

MINUTES

JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT

October 28-29, 2009
Room 545-N—Statehouse

Members Present

Representative Pat Colloton, Chairperson
Senator Pete Brungardt, Vice-Chairperson
Senator Karin Brownlee
Senator Terry Bruce
Senator David Haley
Senator Dick Kelsey
Senator Janis Lee
Senator Tim Owens
Representative Barbara Craft
Representative Doug Gatewood
Representative John Grange
Representative Jerry Henry
Representative Joe Patton
Representative Jim Ward

Staff Present

Athena Andaya, Kansas Legislative Research Department
Jerry Ann Donaldson, Kansas Legislative Research Department
Jarod Waltner, Kansas Legislative Research Department
Christina Butler, Kansas Legislative Research Department
Doug Taylor, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Jason Thompson, Office of the Revisor of Statutes
Connie Burns, Committee Assistant

Conferees

Hon. Ernest L. Johnson, Judge of the 29th Judicial District (Wyandotte)
Hon. Steven L. Hornbaker, Judge of the 8th Judicial District (Geary)
Tom Drees, Member of the Kansas Sentencing Commission, Chair of Proportionality Subcommittee
Helen Pedigo, Executive Director, Kansas Sentencing Commission
Melissa “Missy” Woodward, Risk Reduction and Reentry Mental Health/Substance Abuse Specialist, Kansas Department of Corrections
Andrea “Andi” Bright, Risk Reduction and Reentry Coordinator at Larned Correctional Mental Health Facility

Roger Werholtz, Secretary, Kansas Department of Corrections
Roger Haden, Deputy Secretary of Programs, Kansas Department of Corrections
Keven Pellant, Deputy Secretary of Field and Community Services, Kansas
Department of Corrections
Dinah Pennington, Shawnee County Community Corrections
Phillip Lockman, Department of Community Corrections, Wyandotte County
Dick Beasley, Finney County Community Corrections
Jay Holmes, Sedgwick County Department of Corrections
Representative Bill Feuerborn
Mr. Carrol Droddy, Ottawa, Kansas
Mark Gleeson, Office of Judicial Administration
Donna Hoener-Queal, 30th Judicial District Court Services Officer
Kathleen Rieth, 10th Judicial District Court Services Officer
Chris Mechler, Office of Judicial Administration
J. Russell Jennings, Commissioner, Juvenile Justice Authority

Others Attending

See attached list.

Wednesday, October 28, 2009 Morning Session

The meeting was called to order by Chairperson Pat Colloton. The Chairperson provided an overview of the meeting and the statutory requirements of the Committee for the final report. The Chairperson stated for background information that the Sentencing Commission was looking at ways to reduce prison population due to the closing of several prison facilities. She further stated they are looking at prison reentry, specialty courts, treatment, probation, and parole sanctions.

Approval of Minutes

Senator Kelsey made the motion to approve the Committee minutes from the July meeting. Senator Brungardt seconded the motion. The motion carried.

Overview of Specialty Courts

The Hon. Ernest L. Johnson, Judge of the 29th Judicial District (Wyandotte County) and Chairperson of the Kansas Sentencing Commission, provided an overview on specialty courts (Attachment 1), Judge Johnson provided a packet of information containing:

- Definitions of Problem-Solving Courts;
- National Association of Drug Court Professionals – Facts;
- Ten Key components of Drug Court;
- New Supreme Court Rule 109A;
- Missouri drug Court Revised Statutes;
- The Guiding Principles of DWI Courts;

- Logic Model for DWI Courts;
- An Excerpt from Evidence Based Sentencing;
- The Abstract from Treatment to Drug-Involved Offenders; and
- The face page from the Mental Health Court publication.

The Kansas Sentencing Commission (KSC) has been studying these courts. The KSC currently is in the application process for a grant to study how best to enable and implement specialty courts in Kansas.

Examples of specialty courts, also known as problem-solving courts, include: Adult Drug Court, Back on TRAC: Treatment, Community Court, Domestic Violence Court, Driving While Intoxicated Court, Family Dependency Treatment Court, Federal District Drug Court, Gambling Court, Juvenile Drug Court, Reentry Drug Court, and Tribal Healing to Wellness Court.

Drug Court Facts:

- Drug Courts reduce crime;
- Drug Courts save money;
- Drug Courts ensure compliance;
- Drug Courts combat methamphetamine addiction; and
- Drug Courts restore families.

The Committee requested the full report on the study from the Journal of Criminal Justice and CSG Study on Mental Illness. Judge Johnson agreed to provide the documents electronically to the Committee.

An Example of a Specialty Court in Kansas

The Hon. Steven Hornbaker, Judge of the 8th Judicial District (Geary), provided the Committee information on the specialty court in his county ([Attachment 2](#)). Judge Hornbaker stated that drug courts save money and save people. Drug courts were established with a team approach between the criminal justice system and the drug treatment organizations. The partnership structures treatment intervention around the influence and personal involvement of a single drug court judge. The judge and a dedicated team of professionals work together toward a similar goal of stopping the cycle of drug abuse and criminal behavior. The Geary County Drug Court Program consists of three phases:

- Phase I – Assessment and Primary Treatment phase is a minimum of 30 days and a maximum of 90 days;
- Phase II – Treatment phase is a minimum of six months and;
- Phase III – Continuing Care and Graduation will last at least six months.

A critical component of successful drug court participation involves intensive supervision and random testing to determine compliance with the rules of the Drug Court Program. Recognition of progress also is very important as is prompt response to negative behaviors. Imposition of sanctions and consequences for non-compliance of drug court conditions will ensure participants learn that immediate consequences will occur for failure to comply with conditions.

Specialty Court Draft Legislation

Jason Thompson, Revisor of Statutes Offices, provided the Committee with a copy of draft legislation concerning drug courts, therapeutic, or problem-solving courts ([Attachment 3](#)).

Afternoon Session

Recommendations of the Kansas Sentencing Commission (KSC) Subcommittee on Proportionality

Tom Drees, Member of the Kansas Sentencing Commission and Chairperson of the Subcommittee on Proportionality, provided the Committee with a summary of 2010 proportionality recommendations by the Kansas Sentencing Commission Proportionality Committee ([Attachment 4](#)). Information and graphs on the sentencing range for nondrug and drug offenses, a comparison of FY 2006 versus FY 2009 admissions, and why new court commitments are increasing was provided to the Committee. The recommendation from the KSC will be to improve the administration of justice and keeping under the 50-bed impact increase.

The KSC has been notified by Secretary Werholtz that the prisons are within 3 percent of full capacity. By statute, the KSC has to start making recommendations on how to correct this situation; options include more money to the Kansas Department of Corrections for additional prison beds, or looking at ways to decrease the rate of offenders going into prison, or increase the rate of offenders coming out of prison. Two options could be to look at increasing good time credits and making adjustments on sentencing for crimes that have high departure rates.

Long-term Solitary Confinement

Sister Therese Bangert, Kansas Catholic Conference, provided the Committee with an article on inmates in long-term solitary confinement. "HELLHOLE" by Atul Gawande, *The New Yorker*, March 2009 ([Attachment 5](#)).

Post Release Supervision of High Maintenance or Mentally Ill Parolees

Missy Woodward and Andrea Bright, Risk Reduction and Reentry, Kansas Department of Corrections (KDOC), provided a PowerPoint presentation on changing systems in KDOC ([Attachment 6](#)). Ms. Woodward stated that due to recent budget cuts in Kansas, vital services and programs have ended and resources are now more limited:

- KDOC community residential beds closed April 1, 2009;
- State officials have notified more than 1,500 adults, effective July 1, 2009, they will no longer be eligible for MediKan or cash assistance;
- Another 3,000 have been told to expect deep cuts in their cash-assistance checks; receiving \$100 compared to \$142-\$190; and
- Most of those affected by the cuts are homeless or nearly homeless.

Characteristics of this population:

- Mental Illness;
- Alcohol and drug addiction;
- Homeless;
- Mental retardation/development disabilities;
- Traumatic brain injury;
- Physical health problems;
- Limited education;
- Limited family support;
- Poor work history; or
- Fetal alcohol syndrome.

A detailed case study of a real offender, referred to by a fictional name "Jack," was provided to the Committee. The case study described the effect on this population when Mirror, Inc. closed; KDOC had 47 offenders to place in the community without that resource. Ms. Woodward stated that multi-agency collaboration can change outcomes on these offenders. Services can be continuous rather than interrupted or repetitive.

Roger Werholtz, Secretary, KDOC, provided the Committee with additional information on high-risk/high-need offenders (Attachment 7).

The Committee requested the number of high-risk/high-need offenders who are in the system. The Secretary will forward that information as soon as it is available.

Discussion of Possible Legislation

Jarod Waltner, Legislative Research Department, provided a table to the Committee on approximate remittances of District Court Fines, Penalties, and Forfeitures pursuant to KSA 74-7336 (Attachment 8). There are nine funds that receive a portion of these fines.

Sean Ostrow, Revisor of Statutes Office, provided the Committee with two bill drafts at the request of the Chairperson. The bill drafts show the changes in district court fine allocation required to fund the therapeutic communities in prison, 7.83 percent, and DUI alcohol treatment, 8.51 percent (Attachment 9). Based on these increases, it would raise roughly \$1,163,646 to fund the therapeutic communities, and \$1.3 million to fund the DUI alcohol treatment program.

Senator Brungardt moved to endorse the concept of taking fees for DUI alcohol treatment. Representative Grange seconded the motion. The motion carried.

Representative Henry moved to have bill draft 9rs1208 pre-filed for the 2010 Legislative Session as a House bill. Representative Ward seconded the motion. The motion carried.

**Thursday, October 29, 2009
Morning Session**

As requested, the Committee was provided copies of The Council of State Governments report on Mental Health Courts and Improving Responses to People with Mental Illnesses (Attachment 10).

Population Projections

Helen Pedigo, Executive Director, Kansas Sentencing Commission (KSC), provided the Committee with an update on adult inmate prison population projections ([Attachment 11](#)). Ms. Pedigo stated this is the fourth consecutive year that releases have gone down. Comparison graphs and spreadsheets were provided:

- Guideline on New Commitment admission Characteristics – FY 2009;
- Prison Population Characteristics;
- Comparison of Guideline New Commitments by Severity Level and average length of sentence;
- Parole/post release supervision condition violators between FY 2008 and FY 2009;
- Kansas Prison Population Trends;
- Admissions vs. releases;
- Admission Trends;
- Prison Admission Trends – Probation Condition Violators, Parole/Post release Condition Violators, Admissions by Type, Comparison between Probation and Parole/Post release Violators with New Sentence, Trends by type FY 1996 thru FY 2009;
- FY 2010 Adult inmate prison population projections, actual and projected, male prison population trends actual and projected, female prison population trend actual and projected; and
- Projected Drug Inmate Prison Population, Projected Violent Inmate Prison Population, Projected N4 – N6 Inmate Prison Population, Projected Nonviolent Inmate Prison Population.

Discussion of KSC Recommendations Regarding Proportionality Recommendations

Helen Pedigo, KSC, reviewed the recommendations regarding proportionality recommendations provided by the Kansas Sentencing Commission Proportionality Committee.

An overview of the Subcommittee recommendations:

- Sex Crimes – no changes to Article 35 will be considered during the 2009 Legislative Session.
- Sentencing Grids – merge the non-drug and drug sentencing grids into one Kansas Sentencing Grid, increase presumptive imprisonment border boxes from 3 to 16. Decrease the presumptive probation boxes from 30 to 17, increase aggravated/mitigated sentences from 5 percent to 10 percent, and minimum felony prison sentence is increased to 12 months in length.
- Sentencing Statutes – sentencing statutes amended to place as many felonies on the grid as possible (FY 2007 felony sentences: 57 percent guidelines, 43 percent off-grid/non-grid), designate drug manufacture and distribution felonies as person offenses, Court Services should supervise all class A misdemeanors who are not sentenced to jail.
- Drug Laws – manufacturing methamphetamine would be a level 3 person felony. Manufacturing all other drugs would be a level 5 felony, sale, distribution, and possession with intent to distribute are set at 4 levels based on quantity of drugs

possessed to be sold or actually sold [FY 2007 sentencing data shows departure rates of 88 percent on current level 1 drug grid, 66 percent on current level 2 drug grid and 80 percent of current level 3 drug sentences (border box)] are placed on probation, sale designated as person felony, weight to be determined by the products as packaged for distribution, mandatory treatment program for personal use possession (SB 123) remains intact.

- Property Offenses – a large number of special sentencing rules for property offenders are reduced or eliminated, standardization of all theft statutes so that theft, no matter how it is committed, has a uniform and proportional punishment.
- Domestic battery – a first domestic battery remains a class B person misdemeanor, a second domestic battery is a class A person misdemeanor, and a third or subsequent domestic battery is a level 7 person felony with mandatory jail sanctions as a condition of probation (third violation - 30 days jail, fourth violation – 90 days jail, and fifth violation – 1 year incarceration in prison).

Based on FY 2008 data, implementation of all recommendations would result in utilization of 265 to 458 additional beds in the first year of implementation, with a need for 430 to 719 additional prison beds in the next 10 years. Passage of this proposal would further the goals of proportional sentences, based upon the degree of harm to the victim and to the public, reserve prison for violent offenders and repeat non-violent offenders, and promote offender reformation through appropriate community sanctions.

Representative Henry moved to encompass the visions that the KSC proposed and be introduced as a House bill for the 2010 Legislative Session. Senator Brownlee seconded the motion. The motion carried.

Senator Bruce moved the Committee recommend moving forward with Specialty Courts for further development. Representative Ward seconded the motion. The motion carried.

Community Corrections Update

Keven Pellant, Deputy Secretary of Field and Community Services, KDOC, provided testimony on community and field services (Attachment 12).

FY 2008 Community Corrections Risk Reduction Activities:

- Directors Conference and Training;
- Stakeholders Conferences;
- Competitive Grant Application;
- Off hours across the state;
- Two resource workshops;
- Case Management staff Conferences; and
- Targeted Skills development Implementation.

In parole services, the primary focus is risk reduction. The number of offenders supervised by parole staff as of September 28, 2009 is 5,999. This is an increase of 242 offenders since September 2008. Of the 5,999, there are 1,932 offenders from other states being supervised in Kansas. The breakdown of the 5,999 offenders is:

- 730 are being supervised for a 4th or greater DUI offense;
- 5,195 male offenders;
- 804 female offenders;
- Not included in the 5,999 are 311 DUI offenders who have not yet reached post release supervision, but are in county jails, making the actual supervised total at 6,310; and
- 2,375 Kansas offenders being supervised out of state, of these 1,468 are probationers and 907 are parolees.

The supervision level for offenders supervised in Kansas is:

- High Level – 468 males and 53 females - Total 521;
- Moderate Level – 2,840 males and 364 females – Total 3,204;
- Reduced or Low Level – 1,585 males and 357 females – Total 1,942; and
- Offenders not yet assessed for risk – 331.

There is electronic monitoring GPS of offenders with two or more counts of sex offenses against children at \$7.00 a day. About 300 offenders are being monitored across the state.

Discussion points for Community Corrections Update:

- Discuss success rate from 2006;
- Current success rate in 2009;
- Discuss unsuccessful closure since 2006;
- Rate of revocation and risk reeducation initiative of 20 percent; and
- What were some of the challenges.

Annie Grevas, Director of Community Corrections, 28th Judicial District, provided a written update on program outcomes in Saline and Ottawa counties ([Attachment 13](#)).

Dina Pennington, Director, Shawnee County and 2nd District Community Corrections, provided information on the success rate for Shawnee County and the 2nd district ([Attachment 14](#)). The mission statement is to enhance public safety and promote client success through the use of evidence-based supervision. An overview of data:

- Success rate increased from 58.7 percent in FY 2006 to 77.5 percent in FY 2009;
- Unsuccessful closures decreased from 5.9 percent in FY 2006 to 2 percent in FY 2009;
- Revocation rate decreased from 32.9 percent in FY 2006 to 20.3 percent in FY 2009; and
- FY 2009 was the first year the 20 percent Revocation Reduction was met.

High caseloads are a challenge to community corrections officers (about 42 last year for each officer). Additionally, judges and prosecutors get frustrated seeing offenders with multiple appearances before the court on the same case.

Phillip L. Lockman, Director of Community Corrections, Unified Government of Wyandotte County and KCKS, spoke on the implementation of evidence based practices (EBP) in the local criminal justice system in Wyandotte County ([Attachment 15](#)). A summary of the data includes:

- 32.3 percent increase in successful completion rate;
- 9.7 percent decrease in unsuccessful completion rate;
- 24 percent reduction in overall revocation rate; and
- The agency met the 20 percent reduction goal in FY 2008 and FY 2009.

Mr. Lockman strongly urged that funds should be reinstated to parole services and community corrections agencies so that the gains made in reducing the prison population and decreasing the risk to public safety will not be lost. The Office of Judicial Administration should be encouraged and adequately funded by the Legislature to implement a uniform standardized risk instrument prior to sentencing across the state. Additionally, drug, mental health, and problem solving courts should be proposed and funded in geographic areas where there are none and expanded in the areas where they currently exist.

Discussion of Early Release of a Terminally Ill Inmate

Representative Bill Feuerborn provided testimony on the possibility of an early release for terminally ill inmates. Representative Feuerborn also provided to the Committee a list of statutes from other states with an early release procedure based upon an exceptional circumstance such as a medical condition (Attachment 16). Current law requires a lengthy process and he believes, in some clearly defined cases, there should be an expedited process. Representative Feuerborn provided a letter from Secretary Werholtz, KDOC, on Functional Incapacitation Releases/Imminent Death, and stated the Department has identified several factors that should be taken into consideration in deliberating a release statute for inmates facing imminent death:

- Length of time to process release applications;
- Provision for release supervision in lieu of custodial type supervision;
- Issues of responsibility for continued medical care costs;
- Whether there should be requirements for having served a minimum amount of time and custody level; and
- Whether there should be limitations regarding type of conviction offenses.

The Secretary stated that the Department is not endorsing or proposing any particular position with regard to statutory early release authority. He noted that Kansas has adopted a functional incapacitation release statute (KSA 22-3728), and he informed the Committee of the process involved in requesting release under this statute.

Mr. Carrol Droddy, Ottawa, Kansas, stated that his daughter was dying of cancer while incarcerated in prison. He stated that in the last three to four weeks of her life, she could hardly stand and was not a threat. He felt all the attempts to get her released so she could be at home when she died were in vain. When she was finally released, she was so close to death that the family was not sure she knew she was home. Mr. Droddy stated that it serves no purpose to hold a dying person in prison when they cannot even stand alone (Attachment 17).

Representative Gatewood moved to introduce a bill in the House on early release of terminally ill inmates. Representative Henry seconded the motion. The motion carried.

Afternoon Session

Community Corrections Update (Continued)

William R. "Dick" Beasley, Director, 25th Judicial District Community Corrections (Finney County), provided graphs to support the update on community corrections ([Attachment 18](#))

Jay Holmes, Administrator, Sedgwick County Department of Corrections, provided testimony on the progress and challenges of implementing the risk reduction initiative funded through 2008 SB 14 ([Attachment 19](#)). Sedgwick County clients have achieved a 29 percent reduction in revocations in FY 2008 and a 16 percent reduction in FY 2009 from the baseline year of 2006. Successful completions increased by 17 percent and 12 percent, respectively. During this two-year period, the population of clients increased 13 percent, from 1,446 to 1,634.

Mr. Holmes stated major challenges that were high-risk clients spent an average of 435 days on supervision before experiencing revocation to prison. He stated 29 percent of assigned clients are either presumptive prison or border box sentences.

Senator Brownlee moved a recommendation of appreciation; urged that community corrections would be a high priority of the Legislature; and that acknowledged that the prison population will be impacted if funding is not available. Representative Gatewood seconded the motion. The motion carried.

Program Restoration

Roger Haden, Deputy Secretary of Programs and Staff Development, KDOC, updated the Committee on KDOC health care services and food service contracts. He also provided an update on restoration of funding for offender treatment, education, and supportive services ([Attachment 20](#)). The funding restrictions in the last quarter of FY 2009 and FY 2010 resulted in the elimination of many program service areas and significantly reduced any remaining programs or services. These reductions significantly restrict the resources available to corrections case managers to effectively carry out their supervision and risk reduction duties. He said it is fair to predict that the lack of resources will result in increasing revocations as options for release preparation and transition decrease. More importantly, an inverse relationship exists between the availability of intervention and support resources and the risk to staff and public safety. Major resource areas to be restored include:

- Community Transitional Housing;
- Substance Abuse Treatment Services;
- Sex Offender Treatment Services;
- Academic and Vocational Education Program;
- Miscellaneous Programs and Specific Services; and
- DUI Treatment Funding (This enhancement request funds the DUI treatment funding at the currently projected amount to meet actual demand for these treatment services).

Secretary Werholtz, KDOC, provided an updated FY 2010 Budget Adjustment for the Department revised on October 12, 2009 ([Attachment 21](#)).

These requests have been sent as an enhancement request to the Governor's budget.

The Committee stated that failure to fund some of the enhancement budget programs results in additional cost to public safety and prison bed costs.

Overview of Court services Operations and Programs

Mark Gleeson, Family and Children Program Coordinator, provided an overview of Court services operations and programs ([Attachment 22](#)). Currently, there are 351 FTE Court Services positions, all of which are funded from the State General Fund. These positions are supported by state dollars for personnel costs only; and all other operating expenses are provided by counties. Statewide, each judicial district has a court services division. A court services officer may not be located in each of the 105 counties, however, services are provided to each county by a court services officer located somewhere within each judicial district.

The primary role of court services is to assist the district courts by performing investigations and supervision. Kansas statutes provide a general definition of responsibilities of court services officers. Chief Judges, within the limits of fiscal resources, in individual judicial districts are able to emphasize certain roles of court services officers from district to district in order to best serve each individual judicial district. Duties performed by court services officers are governed by statute, administrative rule, and court policy; detailed duties and data tables were provided.

Donna Hoener-Queal, Chief Court Services Officer, 30th Judicial District (Barber, Harper, Kingman, Pratt, and Sumner), provided testimony on Court Services in rural areas of Kansas ([Attachment 23](#)). In rural areas, the lack of available resources for the offenders can present a unique set of problems:

- Each of the five counties is served by a mental health provider and a substance abuse provider; and
- In two counties, the services provided are limited to between one and three days per week, which can make long waiting lists, and does not allow for flexibility to schedule appointments with offenders on their days off from work.

These resources provide an excellent service to the courts and the community. However, if an offender is not compatible with a particular counselor, referrals to other resources are made. The other resources may be up to 70 miles away. Court services officers cannot relieve an offender from a condition of probation imposed by the Court because of inconvenience.

Kathleen Rieth, Chief Court Services Officer, 10th Judicial District (Johnson), provided a detailed description of the multiple roles a court services officer has and the many services that the judges have come to expect ([Attachment 24](#)). Ms. Rieth stated that the job is helping people to make positive changes so that they can reclaim their lives as well as keeping the community safe.

Discussion on Increasing the Probation Fee to Pay for Risk Assessment of Offenders

Chris Mechler, Courts Services Officer Specialist, Office of Judicial Administration, provided testimony on increasing the probation fee to pay for risk assessments of offenders ([Attachment 25](#)). Statewide mandatory use of the Level of Service Inventory-Revised (LSI-R) has been an issue for several years in Kansas. The Kansas Sentencing Commission has chosen the LSI-R as the standardized risk assessment tool or instrument to use for sentencing purposes to determine offender risks and needs. Ms. Mechler stated the LSI-R has been determined to be an effective risk assessment tool and the Kansas Judicial Branch and its court services officers would like to use it; however, funding has been a roadblock in this process for several years.

Ms. Mechler stated the Department of Corrections used state funds and some grant funding to provide the necessary training and other costs for community corrections personnel. The Judicial Branch has not been provided with funding for the LSI-R implementation costs. The Judicial Branch has included a request for State General Fund financing of this project for several years. The approved budget each year allocates resources for implementation of this program. The Judicial Branch has applied for Byrne Grant funding on three occasions, but grant funding was not awarded by the Criminal Justice Coordinating Council.

Ms. Mechler advised that the Kansas Sentencing Commission has proposed an increase in probation fees to fund the LSI-R for the Judicial Branch. The recommendation would increase the current \$25 misdemeanor probation fee to \$125, and would increase the current felony probation fee from \$50 to \$250. The current probation fee amounts are set in KSA 21-4610a, and were provided. The Supreme Court is open to considering the use of probation fees to fund the LSI-R, as mandated by the Legislature. The Judicial Branch's FY 2011 maintenance budget includes a total of \$229,338 from the State General Fund for first-year LSI-R training and implementations costs. Two requests for proposal (RFPs) will be issued as soon as funding has been obtained.

She further stated the Judicial Branch's current budget underfunding must be considered; due to which the Judicial Branch began a hiring freeze at the beginning of FY 2009, which is still in effect. Some positions have been held open for over one year, which means each time an employee quits or retires, no one is hired to replace them. If the Judicial Branch does not receive supplemental funding early in the 2010 Legislative Session, it will be forced to begin a series of as many as 27 furlough days for all non-judicial employees; on those days, Judicial Branch employees will not be paid, and court offices will be closed statewide.

Doug Taylor, Revisor of Statutes Office, provided a bill draft and the statute on probation services fee and community correctional services fee as requested by the Chairperson (Attachment 26). The bill draft provided has the lesser amount than that proposed by the Kansas Sentencing Commission. The bill draft provides for a change in probation service fee from \$25 to \$50, and community corrections services fee from \$50 to \$100.

Senator Bruce moved to prepare a Senate bill that would raise the probation fee an amount that would cover approximately \$300,000 needed to institute risk assessment tools in Court Services. Senator Brungardt seconded the motion. The motion carried.

Discussion of Possible Additional Legislation

Jason Thompson, Revisor of Statutes Office, provided a bill draft concerning the Department of Corrections relating to the transfer of certain offenders, as requested by the Chairperson (Attachment 27). The bill draft provides that offenders who have 10 days or less to be served in the state prison would not be transferred and would be retained in the county jail.

The Committee requested information on what the cost would be for a one-day turnaround processing. Secretary Werholtz responded that information would be provided.

Senator Brownlee moved to prepare a Senate Bill (9rs1090) for offenders, who have 10 days or less to be served in the state prison, the offender would not be transferred and would be retained in the county jail. Senator Bruce seconded the motion. The motion carried.

Discussion of Recommendations on Topics from the July Meeting for the Final Report

KDOC Equipment

The Federal Communications Commission (FCC) has mandated that all non-Federal public safety licensees using 25 kHz radio systems migrate to narrowband (12.5 kHz) channels by January 1, 2013, and failure to comply with this deadline will result in cancellation of license and possible loss of communication capabilities. The FCC has indicated that it will not easily grant waivers for continued wideband operation after the deadline. The total cost of replacing non-compliant radios and supporting equipment will likely run \$750,000 or more.

Representative Gatewood moved that the Public Safety Budget Committee strongly consider approving the \$750,000 for the radios. Representative Grange seconded the motion. The motion carried.

Population Growth

Suggestion for controlling prison population growth:

- Increase the amount of good time credit that can be earned and apply it retroactively to the prison portion of the sentence, and provide that good time credits that reduce the prison portion of the sentence not be added to extend the length of the post release supervision period;
- Cut the length of post release supervision for certain offenders or eliminate it completely;
- Cut off admissions to prison if the offender has less than a certain number of days remaining on his/her prison sentence, e.g., 30-60 days;
- Accelerate release from prison eligibility for release from prison for certain offenders based on severity level or type of offense;
- Review all "old law" inmates subject to proportionality issues for possible early release;
- When DUI offenders are revoked from parole supervision, have them serve their revocation period in the county jail where they were convicted. If DUI offenders are to serve supervision violation penalties in the county jail, district courts rather than the KPB would be more suitable to conduct the revocation hearings; and
- Reexamine the offender registry and the penalties for failing to register.

Senator Kelsey moved the suggestion on good time earned and apply retroactively working through the Parole Board and truth in sentencing. Representative Doug Gatewood seconded the motion.

Senator Brungardt made a substitute motion to examine ways to control offender population growth prior to running out of beds and what options are available to the Legislature. Representative Craft seconded the motion. The motion carried.

Special Needs or Mentally Ill Inmates

Recommendations:

- Create an appropriate therapeutic environment for aggressive or mentally ill inmates;
- Two additional housing units (male and female) servicing this high acuity, difficult to treat inmate population are needed; and
- When accounting for increase in the classification of mentally ill or special needs beds, there has been an increase of 24 percent over the past three years.

Senator Brungardt moved for a recommendation to the Legislature for a further study of nonfunctioning mentally ill inmates. Representative Grange seconded the motion. The motion carried.

Pre-2003 SB 123

Representative Gatewood moved for a recommendation the Parole Board consider pre SB 123 offenders, and to bring them into compliance with the balance of the current guidelines of SB 123. Senator Kelsey seconded the motion. The motion carried.

The Committee also requested that the Kansas Sentencing Commission respond on how many offenders are affected by the pre SB 123.

YLS/CMI and Youth Residential Provider Issues

J. Russell Jennings, Commissioner, Juvenile Justice Authority (JJA), provided the Committee with an update on YLS/CMI and Youth Residential Provider issues (Attachment 28). The YLS/CMI is a research based risk/needs assessment. It is the juvenile equivalent of the Level of Service Inventory Revised (LSI-R) used for adult offenders. The YLS/CMI can provide:

- A basis for making decisions – reduces biases - standardization across the state;
- Help to identify targets for change to determine case plan – examines known risk factors – streamlines programming for youth;
- Help to track changes in the youth;
- Economy of resources – identify which youth should be targeted and what they need to reduce risk; and
- Inspire confidence in public safety.

Four districts have implemented the YLS/CMI with Court Services. Information from the YLS/CMI is incorporated into Pre-disposition Investigation to help provide standardization and to assist judges in determining:

- Which youth is more likely to reoffend;
- Which youth require more structure/supervision;
- What criminogenic needs should be addressed to reduce risk and increase public safety.

Commissioner Jennings stated that Community Based Standards (CbS) provide a blueprint of best practices for secure facilities based on national standards and regular collection and review of outcomes tracking performance. CbS is a research based and statistically sound evaluation

process for residential providers, and to the state it validates third-party monitoring and evaluation, provider accountability, and functions as an early warning system. Based on this criteria, there will be a residential system study and reorganization to evaluate offender population needs, YLS/CMI data based on risk and needs of youth in YRCIIs, determine the levels of service and programs components, capacity needs, and engage providers in dialogue.

The proposed changes:

- Moving away from a “one size fits all” model to best practices to separate low/moderate/high risk juvenile offenders to prevent contamination of low risk juvenile offenders;
- Require evidence based practices such as Cognitive Based Treatment (CBT) groups to address needs and staff training on “what works”;
- Length of stay stabilization be tied to risk level to allow time for behavioral change and stability; and
- Intensity of interventions varies by risk level to ensure that higher risk youth receive more interventions to adequately change the risk of recidivism.

The benefits for youth:

- Prevent contamination of low risk youth;
- Require groups to match the criminogenic needs of the youth, therefore appropriately allocating resources;
- Reduce the instability of placements via adequate initial length; and
- Reduce the risk levels via appropriate intensity.

The benefit for staff is a more streamline operation. The benefit for society is it is economical while providing for public safety by reducing the known risk of the juvenile offender.

Committee Recommendations

Senator Kelsey moved that the Committee support, encourage, and recommend a collaboration between the Kansas Juvenile Justice Authority (JJA) and the Kansas Supreme Court to implement the use of the Youthful Level of Service/Case Management Inventory (YLS/CMI) at the court services level prior to disposition of juvenile offender cases. Senator Brownlee seconded the motion. The motion carried.

Senator Brownlee moved that the Committee support and encourage the JJA to implement a contract condition for all YRCII providers that require participation in the Community Based Standards (CbS) facility evaluation process and acknowledge that there will be a cost associated with it. Representative Henry seconded the motion. The motion carried.

The Committee discussed supporting JJA in the reorganization of Youth Residential Center II (YRCII) services to provide for multiple levels of service that will strengthen the services provided to youth placed in YRCIIs. The Committee believes the reorganization of the YRCII service level will reduce the instances of movement of youth from one placement to another, provide for stronger and more intense program opportunities for youth, and will provide for an adequate length of stay to

achieve beneficial outcomes. JJA will begin working towards YRCII reorganization by July 1, 2010. JJA will involve stakeholders in the discussion while developing a model for Kansas YRCIIs. JJA will provide periodic updates on its progress to the Committee.

Representative Patton moved to support JJA's move away from the one size fits all approach to move toward what is described as best practices of the three tier system of level of risk in order to contain the problem described and to keep the contact between the juvenile offenders. Senator Kelsey seconded the motion. The motion carried.

The Committee meeting was adjourned at 4:30 p.m.

Prepared by Connie Burns
Edited by Athena Andaya

Approved by Committee on:

December 23, 2009

(Date)