

M I N U T E S

SPECIAL COMMITTEE ON CORRECTIONS

October 14, 1977

Room 532, State House

Members Present

Representative Patrick J. Hurley, Chairman
Senator Paul Hess, Vice-Chairman
Senator Jim Parrish
Senator Wint Winter
Representative Art Douville
Representative Phil Martin
Representative Jack Rodrock

Advisory Committee Present

Dr. William Arnold
Sister Dolores Brinkel
Bill Larson

Staff Present

J. Russell Mills, Jr., Kansas Legislative Research Department
James A. Wilson, Revisor of Statutes Office

Conferees Present

Judge Robert T. Stephan, Wichita, President, Kansas District Judges Association
Judge Donald Musser, Pittsburg, 11th Judicial District, Division 1
Dr. James W. McKenney, Chairman, Citizens' Advisory Board on Corrections
Preston N. Barton II, Ombudsman for Corrections

Morning Session

The Special Committee on Corrections was called to order at 9:00 a.m. by Chairman Patrick J. Hurley. Representative Hurley stated that the purpose of the morning meeting was to hear testimony from two district court judges in order to obtain their opinions concerning the criminal justice system in Kansas.

Judge Donald Musser of Pittsburg stated that there should not be any conflict between community corrections and institutional facilities; both are needed because there are offenders who require both types of facilities. Judge Musser stated that it is frustrating for judges to have to sentence people to the Kansas State Penitentiary or the Kansas State Industrial Reformatory because they know that some offenders do not belong at those institutions; however, there is no other alternative for sentencing most offenders, although community programs could be used in a number of cases.

Judge Musser discussed two programs in his district. One program is the Court Counselor Program that was set up by Southeast Kansas Comprehensive Mental Health Services which provides alcoholic treatment services to offenders. The Court Counselor Program is voluntary, unless it is a condition of parole that the offender participate in the program. Judge Musser stated that over 50 percent of the people who come before the court have alcohol-related problems. A test is given to the offender and a report is made to the court, so that a determination can be made whether the offender should be placed in the alcohol dependency program. Last year, about 100 persons completed the program. The program operates both pre- and post-trial. The Court Counselor Program is funded and operated through the Southeast Kansas Comprehensive Mental Health Services. The counselor is not a probation officer and is not accountable to the court, although

services are rendered to the court. On pre-trial diversion cases, the county attorney, defense attorney, and judges work together. The court utilizes a release-on-own recognizance program, with certain eligibility guidelines. Felons are not involved in this program, but they could be referred to the program if that is a condition of probation. Initial evaluation cost, paid by the offender is \$20 and each of the five sessions costs \$5. No one is turned down for these evaluations if they cannot pay. The revenue goes back to the program. In the first year of operation, there was a loss; however, the program is not intended to make money.

Judge Musser explained the Job Club, the second program. An explanation of the program is contained in an article entitled "Help for Jobless in County to Start," The Morning Star, Pittsburg, Kansas, October 3, 1977 (Attachment I). The purpose of the Job Club is to prepare persons for job interviews, to teach them how to develop a resume, and to establish references and other technical information. Judge Musser stated that programs are available but no facilities exist in which to conduct the programs.

Judge Musser stated that, in addition to the alcohol dependency program and the Job Club program, he sees a need for a jail with a work release program, a counselor position, and a registered nurse. He stated that community acceptance of the alcoholic program had been very good, although there was some negative reaction initially by law enforcement personnel. However, law enforcement personnel were included in the program and are now convinced that it is a workable program. The persons involved in the program from the community were doctors, businessmen, college persons, Alcoholic Anonymous, inactive alcoholics, and lay persons.

In response to a question, Judge Musser stated that the court would accept funds or subsidies granted by the Legislature and would be willing to work with the established guidelines. He further stated that he would recommend the governor's proposal on the medium-security facility because that facility would have better opportunities for educational and other training programs.

Judge Musser discussed a report prepared by the Crawford County Probation Department, "A Report on the Approach to Misdemeanor Crimes Used by the Crawford County Probation Department" (Attachment II).

Judge Robert T. Stephan, President of the Kansas District Judges Association, stated that community facilities are compatible with penal facilities and that the state needs both types of programs. He stated that community corrections could be a good thing but noted some questions:

1. How many individuals would not have to be sent to penal institutions if community facilities were available?
2. What facilities would be offered that are not in use now?
3. What is the difference between community corrections and probation by the courts now?

Judge Stephan stated that he understands the purpose of penal institutions but not the purpose of community corrections. He stated that Kansas needs another penal institution to provide humane incarceration. Judge Stephan stated he feels that the majority of judges in the state agree with his opinion because of the lack of certainty concerning community corrections. He stated that he would want to know that community corrections was going to work and that money should be spent on children who are in poverty, in ghettos, and lack education, because these are the future criminals. He noted that the District Judges Association had not taken a formal position on the issue.

Senator Parrish stated that he would like to analyze the situation that now exists at KSP in that half of the people incarcerated are property offenders and the cost of incarceration is \$30 per day per inmate. Judge Stephan stated that 99.9 percent of the people sent to KSP should be there and that KSP is used as a last resort for judges in sentencing offenders. He stated that there is a need for two to three additional facilities: one for non-violent offenders and one for violent offenders. He stated that community corrections already exists in Kansas.

Judge Stephan stated that the personnel at the Kansas Reception and Diagnostic Center are well qualified but that KRDC is understaffed. It is a good and needed facility which was very helpful to the courts before it became so overcrowded. He stated that KCVTC has a tremendous program but that many offenders are not suitable for that type of training program.

Judge Stephan stated that the present institution is inadequate; that it does not meet federal guidelines; that populations are increasing; and that the state has a duty to protect prisoners in a humane facility.

Chairman Hurley stated that the Committee has spent more than 200 hours of study and that the Committee's recommendations will be derived from all of the testimony and information presented during the course of the study. The recommendations will be based on objective facts and testimony.

Judge Stephan stated that it was not his intention to imply any criticism of the Committee or that the Committee has not examined many facets of its charge. However, it is apparent that there is a need for a new correctional institution in Kansas.

Further discussion was centered on the need for a facility for the first offender so that such offenders would not be housed with repeat criminals in the institutions.

Senator Hess stated that the Committee was in disagreement with Judge Stephan's statement that 99 percent of the inmates should be at KSP. He stated that staff of the Department of Corrections indicated that a number of inmates should not be at the Kansas State Penitentiary and that the Committee is convinced that there are other alternatives to consider rather than straight incarceration. Senator Hess noted that the DOC "Statistical Report" indicates that about 50 percent of the inmates are there because of property crimes.

Judge Stephan stated that he would not disagree with the percentage figure if that is the correct data. However, property crimes cannot be ignored and the need exists for a new institution. He felt that the Minnesota subsidy plan places judges in a bad position. He stated that his concern is to help inmates if they can be helped: perhaps there is a need for an experimental facility to assist in the areas of drug abuse, alcohol dependency, and job placement, assuming that the individuals would respond to those facilities.

The Committee asked Judge Stephan several questions which he was unable to answer because much of the information requested was in Wichita. However, the staff is to communicate with Judge Stephan to obtain the following:

1. a list of supportive services;
2. percentage figures of persons coming before his bench who are sent to community programs;
3. number of facilities and program operations;
4. the number of non-violent offenders;
5. percentage of first-time offenders and repeat offenders;
6. percentage of cases using restitution;
7. cost per day for alcoholic and drug treatment;
8. number of half-way houses;
9. how many offenders from Sedgwick County could go into halfway houses;
10. what is the misdemeanor caseload and the budget for probation services; and
11. what Sedgwick County is doing that is not being done in other counties.

Judge Stephan stated that he felt the courts should not be inspecting jails and should not monitor halfway houses; that the monitoring of staff would be acceptable, but not the facility. Judge Stephan further stated that if a judge is to serve in an advisory capacity to corrections that would be acceptable because the judge could provide strong leadership. He felt that the administrative judge, who has no criminal duties, could serve on this type of committee; judges should not, however, be policy-makers, as this could create problems.

Chairman Hurley thanked Judge Stephan for testifying before the Committee.

Afternoon Session

Dr. James McKenney, Chairman of the Citizens' Advisory Board on Corrections, stated that the CAB was examining various problem areas: staff recruitment, legal training, use of psychologists, function of the ombudsman staff which should be composed of various racial and ethnic backgrounds; the need to increase communications to the Legislature to inform members of corrections needs; and the problem of disseminating information in the field of corrections, such as public education programs. He further stated that the Citizens' Advisory Board has a responsibility to contribute to a humane correctional system and that the correctional system is more than just facilities.

He noted the following critical needs in the Kansas corrections system:

1. Remedy the high staff turnover rate, especially at Kansas State Industrial Reformatory and the Kansas State Prison and provide better training of staff;
2. improve the internal security of present institutions to protect inmates from one another, especially since there is an increase in inmates seeking protective custody;
3. develop meaningful statistics of the Department of Corrections operations for planning and identifying problems;
4. develop resources for emotionally-disturbed inmates such as counseling and treatment;
5. increase efforts to encourage development and utilization of volunteer organizations and individuals who can provide services to inmates and ex-offenders;
6. develop programs to recruit and retain persons for medical and dental staff positions;
7. develop a variety of programs for inmates, such as GED and realistic vocational training; and
8. establish programs to counteract the long-term debilitating effects of the A and T Building at KSP.

Dr. McKenney stated that the real need of the Kansas correctional system is to design creative alternative programs, such as the use of cable television within the institution to bring educational and religious programs to the inmates.

Mr. Preston N. Barton II, Ombudsman for Corrections, presented a prepared statement (Attachment III). He stated that he has come to the realization that leadership in corrections in Kansas must come from within the Kansas Department of Corrections. The Special Committee, the CAB, and the Ombudsman office can be catalysts for constructive change, but the actual leadership for implementing this change must come from the Department itself. He further stated that the Kansas Ombudsman for Corrections makes recommendations to the Department of Corrections and that the creative responsiveness of the Department of Corrections staff is the most important factor in effecting change. He also stated that the Ombudsman office does not have jurisdiction over the Kansas Adult Authority and that this should be changed because of the significant impact that the Kansas Adult Authority has over prison life. He stated that the Ombudsman's function would be enhanced if the office were granted subpoena power and the right of privileged communications.

Mr. Barton stated that the Ombudsman's office had processed over 650 complaints at the end of FY 1977. He briefly discussed the complaint procedure and the recent study of the A and T Building done by the CAB. He noted that he had received no formal response from the Secretary of Corrections concerning the A and T study. They are now conducting a second major study concerning the internal grievance procedures of DOC. Mr. Barton stated that his office had turned to the Legislature in vain in two areas: (1) the need for the Department of Corrections to have formalized rules and regulations, as other state agencies; and (2) the need for a mechanism to reimburse staff and inmates in a timely manner for the loss or destruction of personal property due to action taken in the line of duty. At present, such reimbursement is possible only through the Joint Committee on Claims Against the State, which could take up to a year and a half.

In response to a question, Mr. Barton stated that inmates should not be housed in substandard facilities and that treatment programs for mental illness were needed at all institutions.

Chairman Hurley inquired whether there is a significant percentage of the inmate population in any of the institutions that could function in another setting.

Mr. Barton replied that a variety of programs was needed and that he had no figures on the number of inmates who could be reduced to minimum security status. He stated that KSP could be improved through better staffing and more programs.

Chairman Hurley thanked Mr. Barton and Dr. McKenney for their presentations.

The minutes of the September 7-8, the September 16, and the August 25-26 meetings were approved.

The meeting was adjourned.

Prepared by J. Russell Mills, Jr.

Approved by Committee on:

(date)

JRM/dmb

Attachment I

Help for jobless in county to start

By MIKE FITZGERALD
Morning Sun Staff Writer

You can't find a job. It's not like you haven't tried. But now the pressure is on. You feel listless around the house; you think the kids are embarrassed at school because you've been out of work for so long. You blew your last job interview because the pressure was too much: you needed that job so bad that you took out your frustrations on the personnel director.

Where do you go now? The situation is hypothetical but, sadly, all too familiar in Crawford County where unemployment ranks among the highest in the state.

But some help is on the horizon. A Crawford County Job Club will open Oct. 10 in Pittsburg that will not only help the county's unemployed find useful and secure work, but help them cope with the myriad of problems that arise during the unemployed period.

The club will be managed and operated by Jon Sherman and Jim Stowell. Sherman is a county probation counselor and an alcoholic counselor for Crawford County District Court. He will handle the psychological aspects of not having a job which will involve the importance of such things as a firm handshake, dressing right and how to foster a proper attitude.

Sherman will be complemented by Stowell, who works at the Pittsburg Job Opportunities Center and who is a resource developmental technician for 7th Step, a nationwide program to help convicts re-adjust to society.

Stowell will handle the mechanics of finding a job —

how to prepare for a job interview, what and what not to say while being interviewed, how to make a resume and establish references and other technical information.

"We'll be combining the best of the two areas and it'll come out as unemployment counseling," Sherman said last week. "The job club will be a structured environment to learn to do the things necessary to get a job."

"We're like a catalyst. We're just hoping to speed up the process of finding a job."

The job club will be available to anyone who lives in Crawford County who is unemployed and who has an honest desire to work and hold a job, Sherman said. It is sponsored by the Crawford County District Court, the Kansas State Employment Office and the 7th Step Foundation. There will be no membership fee. Only regular attendance until a job is found is required, he said.

Furthermore, the job club will actually receive no funds for its operations. No supplies or equipment is necessary and Sherman and Stowell are donating their time.

"We really can't handle any more than 15 at a time," Sherman said. "But as one gets a job we'll get another to take his place so it should move fast."

"We'll be screening them to get information then provide some testing of interests, IQ when it's needed and skills. Some you know by the way they look and talk that they're going to get a job. For that reason we're probably more interested in the low end of the spectrum."

Most of those who have chronic problems with employment have never been tested, Sherman said. A

prime example was someone Sherman knew who was a restless troublemaker in high school. He just barely graduated from high school and drifted to Kansas City, where he was tested after he couldn't find a job.

Despite having little apparent drive, ambition or skills, his test scores in math went off the scale. That person is now a trouble-shooter for IBM's computer division, Sherman said.

The idea for a job club was presented to Sherman when he was in Kansas City at the Center for Behavioral Development, which retains a number of experts from a variety of fields.

"We began talking about the alcoholism rate in our county, which is almost the highest in the state. They suggested a job club and then they brought in a specialist to tell me about it," Sherman said. Crawford County's job club, he said, would be patterned after a club in an Illinois city of 20,000, which like Crawford County, has a high unemployment ranking in the state and a college population of 5,000 in the city.

The major topics covered in the Crawford County Job Club will be:

—Do it yourself: The club will set up mock interviews, both over the phone and in person. Sherman said this was basic knowledge to some, but most people would be surprised at how many persons do not know how to conduct themselves during an interview, especially when faced with stress or frustration.

—Let others help: The group participating in the job club will offer "peer" support. "Some will have more experience than others in getting a job," Sherman said. "They'll be able to look around the room and see 14 others in their situation."

—Helping others: When one person gets a job, he can

come back to the job club to provide counseling to others. This is a proven method with slow learners and alcoholics in other programs, Sherman said.

—Family management while job seeking: The longer one has been unemployed, the greater the chance animosity and resentment within the family has set in. The economics of running a family will be discussed.

—You're better than you think: An effort to fight low esteem and battle discouragement.

If successful, the job club may help reduce the number of bad check cases in Crawford County, Sherman said.

"For a six-month period running from January 1977 to July 1977, the county attorney's office here in Crawford County filed a total of 300 complaints. Of these, 209 or 69 per cent were insufficient fund check complaints," Sherman said.

In contrast, the Southeast Kansas county with one of the lowest rates of unemployment also has very few insufficient fund check complaints, that being Nessio County.

"I believe that whenever disturbing behavior is collectively committed, it is relative to a direct social force as opposed to more infrequently committed offenses."

A therapeutic process must then stem from a social approach technique and hence the job club approach, Sherman said.

"Follow-up research in other job club areas has shown that job seekers participating on a regular attendance basis were able to find jobs 3.8 times faster and at a 36 per cent higher beginning salary than those finding jobs on their own," he said.

The number to call for more information on the Crawford County Job Club is 232-2460 or 231-4250.



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Pittsburg, Kansas

15¢
Good Morning!

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2 Sections

Atch. I



JON S. SHERMAN
PROBATION COUNSELOR
HOME PHONE — 316 232-2290

~~Professional Building - 3rd Floor~~
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
PHONE 316 ~~XXXXXX~~ 232-2460
PITTSBURG, KANSAS 66762

A Report on the Approach to Misdemeanor Crimes
Used by the Crawford County Probation Department.

Atch. II

Crawford County Probation Department began with a full time Probation Counselor in April, 1977. It is currently being formed within a framework of the Community Resource Management Team approach used in various communities across the country.

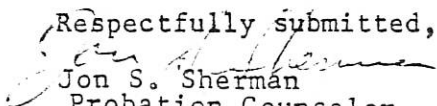
The title of Probation Counselor is used to reflect the belief that counseling is an integral part of probation work. Counseling being defined as guidance and assistance for individuals whose degree of stress is not so severe as to require clinical (medical and/or psychiatric) treatment.

The attitude is held by Crawford County District Court personnel that the majority of those who appear in Court on misdemeanor charges are there due to social conditions (i.e. alcohol problems or misdemeanor check complaints), as opposed to singular, idiographic tendencies. Collective social problems should be approached from community services when the problems are identified. Community resources generally provide the depth needed to provide services which reduce the stressful areas, but much progress here is needed along with greater interagency cohesiveness. A liaison position for interagency communication and cooperation is a scarce but valuable area for developing cooperative community programs which attack social problem areas.

The Crawford County Probation Department will in January 1978, be using the Department of Psychology and Counseling at Pittsburg State University as a source of personpower by offering practicum placement experience for students of that department who desire experience in agency counseling in the area of corrections. This will bring greater energy and efficiency to the Probation Department through even greater specialized treatment by using the team approach.

The Crawford County Job Club is an example of interagency community work which is attacking a severe social/community problem with hopes of reducing a prime stress area and therefore, attempting to reduce the frequency of misdemeanor violations.

Respectfully submitted,


Jon S. Sherman

Probation Counselor

INFORMATIC FOR DEFENDANT CHARGED WITH ALCOHOL RELATED OFFENSE

You have been arrested by a law enforcement officer and charged with an offense which may be related to using alcohol in a manner that is considered anti-social. Such offenses as DWI, bad checks, assault, theft and many other crimes are often found to be related to using alcohol in a manner that is considered anti-social. For example, if you are charged with driving while under the influence of intoxicating liquor (DWI), a violation of Kansas law and an ordinance of the city, and found guilty, you may be punished by imprisonment or by a fine of not less than \$100.00 nor more than \$500.00 or both. In addition, your vehicle operator's license may be revoked or restricted by the court. Other offenses carry various sentences and fines as set out by both the city and state.

You have been charged with a serious offense and should be represented by an attorney.

Alcohol abuse is one of the nation's greatest health problems. At least 25,000 highway deaths each year and untold numbers of crippling injuries are due to people driving and drinking. All of the courts in the nation are overloaded with cases that when thoroughly investigated show that the defendant is a person that abuses the use of alcohol. In dealing with this offender the courts are inclined to inflict severe penalties and take action to remove him from the mainstream of society. One alternative to avoid such sanctions is that the offender demonstrate to the court that he is taking affirmative action to prevent a recurrence of his anti-social drinking behavior. The court system of Crawford County offers each defendant so charged this opportunity in a coordinated program with the SEKAN Comprehensive Mental Health Services - Alcoholism Program.

IF YOU WISH TO AVAIL YOURSELF OF THIS PROGRAM, THE FOLLOWING STEPS ARE REQUIRED:

1. Defendant may be represented by counsel.
2. Defendant must make an appointment for an interview and diagnostic evaluation at a time convenient to the defendant and the court counselor. The evaluation will not take more than two hours and will cost \$20.00 to be paid at the time of the interview. An appointment can be made by calling the office of Tom Oberzan, SEKAN Court Counselor, Phone 232-9020, 609 East Seventh Street, Pittsburg, Kansas. Defendant must be accompanied at this interview by his spouse, if married, or by a close family member or friend, if not married.
3. Defendant must sign a cover letter (attached hereto) that he will forward to the court counselor with a copy of the citation. This letter directs the counselor to make the diagnostic evaluation and furnish a report to the defendant's attorney or the court if not represented by counsel. Your case in court will be postponed for the purpose of giving you time to make the appointment and appear for the evaluation. If you do not have counsel, you may sign this letter before obtaining counsel without fear that this act will prejudice you in the presentation of your case in court, or you may wait to sign the form until you have retained counsel if you choose to do so.
4. The report from the court counselor will indicate the results of the evaluation and may or may not make recommendations. When recommendations are made, they may include suggestions to attend an educational series of five lectures (\$5.00 each), attend AA meetings, attend counseling sessions, or hospitalization. From past experience, nearly everyone who attends or participates in this program has some change in behavioral attitude regarding either their drinking problem or their anti-social drinking behavior.
5. On the court date following your completion of the diagnostic interview, all information concerning your case, including the report will be made available to your attorney. If it is your attorney's decision to exclude this report and any of the information relating to the evaluation, or if that is your decision, then you may proceed to trial without any reference being made thereto. On the other hand, if the programs recommended are agreeable to you, then the report will be made available to the court and your attorney and the prosecutor may jointly petition the court to make a disposition of your case in court that will likely include a fine and costs but which may permit a form of probation for your offense. In the event that the offense is a DWI, you may in effect be permitted to keep some of your driving privileges. One of the conditions contained in the probation program is that the defendant agree to carry out the recommended programs suggested by the court counselor.

This program is designed to help you to help yourself. If you are not guilty as charged, you are not encouraged to enter the program.

TO: Mr. Tom Oberzan
Evaluations and Referrals for SEKAN Alcohol Related Problems
SEKAN Comprehensive Mental Health Services - Alcoholism Program
609 East Seventh Street (Halfway House)
Pittsburg, Kansas 66762 (Phone 232-9020)

I, the undersigned, will contact you within the next seven (7) days to make an appointment for an evaluation as a result of a charge of using alcohol in an anti-social manner. I understand that this letter will also authorize you to seek out any other information that you may deem necessary from the courts and law enforcement agencies of Crawford County, Kansas. After my evaluation, I authorize you to send whatever information that you wish concerning me to the attorney handling my case or to the prosecuting attorney if I do not have counsel. In the event that I seek further help, you may send periodic reports to the court or attorneys handling my case.

I understand that I am responsible for all costs arising from this action and that the courts and law enforcement agencies of Crawford County, Kansas will in no way be liable to me.

It is also understood that I will present to you the amount of \$20.00 at the time of the interview and evaluation, and that I will bring an immediate member of my family or a friend with me at that time.

Signed _____

Date _____

Witness

IMPORTANT NOTICE:

A CONTINUANCE OF YOUR CASE CANNOT BE GRANTED UNLESS THIS LETTER IS MAILED WITHIN SEVENTY-TWO (72) HOURS OF THE DATE OF THE ARREST.

Attachment I

STATE OF KANSAS
OFFICE OF THE OMBUDSMAN FOR CORRECTIONS
503 Kansas Avenue, Room 539, Topeka, Kansas 66603
PHONE: (913) 296-5295

PRESENTATION TO THE LEGISLATIVE INTERIM STUDY COMMITTEE ON CORRECTIONS

By Preston N. Barton II, Ombudsman

Friday, October 14, 1977

By the close of the working day today, the Corrections Ombudsman program will have been in existence for two years and one month. On September 15, 1975 Kansas became the third of five states to have a corrections Ombudsman. It was preceded by Minnesota and Connecticut and followed by Michigan and most recently Oregon. There are four other states which have general jurisdictional Ombudsmen. They are Hawaii, Alaska, and our neighbors Nebraska and Iowa.

By enacting the legislation for the Ombudsman Office in 1973, the Kansas Legislature made a commitment to preserving human rights and establishing a standard for fairness and justice in the administration of the Kansas Department of Corrections. Inherent in the enactment of this legislation is also a commitment to the value of the dignity of the individual. The Program has attempted to carry out this mandate by demonstrating to employees and inmates Kansas' commitment to be responsive to legitimate individual concerns, while at the same time providing programs to meet the needs of large numbers of persons.

Whatever my original aspirations and expectations were, I have come to realize that leadership in corrections in Kansas must come from within the Kansas Department of Corrections. Your Committee, the CAB, and the Ombudsman Office can be catalyses for hopefully constructive change, but the actual leadership for implementing this change must come from the Department itself. This may sound odd

Atch. III

coming from one who earns his living by making recommendations to the Department of Corrections for changes. I, however, have come to believe that the only way I can measure the success of our efforts is, not by the number of recommendations which are accepted, but rather by the seriousness with which our studies and recommenda-tions are considered, and most importantly by the responsiveness--creative responsiveness--on the part of the Department of Corrections. I know of at least one state in which the Legislature appropriated more money than was requested by the corrections department. I understand the results were less than satisfactory. It is indeed the Department and its administrators, staff members, and inmates who must ultimately make the program work and must live with it and endure it. Neither your Committee nor I have to live with the system day in and day out.

It may be legitimate to ask why, then, this Office formulates recommendations. To not do so, would be a "cop out." We would simply be taking "pot shots" at the Department without doing the work necessary to demonstrate that there is, in fact, a resolution to the problem--a solution which does not create more problems than it solves. On numerous occasions I have found that Correctional staff come up with much more effective remedies than what we had recommended. This is expected given the number and variety of specialists within the Department to deal with the diversity of issues which arise. Our recommendations provided the stimulus for developing their responses. As an outsider, I have high-lighted a problem and its various implications.

Again, let me repeat the success of this Office--and to some degree the success of the work of your own Committee--is going to rely heavily on the creative responsiveness to our work on the part of the Department. It is this very element which has made it possible for the Kansas Correction Ombudsman Program to be effective in spite of it's simplicity--or, maybe, because of it. Many persons looked upon the statute creating the Ombudsman Office as relegating this program to failure from the start. I have come to believe that no matter how sophisticated the statute,

it will fail if the rest of state government and the inmates are not willing to work with the Ombudsman.

Nevertheless, enacting refinements to the current statute would enhance the program and would be a clear statement of an even stronger commitment on the part of the Kansas Legislature for a Corrections Ombudsman program. Some of the more sophisticated elements found in most Ombudsman statutes include subpoena power and privileged communications. In the case of correctional Ombudsman programs, they normally include jurisdiction over the paroling authority as well as the corrections department. The Kansas Ombudsman, however, does not have jurisdiction regarding the Kansas Adult Authority. This would seem necessary to change because of the significant impact the Kansas Adult Authority has on prison life. Most statutes will also go further in defining the relationship between the Ombudsman Office and the Agencies for which it has jurisdiction.

While I have found many administrators and elected officials in the executive branch of government in this State and throughout the country to have positive things to say about various Ombudsman programs, I have never found an official in the executive branch of government who did not have mixed feelings about such a program. This of course, is understandable in view of the "watch dog" aspect of the program. These person sincerely believe they are doing a good job running the system and they usually are.

Given human nature, however, it is to be expected that people will react to unreasonable conditions and acts in unreasonable ways. There has been much testimony before this Committee that conditions in our prisons in Kansas are unreasonable. There has been much testimony to suggest that it is unreasonable to expect administrators and line staff to work effectively under existing conditions. There, also, have been suggestions that the standard of living for inmates is unreasonably low. It, therefore, can be expected that people will react to these conditions in unreasonable ways, out of callousness, lack of foresight, lack of sensitivity,

negligence, thoughtlessness, or even deliberateness. I have often thought that the conditions under which we expect staff and inmates to work, live and interact are indeed a set-up--a set up for failure and a set up for destructive relationships. Nevertheless, we cannot excuse this kind of behavior either.

.....

As of the end of FY 77, having operated for less than two years, we had received and completed over 650 complaints, set up an office, provided administrative support to the CAB, become oriented with the corrections system, and set up a variety of procedures for performing this new function in Kansas state government. We accept complaints in just about any manner in which they come to us--in person, through correspondence or by telephone. We will accept a complaint from just about anyone including an inmate, a staff member, a corrections volunteer, or a third party on behalf of the complainant. Third party representatives have included family members, lawyers, various agency representatives and, frequently, legislators. We will visit with the complainant in these cases, but will not agree to intervene further unless the complainant wants us to.

We maintain a low profile in the manner in which we go about attempting to resolve individual complaints. First of all, we thoroughly screen complaints to insure that there is merit to pursue the matter at all. (Every Ombudsman program with which I am familiar has the discretionary authority to determine whether or not to pursue a particular complaint.) We further maintain a low profile by beginning our intervention into a situation at the lowest possible level within the bureaucratic hierarchy, with the hope that we can resolve the matter at as low a level as possible. In the case of a complaint from an inmate, this usually means we begin by going to the Correctional Officer or Correctional Counselor with whom the inmate is having direct contact concerning the complaint. As it often happens, we bring both parties together at this level and the matter is resolved through facilitating communications between the two of them.

Most Ombudsman programs have the discretionary power to initiate a study or investigation on the Ombudsman's own motion. Each of you were sent copies of our first major effort--that relating to the study of the A & T Building at the Penitentiary. We take on such efforts when we feel there is a situation that will be on-going and cannot be corrected through the handling of individual complaints. Although I received a very complete response to this study from Mr. Kenneth Oliver, the Director at the Penitentiary, I did not receive a formal response from the Office of the Secretary of Corrections. Acting Secretary Jim Marquez, however has assured me that a response is now being formulated. You will recall that I earlier discussed my criteria for success in this Office as relating to creative responsiveness from the persons involved. In the A & T study we made clear case for the need of additional staff, security and programs in that facility. I would like to point out to this Committee that I have yet to have any assurances that these will be a part of the FY 79 budget proposal from the Department of Corrections.

If you were to go across town to the U. S. Disciplinary Barracks at Fort Leavenworth you would discover a facility similar to A & T. There, however, is light from the outside into the wings; there is less distortion of sound; and there is some added security apparatus. When I was there a few weeks ago, this unit in the Disciplinary Barracks had less than 70 inmates, at the same time A & T was holding over 100 persons. Although it was holding fewer people, I was told that the Disciplinary Barracks Unit never has less than 10 guards on the first two shifts and 8 on the third shift. In A & T, however, the maximum staffing is 4 correctional officers during the first two shifts, and 2 officers on the third shift. It certainly is not unheard of to have even fewer than the usual 4 officers during daytime shifts. I very much hope that those of you who are legislators will look for this item and others reflected in the Department's FY 79 budget. The mental health and physical safety of persons in that facility depend on your decision.

We have taken on a second major study which is now being reviewed by the Department of Corrections. This study relates to the Internal Grievance Procedures in the Department. We do not believe that a small agency such as the Ombudsman's Office and one without command or administrative authority can adequately handle the day to day problem solving tasks generated by the system. With this in mind we are encouraging the Department to make its own internal grievance procedure a more effective one. Here again is an example of how this office works. We believe that if the Department will come up with its own solutions to establishing a better functioning grievance procedure, it will be much more effective than if we were to go the Legislature and request that this be enacted into law as was the case in Nebraska and New York.

We have, however, over the last two years turned to the Legislature in vain for assistance in two areas. One relates to our believed need for the Department to have formalized rules and regulations, as are required of most other state agencies. This belief comes out of the frustration experienced by staff members, inmates and ourselves in knowing what is supposed to happen in any particular situation. There are many many pages of rules, regulations, general orders, and post orders that are promulgated from the Department and its various subparts. Often these become contradictory and it is quite possible that they can change overnight leaving the staff member and inmate some place behind in the dust. We would see the establishment of formalized rules and regulations as accomplishing several things including: 1) stabilizing and making more consistent the Department's procedures, 2) formally putting people on notice as to what is expected of them, and 3) insuring what would hopefully be a more thoughtful process of developing rules through the inclusion of staff and outsiders. I hope that each of you will make a note to yourself to review Senate Bill 451 which is currently in the Senate Federal and State Affairs Committee. If this Bill were passed by the Legislature, it would be another step toward the Legislature's commitment

to hold state government and, particularly, the Department of Corrections more accountable.

The second problem for which we have unsuccessfully turned to the Legislature is that of reimbursing staff members and inmates in a timely manner for the loss or destruction of personal property due to action taken in the line of duty or due to failure to follow proper procedures in the handling of personal property. If a Correctional Officer were to break his eye glasses in a physical encounter with an inmate, it could take up to a year and a half for him to be reimbursed for this cost incurred in the line of duty. (And because of difficulties with the Special Claims Bill in the last Legislative Session, persons who submitted claims to the 1977 Session will have to wait a year longer.)

I approached some legislators a year ago with a very roughly drafted bill which would have provided the Department the ability for reimbursing inmates and staff members up to \$50.00 for such incidences. Being more responsive to these persons' needs would be beneficial. We, however, have been unable to present a draft of a bill which is acceptable enough to have introduced. I very much hope that this Committee may be more successful in coming up with the solution to this problem.

I am aware that my presentation today has been at times a bit abstract. For those of you who have not received our reports, I do have extra copies of our First Annual Report, the A & T Report and copies of Senate Bill 451. You will find that our Annual Report has a number of complaint examples which may give you a better picture of the actual work we do in the institutions. A second Annual Report is now being developed and you can expect to receive a copy of it once it has been reviewed by the CAB and has been reproduced.

Thank you for giving me this opportunity to speak before you.