

## **MINUTES**

### **JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT**

August 28-29, 2008  
Room 143-N—Statehouse

#### **Members Present**

Senator Pete Brungardt, Chairperson  
Representative Tim Owens, Vice-Chairperson  
Senator Greta Goodwin  
Senator David Haley  
Senator Phil Journey  
Senator Jean Schodorf  
Representative Bob Bethell  
Representative Doug Gatewood  
Representative Jerry Henry  
Representative Dan Johnson  
Representative Jason Watkins

#### **Members Absent**

Senator Karin Brownlee  
Senator David Wysong  
Representative Jim Ward

#### **Staff Present**

Jerry Ann Donaldson, Kansas Legislative Research Department  
Christina Butler, Kansas Legislative Research Department  
Michael Steiner, Kansas Legislative Research Department  
Jarod Waltner, Kansas Legislative Research Department  
Jill Wolters, Office of the Revisor of Statutes  
Jason Thompson, Office of the Revisor of Statutes  
Melissa Doeblin, Office of the Revisor of Statutes  
Connie Burns, Committee Assistant

#### **Conferees**

Roger Werholtz, Kansas Department of Corrections

Helen Pedigo, Kansas Sentencing Commission  
Roger Haden, Kansas Department of Corrections  
Chuck Simmons, Kansas Department of Corrections  
Keven Pellant, Kansas Department of Corrections  
Rise Haneberg, Johnson County, Kansas  
Tom Dugan, Johnson County, Kansas  
David Thomas, Johnson County, Kansas  
Missy Woodward, Kansas Department of Corrections  
Charles Bartlett, Kansas Department of Social and Rehabilitation Services  
Margie Phelps, Kansas Department of Corrections  
Major Phillip Livengood, Johnson County, Kansas  
Judy Wing, Pratt County Jail Administrator

### **Others Attending**

See attached list.

### **Thursday, August 28 Morning Session**

The meeting was called to order by Chairperson Pete Brungardt. The staff members provided a brief introduction of the Committee's duties to the Committee members and attendees.

### **Overview of Kansas Sentencing Commission and Population Projections**

Helen Pedigo, Executive Director, Kansas Sentencing Commission, provided an overview on population projections ([Attachment 1](#)). The major policy changes included in this model are the policies enacted in Senate Substitute for HB 2576 (Jessica's Law) enacted on July 1, 2006, House Substitute for SB 14 enacted on July 1, 2007, and HB 2707 enacted on July 1, 2008.

The most dramatic increase is primarily due to Jessica's Law. The impact of this law will result in approximately 71 off-grid offenders (based on FY 2008 data and 50 percent downward departure to guidelines) being sentenced to prison each year from the year 2009. Offenders are required under this law to serve a minimum term of imprisonment of not less than 25 years or 300 months.

The decrease in probation condition violators reflected the impact of House Substitute for SB 14, which requires at least a 20 percent reduction from that of FY 2006. With the continuous implementation of House Substitute for SB 14, the projected probation condition violators being returned to prison will continue to decrease. The trend during FY 2008 was that prison releases exceeded prison admissions. This is the fourth consecutive year that releases exceeded admissions. The largest releases in number over admissions were found on all drug severity levels, especially drug severity level IV followed by drug severity levels III and I, and nondrug severity levels II, III and VI, to X. An increase for the ten-year forecast period of 321 required prison beds for nondrug severity level I is twofold: the "stacking effect" of the longer pronounced sentence and the impact of HB 2707, and the mandatory sentence requirement of the bill for an extreme sexual offender is not less than 50 percent of the center of the grid range of the sentence. HB 2707 set forth a special rule for the fourth or subsequent theft offenders, and third-time burglary offenders to be sentenced to prison. It indicates an increase in nondrug severity level VI prison population during the ten-year forecast.

Prison projections involve the use of two major data variables: the number of offenders admitted to prison and the length of the sentence imposed for each. Any time a sentencing policy change or a court's decision is enacted, which either targets the admission rates or sentence lengths, there is either an increase or decrease in prison population levels. Identifying the specific impact of policy change involves the simultaneous incorporation of valid data, accurate assumptions, and a realistic implementation.

In summary:

- Prison admissions decreased;
- Releases have increased;
- The number of condition violators revoked to prison was reduced; and
- The most significant change in the model is the increase of off-grid prison population, which will increase by 910 inmates over the ten-year forecast period.

Charts and graphs were included to reflect the ten-year forecast, trends in population, and guidelines for sentencing grids.

## **Overview of the Kansas Department of Corrections**

Roger Werholtz, Secretary of Kansas Department of Corrections, (KDOC) provided updated information on the condition and operation of the correctional institutions and other facilities, and the prison expansion projects ([Attachment 2](#)).

The Capacity Expansion Projects:

- Four projects approved;
- Total original bonding authority - \$39.525 million;
- 2008 Legislature reduced bonding authority to \$19.525 million and limited any expenditures prior to 7-1-09 to planning, land, or soil surveys;
- \$994,057 (estimated) to be expended from bond proceeds to do planning for the four projects;
- No construction scheduled until population projections (annual or legislative impact estimates) indicate the need exists; and
- Having designs done in advance will cut time from authorization to opening by six to eight months depending on the project.

Some Performance Measures indicators are more directly tied to public safety, while others are more directly tied to budget:

- 8,627 facility population on 8-22-08 (9,251 on 2-19-04);
- 5,782 parole population on 8-22-08 (4,261 on 2-19-04, 4,167 on 6-30-08);
- 106 FY 2008 monthly parole revocation rate (FY 2003 rate = 203/month);
- 229 parole absconders on 7-31-08 (739 on 6-30-00, 467 on 6-30-03, 248 on 6-30-08); and
- 41 percent reduction in felony conviction for crimes committed on parole (FY 1998 - 2000 average compared to FY 2004 - 2006 average).

The population projection reflects that, even with the passage of HB 2707, there is a significant change in estimating the demand for bed space. The Council of State Governments estimated that the actions taken legislatively, combined with what KDOC has done in supervision and community corrections, probably is going to allow the state to avoid \$80 million in additional cost over the next five years.

## **Staffing Levels**

The turnover rates for uniformed staff and non-uniformed staff were provided. The impact of turnover rates is shown below:

- Every new officer must complete 240 hours of training prior to assuming a post independently—with the current turnover rate, that equates to 61 uniformed positions being open all year;
- It takes on average about 30 days to fill each uniformed position; with the current turnover rate, that equates to an additional 44.7 days; and
- 105.7 uniformed positions open up all year, due solely to turnover.

Turnover is not the only issue. A snapshot as of 8-15-08 is provided below:

- 80 uniformed positions vacant;
- 51 uniformed positions on extended sick leave, Family and Medical Leave Act (FMLA), shared leave, return to work status;
- 16 uniformed employees on workers compensation;
- 27 uniformed employees on military leave; and
- 174 total uniformed positions unfilled or unable to work on 8-25-08 (8.7 percent of KDOC's uniformed positions).

Another issue of concern is the aging staff and years of experience at the facilities.

The Secretary's concern is the plants are in a state of physical infrastructure decline, obsolete systems need to be replaced, vehicle fleets are decaying, radios are so obsolete that they use frequencies no one else in the state uses, and staff that is worn out. Replacement vehicles and utility costs are issues of budgetary concerns (Attachment 2, pages 2-24 and 2-25).

## **Afternoon Session**

### **Overview of Medical and Food Contracts**

Roger Haden, Deputy Secretary KDOC for Programs, Research, and Staff Development, provided the Committee an overview on KDOC's Food Service Contract and Health Care Services ([Attachment 3](#)).

KDOC's contract with Aramark Correctional Services, Inc. was entered into in 1997 for food services for inmates, and extends through 2012.

- Payment is on daily populations;

- Aramark cooks food for all KDOC-operated facilities with the exception of the Larned Correctional Mental Health Facility, which receives food from the Larned State Hospital;
- Aramark operates food service vocational programs at four KDOC facilities at no extra cost to the state;
- KDOC operated 18 kitchens in eight facilities; and
- Some facilities operate their own gardens with inmate labor which supplements the regular menu with fresh produce during the harvest season.

KDOC entered into a new nine-year contract with Correct Care Solutions, Inc. (CCS) effective July 1, 2005, for the delivery of medical, dental, and mental health care services to inmates. The bid term of the current contract allows for a three-year fixed term and up to three additional two-year renewals with an expiration date of June 30, 2014. KDOC is currently in the first of these renewal periods for FY 2009 and FY 2010.

Terms of the contract:

- Payment is based on a fixed-price, per capita pricing model based on population capacities by correctional facility. The contract includes provisions to adjust the monthly payments of the contract based on performance penalties and certain levels of population increases or decreases; budgeted expenditures will be less than the contracted, not to exceed amounts resulting from these adjustments; no deductibles, no caps on services or contractor expenditures, and no co-pays from KDOC (Inmates pay \$2.00 co-pay for initial sick call visits).
- Health Care Indicators (FY 2008) reflect that the average inmate with Medical Classification II-IV is 44.5 percent, included in this number if one or more chronic conditions may affect work or housing assignments or require chronic care follow-up or infirmary care, or both, or extended infirmary housing. A listing of the health care services and mental health services was provided.

## **Overview of Telephone Contracts**

Charles Simmons, Deputy Secretary of Kansas Department of Corrections, Facilities Management, provided the Committee information on the inmate telephone contract with Embarq, effective December 2007 (*Attachment 4*). The contract provides for a minimum annual guaranteed payment to KDOC of \$1,057,000, and a key feature of the contract is that calling rates are 40 percent lower than those provided in the previous contract. There are different rates for collect, prepaid, and inmate prepaid calls. The inmate prepaid calls is a new feature of the Embarq contract, having been implemented during February-April, 2008, and all customer fees have been eliminated under the new contract.

## **Inmate Intake/Assessment**

Keven Pellant, Deputy Secretary of Kansas Department of Corrections, Community and Field Services Division, provided the Committee with a brief review of the LSI-R and introduced the speakers for the pilot project in Johnson County. The LSI-R is a risk assessment tool to ensure that offender risk and criminogenic needs are identified to assess potential risk to reoffend, determine intervention targets, measure offender change and establish the foundation for case management practices and on-going risk, need assessment, responsiveness to program issues, case planning, case plan follow-up, and documentation. LSI-R is a validated tool for both genders.

## **Johnson County LSI-R Pilot Project**

Rise Haneberg, Chief Court Services Officer; David Thomas, Director of Adult Services, Johnson County Court Services; and Tom Dugan, Project Manager, Johnson County Department of Corrections, provided the Committee information on the Johnson County LSI-R Pilot Project ([Attachment 5](#)).

Other topics of concern:

- Court Services has seen a reduction in felony case assignments (changes in Interstate Compact rules also have affected the numbers);
- ISP has seen an influx of cases;
- Cut-off scores represent a bell-shaped curve with cases being distributed between Court Services and Corrections;
- Top domains continue to be Leisure and Recreation, Attitude and Orientation, Emotional and Personal, and Financial;
- Revocations have decreased; and
- Analysis indicates the tool is identifying efficiently those with higher criminogenic needs and those tend to be the clients who are unsuccessful.

### **Recommendations:**

- More options needed for case plans for the top domains. Cognitive groups have been the main source of intervention, along with substance abuse treatment;
- Staff—Court Services is very dependent on Corrections assisting in the LSI-R interview process to have all cases scored in time for sentencing;
- Continuous training on the LSI-R being available for staff turnover and refresher course and quality assurance is a constant concern;
- Reassessment policy needs to be consistent; and
- Private providers are key players in a client's case plan and need to be brought on board with the expectations of evidence-based practices.

### **Discussion of LSI-R**

Helen Pedigo, Executive Director, Kansas Sentencing Commission, stated that the Sentencing Commission is very much interested in this project and the outcomes in order to take the assessment tool statewide. The Commission has been working with Johnson County since 2003. This is a completely different shift of philosophy in terms of supervision because instead of supervising the severity level of the offense, Johnson County is supervising as to the needs of the offender and the risk to re-offend. There is a side benefit of using the LSI-R to target supervision: that is, it also can be used to target agency resources. There are some hurdles to overcome to be used statewide, such as cost, training, and recertification. Another challenge is the data system used by the KDOC Total Offender Activity Documentation System (TOADs) and the one used by Court Services does not have access to that data system. A subcommittee is working on the information technology portion to make offender information web-based and easily accessible. It is expected to roll out a statewide risk assessment model by 2010.

### **Overview of Community Corrections/Parole and 2007 SB 14 Update**

Keven Pellant, Deputy Secretary of Kansas Department of Corrections, Community and Field Service Division, provided the Committee an update on 2007 SB 14 ([Attachment 6](#)). SB 14

established funding to expand or create risk reduction efforts in community corrections and create incentives for inmates with selected offenses to participate in selected programs and treatment interventions targeted toward risk. The bill also increased the good time rate for inmates with lower severity level crimes. Anticipated initiative outcomes:

- **Short Term:** Increased knowledge of evidence based practice, organizational development, strategic planning, data driven decision making and collaboration.
- **Intermediate:** Institutionalization of the principles of evidence based practice and risk reduction at the state and local levels.
- **Long Term:** Reduced recidivism defined as technical violations and re-conviction.

Information and charts were provided on local agency visits in FY 2008, risk reduction training, population for community corrections, budgets, upcoming event and parole services staffing, and caseloads. Local agency information was provided, grant awards by agency, number and percentage of community corrections offender files closed in FY 2008 by agency and the reason for closure.

## **Friday, August 29 Morning Session**

### **Cross-System Case Management**

Missy Woodward, Program Consultant/Mental Health Substance Abuse Specialist, KDOC, and Charles Bartlett, Kansas Department of Social and Rehabilitation Services, (SRS) provided the Committee information on cross-system case management ([Attachment 7](#)). The substance abuse task force was charged with:

- Data sharing (interoperability of data systems);
- Incorporating a universal substance abuse assessment;
- Basing Case Plans off of the LSI-R; and
- Cross-training stakeholders.

A snapshot of an offender called Wally and his different case managers, agencies, and treatment plans was presented to the Committee to show the need for data sharing. In treating Wally in the current system, it was discovered that Wally had 16 treatment plans and 20 case workers.

Top four reasons to share data:

- Consumers are not lost in the shuffle;
- Services delivered to the consumer are affected by no or poor information;
- Consumers' access to appropriate services is enhanced; and
- Consumer outcomes are tied directly to appropriate treatment at appropriate dosage.

Vision for KDOC and SRS service delivery is accurate assessments for offenders with substance use issues, pre-release coordination through person-centered case management, and continuation of case coordination community during post release.

## **Work with SRS Regarding Child Support**

Margie Phelps, Director of Reentry Services, KDOC, provided the Committee information on the work KDOC does with SRS regarding child support ([Attachment 8](#)).

### **Issues:**

- Offenders owe large amounts of child support, often without knowing it, or tending to it;
- Kansas follows the majority rule, that incarceration is not a sufficient reason to reduce child support payments—some states say it is sufficient for a reduction; some say it is a factor to consider, but not the only factor; and
- Federal guidelines about strict and vigorous enforcement have discouraged legitimate employment and regular payment behaviors among many offenders.

### **Research shows:**

- Offenders pay 5-8 percent of child support due;
- About 70 percent of fathers with child support obligations are noncustodial;
- Offenders proportionately have less earning power, and child support obligations far exceed their capacity to pay;
- Most offenders are parents—in Kansas 49 percent of men and 50 percent of women report being a parent;
- For offenders who come into prison owing child support payments, by the time they get out, their debt has tripled or quadrupled;
- It is difficult for the child support and corrections systems to communicate, given their size and complexity; and
- Most states have no systematic way of identifying inmates who have child support obligations.

Through the KDOC and SRS partnership, there is a written agreement for a child support enforcement specialist at the Reception and Diagnostic Unit (RDU). Other system issues addressed through the partnership are as follows: other SRS child support enforcement offices near prisons working with offenders similar to the specialist at RDU; increase in establishing paternity; establishing or serving court orders, or both; notifying assigned child support worker of an offender's location; and working with case managers to address manageable payment amounts.

A copy of *August 2008 Child Support Report*, which included an article on KDOC-funded initiatives, was provided to the Committee (See Attachment 8).

## **Prison Rape Elimination Act of 2003 and the English Proficiency Program**

Chuck Simmons, Deputy Secretary KDOC, Facilities Management Division, provided the Committee information on the English Proficiency Program and the Prison Rape Elimination Act (PREA) of 2003 ([Attachment 9](#)). Title VI of the Civil Rights Act of 1964 and the Omnibus Crime



Control and Safe Streets Act prohibit discrimination on the basis of national origin, including discrimination based on a person's inability to speak, read, write, or understand English. KDOC was notified by letter regarding the requirement to take reasonable steps to ensure meaningful access to their programs and activities by limited English proficient (LEP) individuals. There are over 100 LEP inmates in KDOC, with the majority of these individuals speaking Spanish (Mexico, Guatemala, Honduras). There are inmates from southeast Asia (Vietnam, Laos, Thailand) and in the past, KDOC has primarily met interpretation needs for these inmates using staff. On a very infrequent basis, contract services have been used.

Based on the communication from the Justice Department an increased emphasis is needed in this area. KDOC has allocated \$25,000 from the Inmate Benefit Fund budget for this purpose, whether that will be sufficient is uncertain. If it becomes necessary to translate the Department's forms and publications into multiple languages, additional resources will be necessary to cover that expense.

The PREA establishes a zero-tolerance standard for the incidence of inmate sexual assault and rape and makes prevention of inmate sexual assault and rape a top priority in each corrections facility.

### **The Act:**

- Supports the elimination, reduction, and prevention of sexual assault and rape within the corrections system;
- Mandates national data collection efforts;
- Provides funding for program development and research;
- Creates a national commission to develop standards and accountability measures; and
- Applies to all federal, state, and local prisons, jails, police lock-ups, private facilities, and community settings such as residential facilities.

The National Prison Rape Reduction Commission recently issued proposed standards for public comment. There are 43 proposed standards, accompanied by 47 pages of compliance checklists. Combined, the standards and checklists set forth over 500 requirements to be met in achieving compliance under the proposed standards. KDOC has submitted comments to those standards that appeared to have the greatest potential impact on Department operations or funding. Some standards have the potential for a significant increase in staffing levels, while other proposed standards do not represent sound correction practice or good public policy.

If the standards are adopted substantially in their current form, KDOC will be placed in the position of either being in noncompliance or with seeking the funding and staffing authorizations necessary to achieve compliance. Being in noncompliance would result in the loss of some federal funding, (5 percent); the loss would not be significant as KDOC's budget comes from the State General Fund. There is a potential that noncompliance could be used to prove liability in litigation should an incident covered by PREA occur, which could result in a judgment for monetary damages. A copy of KDOC's responses was attached ([Attachment 9](#)).

### **Study the Condition and Operation of Jails and Other Local Government Facilities for the Incarceration of Adult Offenders**

Major Phillip Livengood, Detention Administrator, Johnson County Sheriff's Office, provided the Committee information on challenges facing adult detention operations and statistics on the

Johnson County Adult Detention Center ([Attachment 10](#)). Detention centers are responsible for complying with two of the sheriff's statutory responsibilities—the operation of the county jail and attendance to the district court of the county. Approximately 65 percent of persons incarcerated in Johnson County Adult Detention are pre-trial detainees and 35 percent are sentenced prisoners. With such a transient inmate population, providing meaningful and useful programs is difficult. Both facilities utilize “podular direct inmate supervision” management techniques, with a total bed capacity of 533 beds.

The estimated cost per day to house and care for a special-needs inmate in the Johnson County Adult Detention Center is estimated at \$95 per day, and for a minimum security inmate it is estimated at \$36 per day.

An increase in special needs inmates is a current challenge facing adult detention operations. In particular:

- Jails have effectively become America's new mental institutions, housing a larger volume of mentally ill people than all other programs combined;
- Average length of stay for special needs inmates is approximately 75 days, compared to 15 days for a regular inmate; and
- Special needs category of inmates is one of the most expensive and staff intensive of all inmate categories to manage and requires, more resources than most other classifications of inmates, equivalent to maximum security. This class is most difficult to manage and is often violent, acts out physically, or exhibits bizarre behavior. This class also represents the greatest physical threat to staff.

Potential legislative changes which could have a positive impact on detention operations:

- Legislation authorizing Medicaid billing for prisoner medical services;
- Ability for adult detention centers to purchase medications through state contract; and
- DNA collection on arrestees.

Legislative assistance is requested to add beds at Larned State Security Hospital or other state locations to facilitate timely admission of mentally ill inmates for expedited evaluation and treatment.

Judy Wing, Pratt County Jail Administrator, provided the Committee information on Kansas Jail Association (KJA) ([Attachment 11](#)). The Kansas Jail Association was formed in the spring of 2004. The objective of the KJA is to provide jail administrators and the line staff an organization by which issues of common concerns could be addressed, and allowing for issues that affect facilities across the state to be addressed and brought to the attention of the state legislature. A training schedule and detention issues were provided. KJA would like SB 339 to pass; it has been passed over several times and would allow detention staff or a person working with inmates in county jails the same opportunity for retirement as employees of the KDOC.

The Committee meeting was adjourned. The next meeting is scheduled for September 24 and 25, 2008.

Prepared by Connie Burns  
Edited by Athena Andaya

Approved by Committee on:

September 25, 2008  
(Date)