

M I N U T E S

SPECIAL COMMITTEE ON JUVENILE MATTERS

September 19, 1975

Members Present

Representative Dave Heinemann, Chairman  
Senator Arden Booth, Vice-Chairman  
Senator Bob Madden  
Senator Jan Meyers  
Senator Jim Parrish  
Representative Mike Glover  
Representative Glee Jones  
Representative Fred Lorentz  
Representative James Lowther  
Representative Ardena Matlack  
Representative Joe Norvell  
Representative Neal Whitaker

Staff Present

Walt Smiley, Legislative Research Department  
Ben Barrett, Legislative Research Department  
Mary Torrence, Revisor of Statutes' Office

Conferees

Charles Hamm, Legal Staff, SRS  
John Thillits, Kansas City, Kansas  
Jack Pulliam, Social and Rehabilitative Services  
Forrest Swall, KU School of Social Welfare  
Ann Heberger, League of Women Voters  
Mike McLain, Johnson County Juvenile Court

The Chairman called the meeting to order and acknowledged two new Committee members, Representative Glee Jones and Representative James Lowther. He noted they are replacing Representative Everett and Representative Douville. The Chairman then introduced Mr. Charles Hamm of SRS. Mr. Hamm distributed copies of recommendations on the Juvenile Code prepared by SRS. A copy of these recommendations are on file with the Research Department. Mr. Hamm also

distributed a copy of the letter from the Department of Health, Education and Welfare concerning federal funding for placement and foster care of juveniles (see Attachment I). Mr. Hamm stated that he was not sure whether the letter answered the question of whether SRS can get federal money if juvenile courts placed juveniles with non-SRS facilities. Mr. Hamm indicated his willingness to draft a second letter to HEW concerning the question of federal funding for such placement of juveniles.

The Chairman then introduced Mr. Ben Barrett from the Research Department. Mr. Barrett discussed a survey done by the Research Department in 1972 for the Special Committee on Education Matters. The survey concerned the problem of truancy and how it was handled among the various school districts in the state. The survey results indicated that all five of the largest school districts in Kansas said that they did have a truancy problem while 200 out of a total of 236 of the smallest school districts which responded to the survey said they did not have a truancy problem. Of the medium-sized school districts, ten said there was a problem and ten said there was not a problem. (For a list of those school districts reporting a truancy problem, see Attachment IV.) Concerning whether there was a written truancy procedure established in the school districts, all five of the largest school districts indicated that they did have a written procedure, while only 9% of the smaller school districts said that they had such a procedure. Detailed copies of the survey report are on file in the Research Department.

Representative Glover then distributed a copy of a memorandum from Forrest Swall of the KU School of Social Welfare. Mr. Swall's memorandum discussed his proposed changes in the juvenile code. A copy of Mr. Swall's memorandum is appended as Attachment II.

There followed some discussion of the Governor's decision not to participate in the federal delinquency prevention program. The Committee indicated that a representative of the Governor should appear at a future meeting to discuss the Governor's decision.

The Chairman then introduced Mr. John Thillits, Director of an alternative school in Kansas City, Kansas. Mr. Thillits urged the Committee to investigate federal money which is available for prevention of juvenile delinquency. He indicated that he is presently organizing a truancy task force in Kansas City, Kansas, but has encountered funding problems. Mr. Thillits also indicated that should status offenses remain in the juvenile code, public schools should be encouraged to use either in-house or external alternatives. He also indicated his feeling that truancy is not a criminal act; however, only the juvenile courts have jurisdiction over truants. He said that approximately 2,500 kids under 18 are absent or truant from public schools in Kansas City, Kansas every day. Mr. Thillits also said that in the first quarter of 1975, 50% of the violent crimes in Kansas City, Kansas was committed by juveniles.

Mr. Thillits indicated that the present method of determining school funding tends to encourage the truancy problem in many public school districts. That is, since the amount of state aid distributed to school districts is computed on the basis of attendance on September 15, school districts are not "rewarded" for attendance at any time other than on September 15. Mr. Thillits said that state aid should not be used to penalize school districts with truancy problems; rather, state aid should be used to encourage innovation in dealing with truancy. It was noted that a restriction in S.B. 577 prohibited state aid to educational agencies; thus, alternative programs are excluded from state aid. School districts, however, can contract for alternative programs. Mr. Thillits emphasized that he could find no money for alternative schools in Kansas. He suggested that perhaps the Department of Education could require school districts to make more effort to detect truants early in their educational experience. It was his view that truancy was a process and that there should be intermediate steps prior to sending a truant to juvenile court. Early detection of truancy could reduce the overall problem of truancy.

There followed Committee discussion of methods of dealing with truancy, and of possible accreditation standards for alternative schools. Mr. Thillits interjected that the average reading of children attending his alternative school is five grades behind their age group. Eighty percent of his students, he said, have learning disabilities, if only because of truancy.

The Committee indicated an interest in hearing more at future meetings about alternative schools and other methods of dealing with truancy.

Senator Madden then distributed a letter he had received from Sedgwick County Juvenile Court Judge Michael Corrigan. This letter contained Judge Corrigan's recommended changes in juvenile code. A copy of Judge Corrigan's letter is appended as Attachment III.

The Committee resumed deliberations on amending the Juvenile Code.

K.S.A. 38-805(c). The Committee discussed the problem of juvenile records. Reference was made to Section 57 of the model act. Discussion also concerned whether responsibility for sealing records should lie with juvenile court or with the individual juvenile.

A Committee member moved that language be drafted so that the records of a juvenile offender (whether SRS records, police records or other records) might be sealed upon his own initiative if such offender has had no recent offenses. The motion would

allow the juvenile court to seal records on its own motion for good cause shown. All this would be allowed for the juvenile who is either 18 years old or two years after his last adjudication, and would be sufficiently informed to avoid a need for attorneys. The motion was seconded and passed on a voice vote.

#### Afternoon Session

K.S.A. 38-806. The Committee discussed the meaning of "jurisdiction", "custody", and "commitment". A Committee member moved to draft language directing juvenile courts to place juveniles with SRS, although the court could direct placement to a specific institution. The motion also would allow the Secretary of SRS to make a motion in juvenile court to challenge the placement. The motion was seconded and passed on a voice vote.

A Committee member moved that appeals be allowed for any interested party to appeal a specific placement, or to move for a rehearing on the placement, prior to the actual placement. Included in the motion was the requirement that notice be given to the court and to the interested parties at the time of changes in placement or every six months. The motion was seconded and passed on voice vote.

The Committee discussed the possibility of consolidating the "delinquency" label with the "miscreant" label into one group. Such discussion led to a motion to remove all references to a particular type of juvenile offender from the juvenile code; for example 38-806(c) would apply to all juveniles who came before the juvenile court. This would give jurisdiction to the court over any juvenile who comes before the court, regardless of labels. The motion received a second and passed on a voice vote.

K.S.A. 38-807. The Committee discussed various notions of "parently unfitness". A Committee member moved that "parental unfitness" be not defined. This motion received a second and passed on a voice vote.

K.S.A. 38-808. The Committee discussed the possibility of eliminating waiver of jurisdiction to district court. There was also some discussion of allowing the prosecuting attorney the discretion to file in either juvenile court or district court. A motion was made not to give the prosecutor such discretion. The motion was seconded and passed on a voice vote.

K.S.A. 38-809 (see also 38-823). After some discussion a motion was made to allow no continuance except for good cause shown, and any such continuance would be to time certain. Motion received a second and passed on a voice vote.

K.S.A. 38-811. After considerable discussion concerning venue for adjudication, a motion was made to leave discretion for adjudication with the judge in the county where the crime was committed; and to vest discretion for venue over disposition in juvenile's county of residence. Motion received a second and passed on a voice vote.

The Chairman announced that the next meeting of the Committee will be September 29 and 30.

The Chairman thanked Committee members and conferees for their attendance and adjourned the meeting.

Prepared by Walt Smiley

Approved by Committee on:

September 30, 1975  
Date



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
REGION VII  
FEDERAL BUILDING  
601 EAST 12TH STREET  
KANSAS CITY, MISSOURI 64106

SOCIAL AND REHABILITATION  
SERVICE

August 20, 1975

Dr. Robert C. Harder, Secretary  
Kansas Dept. of Social and Rehabilitation Service  
State Office Building  
Topeka, Kansas 66612

Dear Dr. Harder:

A member of your staff recently requested an interpretation of Federal policy as it relates to delegation of responsibility for the placement and care of AFDC/foster care children to another public agency.

Section 233.110 of the Code of Federal Regulations speaks to this issue. 45 CFR 233.110(a)(1)(iii) specifies as follows:

"A state plan under title IV-A of the Social Security Act must:

- (1) Provide that aid will be given in the form of foster care for each otherwise eligible child:
- (iii) Whose placement and care are the responsibility of the State Agency administering or supervising the administration of the AFDC plan, or, if the state so elects, are the responsibility of any other public agencies specified in the plan, with whom the state agency has a currently effective agreement that provides for development of a plan satisfactory to the State agency for AFDC/foster care children in accordance with sub-paragraph (2) of this paragraph and that contains other provisions necessary to achieve the objectives of the state's AFDC plan."  
(Underlining added)

Sub-paragraph 2 which follows the above quotation specifies the provisions which must be included in the agreement.

STATE DEPT. OF  
SOC. REHAB. SERV.

AUG 22 1975

RECEIVED  
SECRETARY'S OFF.

~~STATE DEPT. OF  
SOC. REHAB. SERV.~~

~~AUG 21 1975~~

~~RECEIVED  
SECRETARY'S OFF.~~

Dr. R. C. Harder - Page 2.

From the above quotation from the Federal Register, it is clear that the option as to whether the Single State Agency will enter into agreement or agreements with other public agencies for the placement and care of AFDC/foster care children rests solely with the state agency. Federal financial participation is available whichever way the state opts to go.

I trust that this answers the inquiry which has been raised.

Sincerely yours,

*Robert L. Davis*

Robert L. Davis  
Regional Commissioner, SRS

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

DIVISION OF SERVICES TO CHILDREN AND YOUTH

Position Statement Relative to 45 CFR 233.110 (a)(1)(iii)

The State Department of Social and Rehabilitation Services has reviewed the possibility of entering into agreement with other public agencies for the placement and care of AFDC-FC children. Any agreement for the placement and care of AFDC-FC children must contain the following provisions as stated in 233.110:

He will be placed in a foster family home or a child care institution in accordance with his needs.

His need for and the appropriateness of his care and services in such placement will be reviewed not less frequently than every six (6) months.

Services will be provided to improve the conditions in the home from which he was removed or to make possible his placement in the home of another relative under the State's AFDC plan.

The State Department of Social and Rehabilitation Services has developed a program which meets these provisions by providing instructions to all local offices through the Manual of Services to Children and Youth which states, in part:

It is our program goal to provide permanency for children who have been separated from their families. To insure the healthy growth and development of the child he must know who he is, where he belongs, and where he will be. Any placement for a child who has to be separated from his own family should be considered as a step toward a permanent plan. Such plans include timely reintegration with his own family, permanent placement in an adoptive home, foster care placement in a home where he can remain on a permanent basis and eventual achieving of self-sufficiency and independence. (Manual of Services to Children and Youth, 6014).

Specific program objectives include:

- 1) Assuring that the legal rights and responsibilities of families, children and SRS are fully understood.
- 2) Provide prior planning for initial placements by the use of pre-placement staffings or provide plans for emergency placements to be followed by a staffing within two weeks.
- 3) Establish a plan for permanency within six (6) months which will meet the long-range developmental and social needs of the child.



- 4) Reduce the necessity of/placements by maintaining for the child the selected long-term foster placement.
- 5) Provide placement services to families with children whose child is entering in or returning from an institution.
- 6) Provide placement planning for children referred by the courts.
- 7) Provide services requested by the child placement agencies.
- 8) Provide adoption services.

The following are excerpts from the Kansas Manual of Services to Children and Youth which describe the types of placement services provided by the Department of Social and Rehabilitation Services:

6034.3 Types of Placement Services:

6034.31 Pre-placement Services

Those activities that are directed toward determining if a child must be removed from parental care. The service tasks include:

- A. Obtaining information from all sources regarding the present situation in the parental home which makes placement seem necessary;
- B. Exploring alternatives to placement outside the parental home such as day care, recreational programs, special educational, treatment, or training programs;
- C. Referring to other community agencies and resources which may enable the family to remain intact.

6034.32 Placement Planning Services

Those services directed toward enabling the child to be placed in a manner least damaging to the entire family constellation. The service tasks include:

- A. Obtaining family and social history information as a tool to work with the child;
- B. Exploring relative resources;
- C. Staffing to determine which of the possible alternatives best meet the needs of the child and how to handle the risks of the chosen alternatives;
- D. Preparing the child, family and facility for the placement.

6034.33 Placement Services

Those services that are directed toward the meeting of the short and long range goals established for the child who is placed outside the parental home.

The service tasks include:

- A. Assisting the child and family in understanding the reasons for placement;
- B. Assisting them in modifying behavior in order to achieve established goals;

- C. Providing services to enable child, family and facility to work toward established goals.

6034.34 Post Placement Services

Those services that are directed toward maintaining the selected placement and helping the child develop a sense of self-identity and belonging.

The service tasks include:

- A. Assisting the child and family to develop a relationship that meets their needs;
- B. Assisting the child, or child and family, to integrate the genetic background and past experiences into the present situation.

The staffing process is a vital part of establishing a plan to assure that the needs of a child are identified and met. This excerpt describes the procedures involved. It is the social worker's responsibility to implement the case plan as established through the staffing plan.

6036.11 Staffing

Placement planning for children involves a team effort which brings together all persons within and outside SRS who can significantly contribute to the establishment of goals and elimination of barriers to the achievement of the goals. The district C&Y supervisor shall plan staffings; a team shall be comprised of a minimum of three persons, one of whom shall be designated as chairperson; the child's service worker and the assigned supervisor shall participate. Other members of the staffing team may include: workers for any other family members; staff from other district offices involved; staff from other agencies in the community providing services to the child or the family (i.e. juvenile court, schools, mental health centers, public health department, private agencies, etc); natural parents; child and foster parents when appropriate.

It is the responsibility of the staffing team to: set case goals; identify barriers; ascertain steps necessary to overcome barriers; and make decisions regarding placement. The establishment of a service plan will be determined by a complex of factors including: the legal status, age and special needs of the child; the ability of the parents to participate in the establishment of goals, to take steps to correct the problems which lead to placement, and to assume parental responsibility to the extent possible; and resources available. The staffing team will determine who has primary case responsibility and define service tasks for each worker involved in eliminating barriers. The person carrying primary case responsibility may change in accordance with the various stages of the placement process. Any member of the team may request an additional staffing as appropriate. In most instances, primary case responsibility will be assumed by the worker providing services to the child.

A. The responsibilities of the Staffing Team

1. The staffing chairperson

- a. Sets time, date and place of staffing and notifies each participant;
- b. Defines purpose of staffing (i.e.): to determine if out of home placement is warranted, to determine kind of placement needed and the objectives of the placement; to determine appropriate place-

- ment after an emergency placement has been made; to determine need for replacement; to determine progress toward goals established by previous staffings.
- c. Provides participants with written material or other information they may need for participation.
2. The staffing team members prepare for the staffing:
    - a. review previous case material;
    - b. confer with supervisors, collaterals, etc., as necessary;
    - c. obtain new information from clients;
    - d. explore alternatives in order to make recommendations.
  3. The team determines Immediate Service Plan
    - a. discuss all aspects
    - b. define goal and sub-goal
    - c. identify barriers
    - d. formulate next steps
    - e. assign tasks and identify persons responsible
  4. Schedule next staffing
  5. The child's worker shall:
    - a. Record staffing decision
      - i. case record
      - ii. tracking system (6060)
    - b. Prepare CY-835, Social Service Assessment of Financial Need for Children Placed in Foster Care, as appropriate.
    - c. Prepare CY-833, Progress Report to Juvenile Court, as appropriate.

When placement away from the family is necessary, procedure are described in the Manual of Services to Children and Youth which relate to the establishment of a plan for permanency. The following excerpts describes in part the social worker's responsibilities:

6036.2 Service Tasks in Placement Process

Prepare the child, family and resource for placement.

- A. Explain fully why placement is necessary, in an open, honest and empathetic manner.
- B. Provide an opportunity for child and family to express their feelings about separation and placement.
- C. Help child and family participate in placement via pre-placement visits, obtaining medical examinations for the child, selecting what the child shall take, sharing information about the child that will be helpful to the foster parent or facility.

- D. Provide the placement facility with complete information about the child including family identifying information, habits, likes, dislikes, special problems, anticipated reactions, etc., reason for the placement and the immediate and long range case goals.
- E. Define the responsibility of parent, child if appropriate, and facility

6037 Service Tasks to Insure Permanency for the Child

For each child placed out of his own home, a staffing team shall establish a plan for permanency. Within six months the staffing team shall determine the most appropriate service goal. Service goals are:

- 1. reintegration with own family;
- 2. adoption;
- 3. long-term foster care; and,
- 4. self-support and independence.

The staffing team shall: identify the barriers to achieving the goal; establish sub-goals as necessary; formulate next steps; assign tasks and identify persons responsible; and establish procedures to monitor progress.

While the manual describes procedures for each of the four goals, the following relate to points 1 and 4:

6037.1 Service Tasks Related to the Goal of Reintegration with own Family

- A. Intensive goal oriented work with family to assist them to correct those conditions which led to placement.
- B. Visits with family members to avoid a break in the relationship.
- C. Help family to assume as much of the parental responsibility as possible (i.e. selection of clothing, providing recreational activities, financial participation whenever able, etc.).
- D. Periodic reports to the court regarding progress, CY-833, Progress Report to Juvenile Court.
- E. Obtain courts' written permission for return of children to family.
- F. Provide support services to help the family when children are returned, such as pre-school, day care, referral to recreational facilities, etc.
- G. Enter change of placement into Child Tracking System. (See 6060)
- H. When appropriate, request termination of custody.
- I. Close child's service plan.
- J. Enter closure into Child Tracking System. (See 6060)

6037.4 Service Tasks Related to Self-Support and Independence

When children remain in the custody of SRS throughout their minority or when SRS is given custody of youth in the teenage years, planning done with the youth should be directed toward the goal of self-support and independence unless the youth is disabled. Placement should be selected with this goal in mind.

Reintegration with own family or adoption will not be possible for all children. When this is true, the agency has a responsibility to provide permanency in another way. In most cases, this would be with a foster family or, for older youth, a group setting where the youth can remain until he is able to be independent. Occasionally, the best plan will be institutionalization throughout the minority of the child and protected living as he reaches adulthood.

A plan for long term foster care cannot be made without the total involvement of the foster family or facility, the child as appropriate, and the agency. Each must be a part of the plan and the roles and responsibilities of each clearly defined. Once the case plan for long term care is established, it becomes the responsibility of SRS to preserve the placement and to provide those services that enable the child, foster parents or facility to function somewhat independently of the agency.

- A. Establish a goal with the youth and identify barriers to achieving the goal.
- B. Develop a service plan with the youth.
- C. Select the most appropriate placement.
  1. Independent living
  2. Group care
  3. Relative placement
  4. Foster Care
  5. Job Corps
  6. Vocational Rehabilitation, WIN, etc.
  7. Military Services
  8. Further education or training
- D. Make any necessary referral
- E. Provide for maintenance and other special services as needed. (see 6038)
- F. Prepare the CY-835, Social Service Assessment of Financial Need for Children in Foster Care.
- G. Enter placement and plan into the Tracking System. (See 6060)
- H. Provide social services which will enable the youth to achieve independence. Such services include:
  1. Information to assist the youth in developing a sense of identity, through life history and family background information, medical history, school report cards, birth verification or certificate, pictures, information concerning other family members as known; and enabling contacts with other family members as appropriate.
  2. Services related to money management.
  3. Information and referral regarding family planning and sex education.
  4. Assisting in providing social and enrichment opportunities, (i.e., church organizations, youth groups, community facilities).
  5. Support, counselling, and encouragement to help the youth move into adulthood and independence.
  6. Assisting the youth in utilizing resources available through SRS.
  7. Assisting the youth in utilizing other resources to achieve the goals such as education and training beyond that available through SRS by providing information about resources available. (PAM-2630)

8. Developing an appropriate plan for conservation of funds to meet future identifiable needs for those who have earned income or are receiving benefits from SS, VA, RR, etc. (See 6038.3)
9. Informing the youth of policies as given in (6037.4) of this chapter.

The AFDC-FC program is audited by the federal government. When any of the provisions described above are not met, the Department of Social and Rehabilitation Services is faced with an audit exception. This means, then, that the Department of Social and Rehabilitation Services could be faced with a fiscal penalty for action or non-action over which it would have no control. In addition, the Department of Social and Rehabilitation Services has carefully reviewed every position in the agency. The review to date indicates there would not be staff available to monitor activities of another public agency to assure compliance with the provisions of Federal Regulation 233.110 which requires that the public agency with whom the Department of Social and Rehabilitation Services contracts must provide the same services that the Department of Social and Rehabilitation Services would provide. The Division of Services to Children and Youth has been mandated by K.S.A. 75-5322 et. seq. to provide for coordinated programs for children and youth. There is the potential for fragmentation and differential treatment of children were the Department of Social and Rehabilitation Services to enter into such agreements. There is an average of 3,000 Kansas children in foster care at any given time. Each of these children has the right:

To be with their natural parents and siblings whenever possible.

To good physical care with adequate food, shelter and clothing.

To education for life in today's world.

To emotional security.

To diagnosis and treatment of medical and emotional conditions.

To protection and freedom from harm, injury and neglect.

To preservation and conservation of any estate or property in his best interests.

To all guaranteed protections of the federal and state constitutions which these documents afford to any individual.

The Department of Social and Rehabilitation Services has developed a program to assure children the above rights when it is necessary for the Department of Social and Rehabilitation Services to take on the responsibility that a natural parent would have in ordinary circumstances.

In summary, Federal Financial Participation is available for the child "whose placement and care are the responsibility of the State Agency administering or supervising the administration of the AFDC plan, or, if the state so elects, are the responsibility of any other public agencies specified in the plan, with whom the state agency has a currently effective agreement that provides for development of a plan satisfactory to the State agency for AFDC/foster care children.

However, the potential problems generated for children and their families and agencies involved do not warrant such a change. Such a change would:

- 1) Lead to duplication of staff and services in two public agencies with probable increase in expenditures.
- 2) Decrease the probability of a coordinated service program to children and youth away from their own families.
- 3) Decrease the probability of a coordinated service program to families whose children must be removed from their own homes.
- 4) Require that the Department of Social and Rehabilitation Services monitor activities of another public agency regarding the provisions of federal regulation 233.110.
- 5) Require the diversion of staff from direct service activities to monitoring and evaluation activities with regard to the compliance with the regulations in all agreements.
- 6) Require the development of procedures for funding audit exceptions which could be anticipated as a result of non-compliance.
- 7) Require the negotiation of an agreement in keeping with the provisions of federal regulation 233.110. (If the public agency were the juvenile courts, it would require the negotiation of a contract satisfactory to the juvenile court judges and to the Department of Social and Rehabilitation Services and which assures the best interests of children, youth and their families are served.)

MEMORANDUM

To: Senator Arden Booth  
Representative Mike Glover

From: Forrest L. Swall

Date: September 18, 1975

Subject: Revisions in the juvenile law under consideration by the Interim Legislative Committee on Juvenile Matters. Dave Heinemann, Chairman

Attached are my comments and observations related to specific sections of the statutes under consideration. As you suggested in your requests for my comments, I have tried to be brief and I hope these comments will be useful.

I would especially urge that the committee give special attention to:

1. The decision by the Governor not to participate in the national delinquency prevention program. The national thrust is clearly the direction Kansas will eventually move for reasons of economy as well as sound child care practices. While I can understand the Governor having some reservations about a few of the national requirements, there should be a careful review of the entire matter which allows for some additional input. The Interim Committee's effort could be very useful to the Governor.
2. The consideration to remove the status offenders, including school truants, from the juvenile justice system. This is becoming such a significant issue because of the national attention that I'm wondering if the committee would want to set up a workshop which could bring people together to examine the dimensions of the issue.

I believe the Institute for Public Affairs here at K.U. would be an excellent resource for planning and conducting such a workshop.

3. The rights of children are central to a number of the changes being considered. In my judgment there should be no waiving of rights in any situation. What has been done "in the best interests of children" where procedural safeguards have not been built in and/or followed has resulted in jailing children, detaining without probable cause, indefinite temporary custody, institutionalization of children without regard to their needs, juvenile hearings without representation and a whole host of actions contrary to the intent of the law and best interests of youngsters, families and communities.



Memo to Arden Booth and Mike Glover

4. A central administrative or coordinating arrangement for juvenile probation is badly needed. The Iowa plan appears to be an excellent approach. What ever approach used, there must be provision for:
  - a. Probation officer coverage for all counties in Kansas. For a number of the smaller counties, several counties (as in judicial districts) could be joined.
  - b. Probation must be separate from law enforcement. Present practice in some counties involves a law enforcement officer serving as probation officer.
  - c. Probation officers should meet some established standards of education, training and experience with mandatory on-going, in-service training.
  - d. Probation officer pay and tenure should be standardized consistent with the state civil service.

Hopefully I can meet with both of you as well as committee members from time to time to explore further the issues related to the juvenile law and related matters.

Thanks for this opportunity to share these views with you both, and with the committee.

COMMENTS ON SPECIFIC SECTIONS  
OF THE KANSAS JUVENILE CODE

Section 38-802. The escalation clause

There is no rational basis for the escalations (2) and (4). Retention of these only contributes to a primitive, punitive inhumane approach to kids who need help and protection. We have absolutely no evidence to show that these court actions permitted by these clauses in any way contribute to more effective control. It would be more in keeping with the helping humane philosophy of the juvenile court to remove all escalations.

Section 38-802 (38-817). Truants and other status offenders

At some point in time it will be possible for us to acknowledge what is extremely well documented in the literature: the juvenile court is not helpful to status offenders. While the law does give the court authority to act, the actions have not proven helpful. It is asking the court to do something it simply cannot do. We can continue the illusion of authority or we can acknowledge that jurisdiction over status offenders has resulted in more harm than help as the studies show.

No one wants to sit by and knowingly see kids harm their future by remaining out of school. But our efforts to "force" the issue, based on the research done and the observations of judges who have taken time to examine and record their practice compel us to recognize that our authoritative efforts, more often than not, push the kids even further away from school.

At some point we will be ready to face the truth. It could be now.

Section 38-805. Expungement

The assurances given to youngsters that their juvenile record will not be used against them must be backed up with procedures which make it impossible to retrieve the juvenile records. At present the practice in relation to the law is a blatant hypocrisy. One state literally throws the juvenile records into an acid vat. There needs to be a complete removal and destruction of all juvenile records at the time a youngster is beyond the reach of the juvenile court. Only a statistical form which records data which cannot be linked directly to the youth should be retained.

To assure the destruction of the record the District Court or some other agency should be commissioned to carry out, or cause to be carried out, the act of destroying records.

Comments on the Juvenile Code

Section 38-807. Parental unfitness

Here and in other sections the use of the terms parents who are "unwilling" or "unable" would be a far more helpful and constructive way to conceptualize the problem. There is a difference. Some parents want desperately to care for their children and for reasons beyond their control are unable to do so. Other parents who to the best of our ability to understand have the ability but use their resources for other things and thus do not care for their children. Both of these conditions can be documented. Such documentation does not need to condemn the parents.

Section 38-808. Prosecuting Attorney discretion to file in District Court

This would be a very serious backward step. While some youngsters do commit serious acts we ought to use the machinery we have to determine whether or not the youngster is treatable as a juvenile. To proceed in this manner is characteristic of a more mature, restrained society. The procedure we have established calls for discussion and deliberation. Allowing the prosecuting attorney to decide would be setting the stage for a more impulsive, arbitrary and expedient procedure in response to a punitive climate. As angry as we all are about the senseless acts committed from time to time, it is imperative that through the law we constrain ourselves.

Section 38-809. Continuances

Allowing general continuances opens the gate to serious judicial abuse of the rights of children and parents. Continuances should be allowed only for cause and these should have specified limits.

Section 38-814. Central organization of probation officers

The Iowa plan merits very serious consideration. As it now is no one can be proud of the utter disregard for probation officer standards for education, training and practice. While Kansas has several counties with well trained probation officers, the system is one of patronage with no assurance that better probation officers will be retained from one judge to the next.

There must be standards, job security and there must be probation coverage for all counties. This will require some form of state administration which could possibly be established under the State Supreme Court.

Section 38-815. Detention issues: 24, 48 or 72 hour; waiver of hearing; require probable cause.

No known systematic examination of these practices in Kansas exists. Experiences cited suggest that the rights of children in some counties may be flagrantly violated by being kept for indefinite periods of time in detention (often local jails), with no personal review by the judge

Comments on the Juvenile Code

and no guidelines to establish probable cause. Whether these conditions do or do not exist, policy by law should provide a form of control which will minimize the possibility for such abuse.

Experience suggests that the length of detention before a detention hearing is, in some jurisdictions, related to the convenience of the judge or the probation officer. The central factor should be the interest and the needs of the youngster. With the latter in mind the shorter time period should prevail.

On the waiver of the hearing--such a provision contributes to an erosion of the child's rights and the court's responsibilities. Every child to be detained has a right to a detention hearing, and that right should not be abridged.

Probable cause

The studies show that thousands of youngsters are detained each year in the U.S. for no justifiable reason. A standard long accepted by reputable national standard setting bodies calls for detention only when:

1. The child is dangerous to himself or others;
2. There is certainty the child will engage in property destruction; or
3. The child is from another location and needs to be held temporarily until he/she can be returned to the proper authorities.

In all of these instances there should be a demonstration of probable cause. In the absence of probable cause there is no basis for detention.

Limited detention and temporary custody

These temporary measures should always be limited to specified time periods. Failure to do so contributes to a serious form of official abuse. The suggestion of not more than two weeks with allowance of one continuance for a specified time not to exceed two additional weeks is appropriate.

To answer the dilemma of what to do in the event the court fails to act and there is good reason to believe the release of the child and his return to his home will have a serious damaging effect, there might be a provision for an appeal to the District Court to act on the petition filed.

Section 38-817. Informal proceedings for status offenders

This can only contribute to the frustration of the juvenile court. If there is to be a proceeding on behalf of the status offender, it should be formal. Otherwise the court does not have any authority whatsoever. It may pretend to have authority and the probation officer may behave as though he has authority. But to remove all ambiguity would be very helpful to the court and would be helpful to youngsters.

Comments on the Juvenile Code

Section 38-819. Detention hearing--temporary custody

See Section 38-815. The discussion applies.

Allow child to be held in jail

Refer to prior material on jails. There should be a very explicit statement declaring jails to be unfit for children. Where jails must be used on an occasional temporary basis there should be very clear standards and limitations.

Section 38-823. General continuances.

See Section 38-815.

Time limit for placement after final disposition

When disposition is to SRS, SRS should be notified and be required to assume full responsibility within a minimum reasonable time such as two days following notification. Reasonable efforts should be made by the court to effect a transition of the child's custody so as to minimize the disruption in the child's experience.

Section 38-824. Parental Unfitness.

See Section 38-807.

Section 38-826. Disposition

All decisions should be based on the determination of what will be to the best interest of the child without regard to the offence or the age. These might have some bearing on what will or will not be to the child's best interests, but these should not be permitted to serve as the primary determining factors.



# COUNTY OF SEDGWICK JUVENILE COURT

MICHAEL CORRIGAN, JUDGE

LEWIS HEARNE, DIRECTOR OF COURT SERVICES

COUNTY COURTHOUSE

WICHITA, KANSAS 67203

TELEPHONE 316-268-7241

DON W. AWTRY  
CHIEF PROBATION OFFICER

JOE COTTON  
BUSINESS ADMINISTRATOR

BETTY ROADS, SUPT.  
LAKE AFTON BOYS RANCH

MARSHA SPANGLER  
COURT CLERK

September 8, 1975

Senator Robert Madden  
State Senate  
State Capitol Bldg.  
Topeka, Kansas 66612

Dear Senator Madden:

I have had the opportunity to review the proposed changes to the Juvenile Code you have sent to me. Most of these proposals I consider to be progressive and very beneficial to the juvenile justice system. Below I have indicated my preference concerning these changes; to wit, I am in favor of:

- 1) Lowering the age of juveniles to seventeen
- 2) Redefining the terms "miscreant" and "delinquent" and eliminating escalation of offenses.
- 3) Redefining the term "wayward"
- 4) Eliminating traffic offenders from the Code.  
The fact of the matter is, we now handle these cases on a fine assessment basis, the same as adult courts.
- 5) Redefining and differentiating the term "dependent" and the term "neglected".
- 6) Clarifying what continuing jurisdiction remains with the juvenile court after a court commitment to SRS.
- 7) Eliminating waiver of jurisdiction hearings and allowing the prosecuting attorney the discretion to file in either the juvenile court or the proper adult court.

Senator Robert Madden  
Page Two

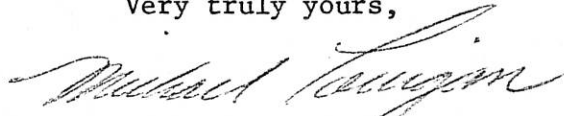
- 8) Creation of an office of juvenile probation officers under the Supreme Court that would prescribe standards for education and training.
- 9) Require all counties to have access to the juvenile probation officers.
- 10) Provide for informal proceedings for status offenders if in the best interest of the child.
- 11) Clarify the role of the court and SRS in the placement of children.
- 12) Prohibit the placement of status offenders in confinement with more serious offenders.

As I stated above, I would strongly favor all of the above proposals. Most of the other proposals relate to procedure, notice or attorney representation. Most of these would be meaningful additions to the code, however, they will cost additional money to place in effect. A consideration of how much money and where that money will come from is essential to insuring that changes in the code would be followed by the various courts.

It would appear that it would be more logical to process adoption proceedings in juvenile court than in probate court. The practical reality, however, is that probate courts have about 100 years experience in this field and the urban juvenile courts have none. In Sedgwick County the change would mean that juvenile court would have to remove all adoption files from probate court and hire an additional two clerks to process these cases.

If you would have time to sit down and discuss these matters at more length, I would be happy to meet with you at any time.

Very truly yours,



Michael Corrigan  
Juvenile Judge

MC.ms

SCHOOL DISTRICTS  
REPORTING A TRUANCY PROBLEM, 1972

<u>District Name</u>	<u>Number</u>	<u>Enrollment Category</u>
Turner	202	2
Almena	212	3
Ulysses	214	3
Olathe	233	2
Fort Scott	234	3
Pittsburg	250	2
Emporia	253	2
Wichita	259	1
Maize	266	3
West Franklin	287	3
Wellsville	289	3
Bird City	296	3
Utica	301	3
Salina	305	1
Pretty Prairie	311	3
Rexford	316	3
Wamego	320	3
St. Marys	321	3
Phillipsburg	325	3
Baldwin	348	3
Macksville	351	3
Holcomb	363	3
Osawatomie	367	3
Newton	373	2
Circle	375	3
Natoma	District has been consolidated	
Solomon	393	3
Augusta	402	3
Wathena	406	3
Marion	408	3
Hiawatha	415	3
Council Grove	417	3
Osage City	420	3
Great Bend	428	2
Abilene	435	3
Sedgwick	439	3
Dodge City	443	2
Independence	446	3
Leavenworth	453	2
Garden City	457	2
Hesston	460	3
Ingalls	477	3
Elwood	486	3
Hays	489	2
El Dorado	490	3
Columbus	493	3
Kansas City	500	1
Topeka	501	1
Baxter Springs	508	3
Attica	511	3
Shawnee Mission	512	1

<u>Enrollment Category</u>	<u>Number of Districts</u>	<u>Enrollment, Sept. 15, 1970</u>
I	5	10,000 and over
II	10	3,000 - 9,999
III	35	Under 3,000

One District - No Longer Functioning