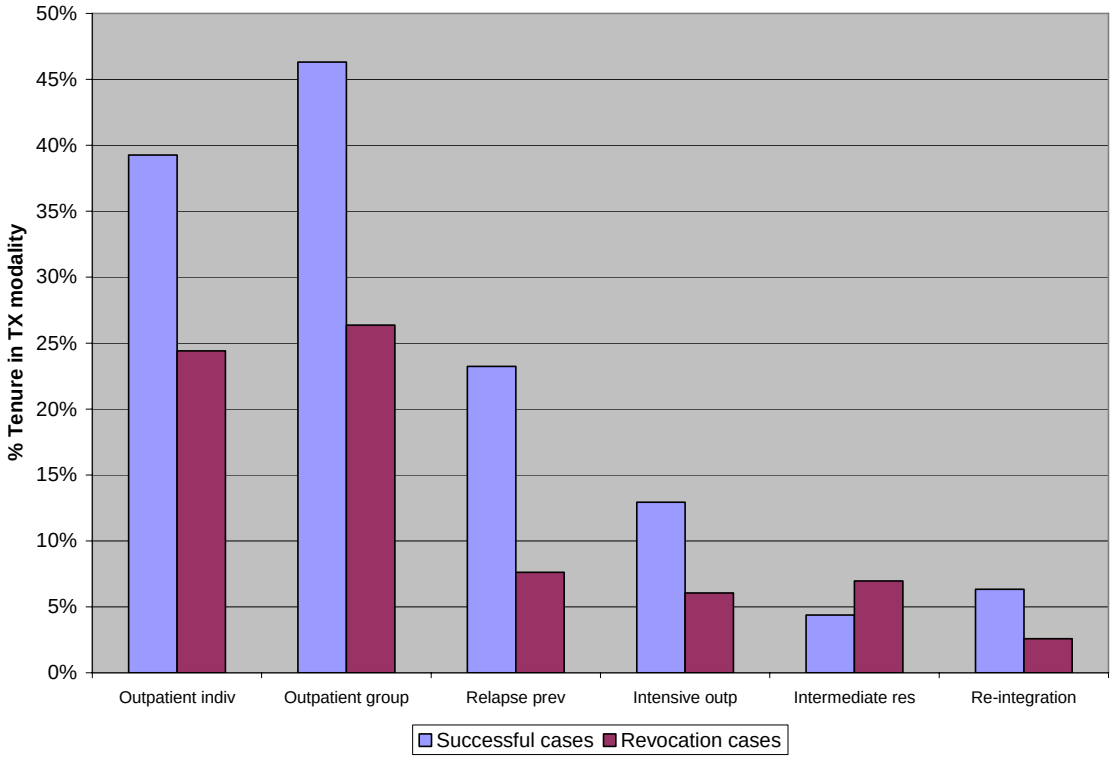
cases. This was somewhat expected due to the longer overall length of stay of cases successfully discharged. However, revoked cases tend to have a longer tenure in outpatient-group settings than in individual settings. The same is true for intensive outpatient when compared to relapse prevention. Both trends contrast with the pattern observed for successful cases.

Figure 4-3. Use and Length of Stay by Treatment Modality for Revoked SB 123 Cases (n=85)



Controlling for the total length of stay in supervision, we found that the time spent in treatment was higher for successful cases than for revoked cases across all modalities—with the exception of intermediate residential settings (see Figure 4-4). On average, successful cases spent 46 percent of the supervision term in outpatient group settings, while revoked cases spent only about 25 percent of the supervision term in such modalities. The relative time spent in relapse prevention for successful discharges was also three times longer than that for revoked cases. On average offenders whose cases were ultimately revoked spent more time in intermediate residential therapy than successful cases.

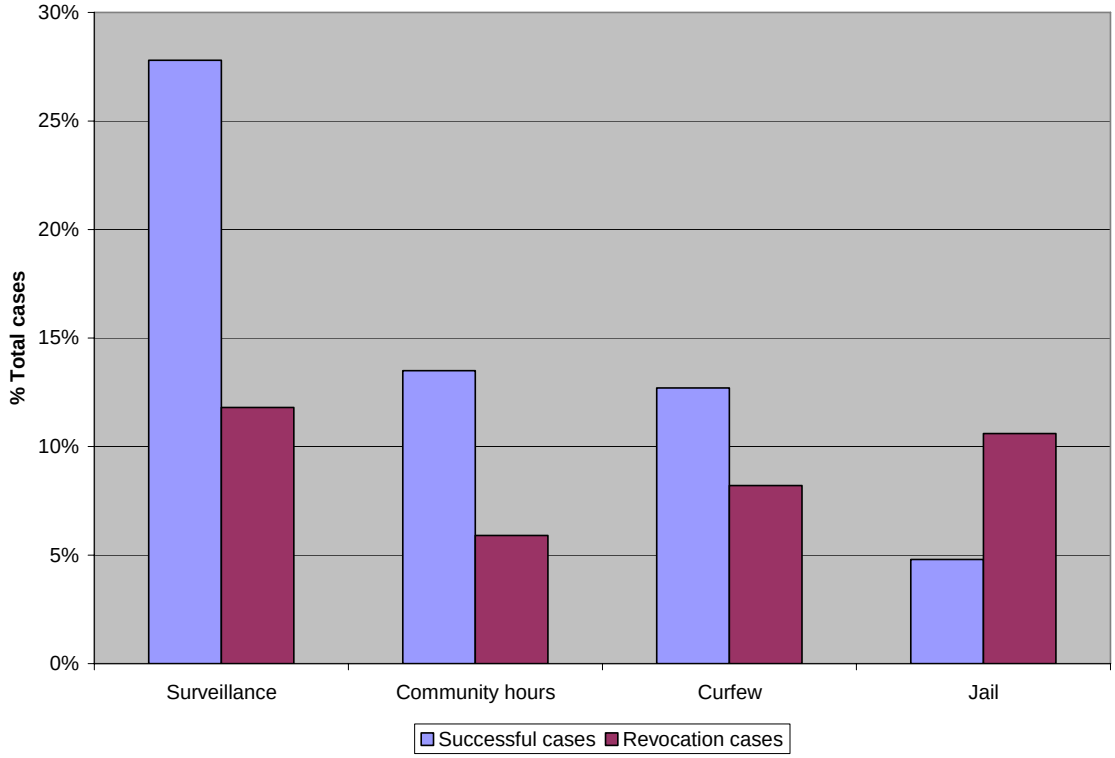
Figure 4-4. Percent of Supervision Term Spent in Treatment by Modality, Successful and Revoked SB 123 Cases



As noted above, supervision interventions occurred more frequently in revoked cases than in successful cases (1.1 interventions per case vs. 0.77 interventions per case). In general, supervision interventions as a percentage of the total number of interventions were also higher for revoked cases; supervision interventions represented 25 percent of all interventions for revoked cases and 20 percent of interventions for successful cases. However, aggregate figures hide important variation between supervision categories. In order to examine these variations we focused on four types of supervision interventions – surveillance, community hours, curfew, and jail. Together, these four interventions represented about 52 percent of the supervision interventions for successful cases and about 34 percent of supervision interventions for revoked cases.[30] Figure 4-5 contrasts the proportion of successful and revoked cases exposed to this set of supervision interventions. Interestingly, most of these interventions were enforced more frequently for successful cases. While about 25 percent of successful cases had at least one surveillance event reported, only about 10 percent of the revocations were also put under surveillance. Jail was the only event more prevalent among those revoked from SB 123.

[30] The share of such interventions for revoked cases may be low due to the fact that community corrections officers report a significant number of supervision interventions, 9.7 percent of such interventions, as "seeking revocation."

Figure 4-5. Supervision Events by Intervention Type, Successful and Revoked SB 123 Cases



There are many limitations to this set of analyses. For instance, they are based on a relatively small number of cases and only address interactions between program outcomes (success or revocation) and one group of variables (treatment/supervision modality). As such, this is not a multivariate analysis; therefore, no controls or estimation of program effects can be derived from the figures presented. In addition, we are only observing the confluence of factors, but we have not assessed crucial issues such as specific trajectories, criminal history, time at risk, and individual/social factors conditioning success/failure from supervision. Nonetheless, it appears that offenders who successfully complete SB 123 sentences are exposed to more supervision and more treatment than those offenders revoked from SB 123.

Defining Success or Failure in SB 123

The outcomes of SB 123 offenders are partially determined by how officers and counselors define success and failure in SB 123. Such definitions will influence when officers seek revocations or when counselors seek dismissal from treatment for "intentional noncompliance" by the offender. Indeed, the statutes creating SB 123 provide no definition of intentional noncompliance with the program; thus, the definitions

of officers and counselors and their decisions on how to act on such noncompliance will determine how and when offenders exit the program and will determine the ultimate success of SB 123.

Officers and counselors generally agreed that "success" on SB 123 varied by the individual offender. Counselors noted that, for some offenders, success involved the offender not using drugs as much as they used to; several officers noted that for other offenders, simply staying engaged in the treatment process or seeing rehabilitation as a lifelong process was success. Officers and counselors both stated that relapse did not necessarily equal unsuccessful treatment. In addition, most officers and counselors maintained that simply completing treatment was not success and did not warrant completion of the SB 123 sentence. Interestingly, based on the survey of officers and counselors, not a single counselor agreed that an SB 123 offender should be discharged from supervision immediately after completing treatment; in contrast, 20 percent of officers believed offenders should be released after successful completion of treatment.

Most officers maintained that success on SB 123 depended on successfully being discharged from treatment *and* following supervision conditions; indeed, SB 123 has not changed most officers' attitudes about offenders with drug addiction. Officers still see SB 123 offenders as regular community corrections offenders; thus, most officers argued that, even after completion of treatment, offenders should stay under community corrections supervision because fulfilling the conditions of probation was also a primary concern of an SB 123 sentence. Counselors expressed similar views arguing that success on SB 123 involved participation in treatment programs, a willingness to change, and no new offenses within six months of release from treatment. In fact, counselors generally held a more safety-oriented approach to SB 123 offenders than officers – 70 percent of counselors believed that the primary objective of SB 123 was public safety, while only 52 percent of officers held the same position.

Officers believed that judges also had varying views of success in SB123. Officers argued that some judges did not like SB123; in these instances, officers believed that judges defined success as finishing treatment and that that such judges immediately released SB 123 offenders when treatment was complete. In other instances, officers believed that judges defined success as total compliance with all aspect of both treatment and supervision. Since most SB 123 sentences were indeterminate in nature and, thus, depended on the judge for actual successful release, these varying views of success may result in disparity in time served on SB 123 across the state. Additional research would be necessary to confirm the varying views of judges.

These varying definitions of success among officers, counselors, and judges also led to varying definitions of "noncompliance" with SB 123 and varying paths to revocation. While the SB123 manual says a "pattern of intentional noncompliance" is required before an SB 123 sentence can be terminated, officers maintain that different judges interpret that differently; with such varying interpretations and unclear rules on revocation from

SB 123 for non-compliance, all officers agree that revocation depended entirely on the county in which an offender was sentenced. In some counties, consistently positive UAs or two or more unsuccessful terminations from treatment constituted noncompliance; while in other counties, scattered missed appointments equaled noncompliance.

These problems of definition were compounded, according to officers, by a perception that judges believed they could not revoke SB 123 offenders for any reason other than a new offense; as a result, officers claimed that many offenders who were unamenable to treatment often remained on SB 123. Officers argued that SB 123 offenders were, thus, much more difficult to revoke than other offenders. Officers maintained that judges were only willing to revoke an offender when the community corrections officer was able to show that treatment had been provided and that there was no longer a drug issue, but that there was a behavior issue; as such, judges appeared to view noncompliance with treatment as an invalid reason for revocation from SB 123, focusing almost exclusively on community corrections conditions. Officers noted that judges often waited until several revocation hearings had occurred before revoking an SB 123 offender. According to officers, judges looked at the number of revocation hearings to determine whether revocation was appropriate, while officers looked at the number of violations before recommending revocation; officers noted that they often required numerous violations of probation conditions or treatment before recommending revocation (e.g. repeated failure of the same modality of treatment).

Counselors confirmed this perception, arguing that SB 123 offenders had more protections against revocation than other offenders and that SB 123 itself seemed to have no formal consequences for violations of treatment or supervision; however, while officers placed fault with judges in not revoking such offenders, counselors found fault with community corrections officers who, counselors thought, operated as if they could not remove offenders from treatment. As noted above, counselors, particularly in the Western part of the state, had a very public safety approach to SB 123 offenders; thus, counselors were very wedded to the idea of consequences for offenders' actions and were supportive of quick sanctions for violations of either treatment *or* supervision as a way to foster compliance with the requirements of treatment. Indeed, both counselors and officers confirmed that treatment providers were often reporting on violations of supervision as well as treatment and expecting revocations from SB 123.

There was an underlying sense of distrust among some counselors and officers across the state regarding revocation and termination from SB 123, revolving largely around issues of money. Several counselors noted that community corrections offices received money for all SB 123 offenders on their caseloads; therefore, counselors believed officers had some incentive to not violate SB 123 offenders and to allow many more violations of treatment than counselors would allow. Counselors saw this as a problem since many of these violations would result in the termination of treatment for other non-SB 123 clients. Officers similarly argued that some providers were reluctant to terminate treatment for

SB 123 offenders. Again, officers believed that some providers were unwilling to "unsuccessfully discharge" an offender because providers wanted to "milk" the system for more money. These issues of trust around the disbursement of money under SB 123 surfaced throughout our discussions with officers and counselors and, in some districts, created severe tension between the two groups.

Finally, officers felt that judges often revoked and reinstated offenders to SB123, extending treatment well beyond the 18 months mandated by statute. In other instances, officers felt judges were revoking offenders from SB 123 and then placing them on a new SB 123 sentence for another 18 months. Officers had a perception that many offenders were also being sent to treatment three to four times under SB 123. Officers in some counties noted slightly different problems. Officers claimed that in several instances offenders were not released after completing the 18 months of treatment; rather, judges had continued offenders on regular probation for the purpose of extending treatment.

Conclusion: Next Steps in the Evaluation of SB 123

Results of our process evaluation suggest that system actors in Kansas have partially succeeded in their adaptation to the new institutional environment created by SB 123. Officers and counselors appear to have incorporated a team setting into their work with SB 123 offenders, generating more interactions and new channels of communication. Outpatient treatment modalities are the most often-employed type of intervention, although the use of relapse prevention and reintegration approaches has increased over time. SB 123 offenders have a higher successful termination rate (46%) and a lower incidence of revocations by violation of conditions (34%) than drug possessors sentenced to regular probation; more intensive treatment and supervision settings seem to be associated with the observed trend. Overall, the implementation of SB 123 appears to be associated with a significant increase in the use of probation as a disposition at the county level for all offenses. This system-wide impact contrasts with the relatively unchanged general attitudes and work routines of community corrections officers and counselors toward offenders.

Yet, despite the value of this data, the process evaluation reported here was not intended to explain the different outcomes of SB 123 clients or to compare those outcomes with those of similar populations. Further, the examination of system-wide outcomes was limited to ground-level actors involved in the direct provision of drug treatment – community corrections agencies and treatment providers. As such, the study focused on highlighting issues of consistency in the delivery of services, as well as critical areas of program implementation.

Without this work, design-related program outcomes could be confounded with process-related outcomes. For instance, while macro institutional arrangements have been particularly effective at adjusting to sustained increases in the number of SB 123 offenders (eligible program participants have increased an average of 11% per month), the degree of success in this adaptation varies dramatically across jurisdictions. In some counties officers and counselors have expressed concern about the interference of plea bargaining processes in the intake process of SB 123 participants, maintaining that many offenders were sentenced under SB 123 only after pleading down from a sale offense. In other counties, eligible offenders are not being disposed as SB 123 due to perceived resistance from judicial actors, with directors of community corrections districts noting differences in the interpretation and attitudes toward SB 123 among judges and prosecutors in their districts. Due to these perceived differences, officers and counselors noted difficulties in supervising and treating some offenders and noted differences in outcomes between such offenders and others sentenced under SB 123. Finally, some treatment providers highlighted significant problems in their interaction with specific community corrections agencies –mainly related to the client referral process and treatment decisions. While these implementation challenges did not appear to be

widespread across the state, they may become a significant threat to the long-term effectiveness of SB 123.

Drawing upon the baseline generated by this implementation study, there are several avenues for research into SB 123 that the state could pursue, including examining the impact of SB 123 on offender-related outcomes such as recidivism and behavioral changes as well the system-wide effects of the new legislation on the work routines of different actors of the justice system (judges, county attorneys and defense lawyers).

Specific questions should address several questions, including:

1. Does SB 123 reduce substance abuse and recidivism among SB 123 participants? Is there a strong association between treatment compliance and successful completion of probation conditions?
2. Do SB 123 participants receive the services that they need? Are they satisfied with the services they receive? What degree of agreement is there between supervising officers and counselors about "best practices" for SB 123 clients?
3. What institutional and procedural changes were necessary to successfully implement SB 123? Were these changes planned or were they generated during the implementation process?
4. What are the individual and program effects associated with positive outcomes for SB 123 clients? Do program effects vary over time and across administrative units (i.e. community corrections districts)? Are there indirect program outcomes such as employment retention and housing stability that may contribute to pro-social behaviors?
5. Is the program cost-efficient given the outcomes achieved?

Appendices

Surveys and Focus Groups with Community Corrections Officers and Drug Treatment Counselors

The analysis relied on a 20-minute self-reported survey administered to all community corrections officers and drug treatment counselors who supervised or treated SB 123 offenders during the first 18 months of program operation. The survey addressed the frequency and nature of the interactions between officers and counselors and the perceived obstacles to improving interactions. No sampling procedure was required given our interest in surveying the actual population within each of these two groups of institutional actors. Lists of potential subjects were provided by the Kansas Department of Corrections and the Kansas Sentencing Commission. Two waves of surveys were mailed between September and October 2005. Follow-up calls as well as a targeted mailing effort were some of the measures employed to increase response rates.

We obtained responses from 69 of the 165 community corrections officers who supervised SB 123 offenders between November 2003 and May 2005 (roughly 42 percent of potential respondents). Most of the non-responding officers belonged to five community corrections agencies from which no questionnaires were obtained; at least one survey was received from the remaining 26 offices. Low response rates are prevalent in mail-in surveys – usually around 40 percent – and tend to threaten the reliability of estimations based on sample statistics. Given our relatively low response rate we may not claim that survey outcomes are representative of the overall population of supervising officers in Kansas. However, results provide a general description of some of the main challenges generated by the implementation of SB 123.

Community corrections officers reported an average tenure of 5.5 years as community corrections officers. While their average experience with SB 123 offenders was 17 months, about a third of the officers joined their current agency after the implementation of SB 123.

We received 81 completed surveys from the 324 drug treatment counselors who participated in SB 123 training, as reported by the Kansas Department of Corrections. Major logistical challenges such as the high professional mobility of counselors contributed to a response rate of just 25 percent. Attempts to increase the response rate (e.g. follow-up calls, targeted mailing) were unsuccessful. The response rate for this survey is low, even for standard mail-in surveys. Results presented here should not be taken as representative of all treatment counselors in the state.

The majority of counselors who responded to the survey reported a median professional tenure of 5 years; the average experience with SB 123 cases in this sample was 15.7 months. Two out of three counselors worked in a different provider agency prior to their current engagement. Compared to the sample of community corrections officers, counselors have, on average, slightly less professional experience (5 years

versus 5.5 years) and slightly less experience with SB 123 offenders (15.7 months versus 17 months).

The analyses also relied on data gathered from four focus groups with community corrections officers and drug treatment counselors – two focus groups with officers and two focus groups with counselors. Lists of potential focus group subjects were provided by the Kansas Department of Corrections and the Kansas Sentencing Commission. The final community corrections focus groups included 8 officers from the Eastern part of the state and 8 counselors from the Western part of the state; the final drug treatment counselors included 7 counselors from the Eastern part of the state and 8 counselors from the Western part of the state. Focus groups were conducted in August 2005 in Topeka and Salina. The focus groups addressed the perceived obstacles to supervising and treating SB 123 offenders and the interactions across criminal justice agencies in providing treatment services.