

MINUTES

KANSAS CRIMINAL CODE RECODIFICATION COMMISSION

July 6, 2007
Room 519-S—Statehouse

Members Present

Tom Stacy, Chairman
Ed Klumpp, Vice-Chairman
Senator John Vratil
Senator David Haley
Representative Lance Kinzer
Judge Christel Marquardt
Michael Kaye
Tim Madden
Steve Opat
Kim Parker
Judge Richard Smith
Jackie Spradling

Staff Present

Jill Wolters, Senior Assistant, Office of the Revisor of Statutes
Duston Slinkard, Assistant, Office of the Revisor of Statutes
Jason Thompson, Assistant, Office of the Revisor of Statutes
Jerry Ann Donaldson, Principal Analyst, Kansas Legislative Research Department
Athena Andaya, Principal Analyst, Kansas Legislative Research Department

Professor Stacy requested introductions of Commission members, staff, and audience.

The Commission then turned to the election of officers.

Judge Marquardt stated that prior to electing officers, the Commission should establish what is expected of the Chairman. In her opinion, the Chairman must look for outside funding from foundations.

Senator Vratil agreed that it is a good idea to know what is expected. He supports having the discussion.

Professor Stacy stated it was important for the Chairman to serve as liaison between the Commission and the reporters. The recodification should be led by the Commission, not the reporters. As to fund raising, he felt it was important that someone on the Commission work to raise

funds, but he is not sure it is an essential function of Chairman. He is of the opinion that it should be someone who is good at it and has time.

Judge Marquardt felt someone must take responsibility and be designated as fund raiser.

Mr. Klumpp agreed, stating the Chairman would ultimately be responsible.

Further, Judge Marquardt stated there should be a strong time frame for completion, to move the project along.

Professor Stacy has served as Chairman of the Recodification Subcommittee, and would be happy to continue. However, he would insist on a co-Chairman, as this set up has worked for him in the past on a KU committee.

Judge Smith suggested a subcommittee, made up of three to four members, to focus on outside funding.

Mr. Madden pointed out that the department of corrections shares a grant writer with the department of social and rehabilitation services. This person may be able to assist the Commission.

Ms. Spradling stated that the skills needed to lead the Commission and raise funds are very different skills and one person would not have to have both skills.

The following is a list of duties of the Chairman as established by the Commission:

- Run the meetings;
- Coordinate meetings;
- Act as a liaison between the Commission and the reporters;
- Testify before legislature (communicate);
- Reports;
- Coordinate communications between Commission members; and
- Supervision and direction of staff.

Representative Kinzer stated it was most logical for Professor Stacy to continue as the Chairman. The Commission would lose continuity if he does not continue. Chairman and Vice-Chairman is the leadership structure the legislature is most familiar with. The Chairman and the Vice-Chairman could establish the division of duties between themselves.

Representative Kinzer moved that Professor Stacy be nominated as the Chairman of the Commission, Senator Vratil seconded the motion. Judge Marquardt requested that the motion be amended to include that Ed Klumpp be nominated as Vice-Chairman of the Commission. Representative Kinzer and Senator Vratil agreed with the requested amendment. The amended motion passed unanimously.

Janelle Williams, Kansas Judicial Council, presented a memorandum: Compensation for Attendance at Commission Meetings (Attachment 1). She will be in charge of the vouchers for the Commission.

Professor Stacy provided a brief history of the Kansas Criminal Justice Recodification, Rehabilitation and Restoration Project and current state of the recodification. The Recodification Subcommittee did a preliminary review of the code and designated changes, then the reporters worked on drafting the code.

The Commission members discussed reviewing the sentencing provisions, provisions which related directly to the proportionality of sentences and drug offense sentences. Senator Vratil agreed that proportionality is important factor, but informed the Commission that the Kansas Sentencing Commission (KSC) appointed a subcommittee which will look at the Vera Institute study and file a report. It was determined that the Commission would delay a proportionality review until the KSC subcommittee reviews the study. The KSC subcommittee is meeting on a monthly basis. It was suggested that all commission members review the 2004 Vera Institute report, which can be found on the KSC website.

Commission members discussed the procedures for the sharing of the drafts of the code. It was determined that it is a benefit to have many people review the drafts. Further, Commission members were reminded that attendance at the meetings is very helpful. Once the reporters have been retained, the Chairman will outline an agenda for the reporters for the coming year. For the final report of the Commission, an entire code will need to be presented to the Legislature. It is important to show major progress in next six months.

Commission members discussed combining the drug grid and non-drug grid. This has been discussed in the past, but not drafted.

In regard to the scheduling of future meetings, members had submitted to Judge Smith current conflicting dates. Senator Vratil pointed out that LCC is meeting today to establish dates for interim committees. Judge Smith moved that the Commission meet on the fourth Wednesday of the month, except for November and December, adjusted for holidays. The motion was seconded by Mr. Opat. The motion passed by consensus.

In regard to staffing, at 10:40 a.m., Judge Marquardt made the following motion:

- Chairman Stacy, I move that the open meeting of the Kansas Criminal Code Recodification Commission be recessed for a closed, executive meeting pursuant to subsection (b)(1) of KSA 2006 Supp. 75-4319 for the purpose of discussing personnel matters of nonelected personnel which are under consideration by the Kansas Criminal Code Recodification Commission, that the Kansas Criminal Code Recodification Commission shall resume the open meeting in Room 519-S of the Statehouse within 30 minutes, and that this motion, if adopted, shall be recorded in the minutes of the Kansas Criminal Code Recodification Commission and shall be maintained as part of the permanent records of the Kansas Criminal Code Recodification Commission.

Judge Smith seconded the motion. The motion passed unanimously.

At 11:10 a.m., the meeting resumed. Judge Marquardt moved that the executive meeting be continued for ten minutes for the purpose of continuing the discussion of personnel matters of nonelected personnel which are under consideration by the Kansas Criminal Code Recodification Commission. Judge Smith seconded the motion. The motion passed unanimously.

At 11:20 a.m., the meeting resumed.

Judge Smith moved the following:

- Retain the former Reporters of the Recodification Subcommittee, Judge White and Judge Brazil.

- Authorize the Commission Chairman and Vice- Chairman to initiate contract negotiations with Judges White and Brazil to retain their services as Reporters.
- The contract shall be returned to and reviewed by the Commission for final approval.

The motion seconded by Ms. Spradling. The motion was approved unanimously.

Professor Stacy appointed the following members to serve on a subcommittee to interview applicants for a staff attorney (s): Michael Kaye, Representative Kinzer, Jackie Spradling. Professor Stacy and Mr. Klumpp will also serve.

In regard to the budget, Judge Marquardt, moved, seconded by Ms. Spradling, that \$30,000 be set aside for travel, copying and members expenses. The motion was approved unanimously.

The Commission discussed the concept of subcommittees. Following discussion, it was determined that there is no pressing need to do so at this time. The Commission also discussed reviewing chapter 22, Criminal Procedure. It was decided that the Commission should show solid progress in Chapter 21 then maybe request the Legislature to specifically expand the Commission's duties to include chapter 22.

In regard to raising funds, Professor Stacy hoped the reporters would take the lead on raising funds. It was pointed out that if the Judges are still acting in Judicial capacity, Judges could not raise money. Mr. Madden pointed out that the Department of Corrections grant writer could assist and has have contacts with JEHT Foundation, Council of State Governments and Pew Charitable Trust.

Mr. Madden will be on the fund raising subcommittee with Professor Stacy and Mr. Klumpp.

The next meeting will be July 25, beginning at 9:30 a.m., in Room 519-S, Statehouse.

Ms. Spradling, moved to adjourn the meeting at 11:48 a.m., Judge Smith seconded the motion. The motion was adopted unanimously.

Submitted by Jill Wolters, Senior Assistant
Office of the Revisor of Statutes

Approved by Committee on:

July 25, 2007

(Date)