

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

Held in Room 522, at the Statehouse at 3:30 a.~~m.~~^{p.} m., on January 23, 1978, 1978.

All members were present except: Representatives Hayes, Heinemann, Hoagland and Stites, who were excused.

The next meeting of the Committee will be held at 3:30 a.~~m.~~^{p.} m., on January 24, 1978.

These minutes of the meeting held on _____, 19____ were considered, corrected and approved.



Chairman

The conferees appearing before the Committee were:

Dwayne Sackman, KBI
Major Koontz, Wichita Police Department
Mr. Jim Marquez, Dept. of Corrections
Mr. Robert Tilton, Kansas Sheriffs' Association
Wichita Police Chief, Richard LaMunyon
Topeka Police Chief, Fred Howard
Mr. Bob Mace, Secretary, Jayhawk Food Dealers
Frances Kastner, Kansas Food Dealers

The meeting was called to order by the Chairman who reminded members that the House would reconvene at 4:00 P.M. for the introduction of individuals, but that the committee would continue its meeting, and members would be excused for the period of time necessary if they had bills to be introduced.

The Chairman asked if the committee would be willing to introduce a bill (by request) dealing with compensation for the taking of property. It was moved by Rep. Hayes and seconded by Rep. Foster that the bill be introduced as a committee bill, by request, and re-referred to the committee. Motion carried.

The Chairman asked Mr. Purcell to review HB 2711. Mr. Purcell explained the bill would replace three present statutes, 12-4515, 21-4616 and 21-4617. He stated the bill deals with expungement of certain convictions, and explained how it relates to city ordinances and parole or suspension. He discussed the bill section by section, explaining the proposed procedures.

Mr. Sackman of the KBI stated that their position had been spoken to in the interim, and asked if the committee had his letter reiterating that position. He explained they have problems with the bill because there are so many people with the same name, and without detailed records they would have no idea if they were expunging the right person or if there had been previous criminal records. He explained there is also a problem in implementation although the intent may be good.

The Chairman asked if sufficient information is provided, could they tie it all together with SB 406. Mr. Sackman stated there is little relationship between SB 406 and HB 2711. The Chairman asked if Mr. Sackman would provide information making it clear what the KBI desires, and Mr. Sackman agreed to do this.

Major Koontz testified that during the interim, he had an opportunity to appear and present some recommendations, and that some of their suggested definitions appear in the draft. He stated that in some areas the proposed bill is better than existing law. He agreed that the requirement to disclose history of convictions where individuals are applying for law enforcement positions is good but that he would like to see it extend to other positions as well. He suggested that it would be well to include people in security and private investigation work. Further, he feels that repeat offenders should never be expunged, and that certain crimes should never be expunged. (See printed statement.)

Mr. Jim Marquez, Acting Secretary of Corrections, testified that the Department is not opposed to hiring ex-offenders, but would like to know about it before hiring them. He stated they had some proposed amendments (see attached) and explained they have two bills which are being drafted and which the Department will ask to have introduced.

Mr. Robert Tilton stated that the Sheriffs' Association supports the bill, but it may need some changes. He agreed that it is better than the present law, and supported Major Koontz' suggestions.

The Chairman noted that at one point the interim committee considered doing away with expungement altogether, and it was decided there were some definite advantages. Also, consideration was given to placing these matters with the Civil Rights Commission, but it was decided this would not be appropriate. He stated it might be well to take into consideration arrests which did not result in convictions.

Mr. Sackman stated if the conviction is expunged it makes as much sense to expunge the entire cycle. He explained that sometimes there are problems with individuals who are paroled under the Department of Corrections and they will get an order for expungement of an offense committed while the person was on parole. So far, he stated, they have taken the position of expunging everything.

The Chairman appointed a subcommittee to consider the suggestions made and to bring back a report, hopefully within ten days. He appointed Rep. Ferguson, Chairman, Rep. Baker, Rep. Augustine, Rep. Frey and Rep. Lorentz.

The Chairman announced that a number of people wish to be heard on HB 2712, but that they are not ready to appear. He stated that today is considered to be the first day of hearings, and additional times will be set in a few days. Mr. Marquez expressed the hope that it not be scheduled on January 30 and 31 as that is when they will be interviewing for a Secretary of Corrections. The Chairman stated the committee will work around those dates.

Wichita Police Chief, LaMunyon, testified there has been an increase in violent crimes and that they have a problem with repeat offenders in Wichita. (See printed statement.) He stated they cannot support HB 2712 because it gives the Adult Authority too much control. He stated there should probably be some system for prison authorities to provide for incentives but it should be defined by statute.

The Chairman noted that "good time" regulations are not now subject to legislative review but this bill would provide for such review. Chief LaMunyon stated that HB 2712 is better than what the present practice is, but feels it should be stronger.

Mr. Bob Mace, Jayhawk Food Dealers, testified that the committee would be hearing a lot from food stores about bad checks and shoplifting. He expressed opposition to the provision raising the Class D felony to \$100.00 from the present \$50.00. He stated he felt the \$50.00 felony provision is a deterrent, and related the experience at the shoplifting school, which shows that out of 89 offenders, only one was over \$50.00 and out of the group attending the required school, there was only one repeater.

Frances Kastner, representing the Kansas Food Dealers Association, testified that the Association represents 95% of the grocery stores; that she regards this proposal as a cost of living increase for criminals. (See printed statement.)

Topeka Police Chief, Fred Howard, testified that Topeka also has experienced an increase in crimes, and that he feels indeterminate sentencing has been a failure. He stated that the correctional experts agree that how a prisoner behaves in an institution is no indication of how he may act when he is released. He pointed out the problems in indeterminate sentencing, and particularly that some may serve a long period for a crime, whereas another may serve a much shorter period for the same crime. He stated there is a large difference in how the various courts sentence, and that the disparity creates problems in the institutions. He stated his association supports in part, a bill introduced by Rep. Hohman in the last session, but agreed HB 2712 is better than what is presently being done. He urged something stronger. The Chairman noted that the interim committee had a report from Judge Michael Barbara regarding a test he had given to judges on some individual cases. The results showed great disparity from judge to judge. The Chairman asked Mr. Purcell to obtain copies of this for the members of the committee.

Rep. Lorentz asked Chief Howard to comment on new Section 22 of the bill, which reduces the sentence for narcotics. The Chief stated he did not personally favor such reduction of penalties, and that is also the position of the association. He pointed out that it is very difficult to determine quantity because one never knows how much a substance has been cut or can be cut. As one who is acquainted with the drug culture, he testified that he has no compassion for people who deal in drugs and good people hooked. He feels there is no justification for letting such people go back to society and prey on other people.

Chief LaMunyon stated that he felt a proper alternative insofar as drug violations are concerned, is to give the court some flexibility in determining if the offender is a user or a pusher; that if there was a way to distinguish at trial time, he could favor a difference in the way such people are treated.

The Chairman noted that the following day is an open day so far as committee activities are concerned.

The meeting was adjourned.

JUDICIARY

1-23-78

NAME	ORGANIZATION	ADDRESS
Ed Johnson	Assoc. of Property & Casualty Insurance Companies	Topeka
Will Wicky	Fraternal Order of Police #3	Topeka
Richard Rock II	Lawrence Ks. Police Res.	111 E. 11th, Lawrence
Steve Starr	Topeka P.D.	Topeka
Richard LaMunyon	Wichita P.D.	455 N. MAIN
E. J. Kuntz	" "	" " "
Mark H. Bennett	Am Ins Assoc	Topeka
Bob Inace	Gayhawk Food Dealers Assoc	Topeka
FRED HOWARD	Chiefs Assn of Police	Topeka
JOHN CAREY BROWN	KBI	TOPEKA
Denny Johnson	KBE	Topeka
Susan Steger	Div. of State Planning & Research	Miller Bldg.
Jim Fies	Wichita Eagle	
BEN NEILL	Ks Dept of Revenue	
Jim Marquez	DOC	
Robert Linton	Ks Sheriffs Assoc	Topeka, Ks
Frances Kastner	Ks Food Dealers Assn	Topeka
Bill Wallace	Indep. Insur. Agents	Topeka



KANSAS DEPARTMENT OF CORRECTIONS

INTERDEPARTMENTAL MEMORANDUM

TO: JIM J. MARQUEZ
Acting Secretary of Corrections

1-23
DATE: January 23, 1978

SUBJECT: House Bill 2711
(House Judiciary Committee)

FROM: Bernard J. Dunn
Legal Counsel

The following change is recommended to protect the Department of Corrections' interest of security in hiring personnel in sensitive positions in Department of Corrections and its institutions:

Amendment to House Bill 2711 to be amended in line 136, on page 4 and line 61 on page 2 immediately after the referenced K.S.A. 1977, Supp. 22-2202 to read as follows:

"as amended, as a correctional officer, as defined by K.S.A. 75-5202(g), as amended, or as a probation and parole officer under the jurisdiction of the Secretary of Corrections, as defined by K.S.A. 75-5202(h),"

The phrase "as amended" used above refers to the amendments as proposed in Department of Corrections proposal number 6. As of this date it has not yet been introduced as a bill and is being written by Norman Furse of the Revisor of Statutes Office.

For clarification one should note that there exists also a definition of law enforcement officer in the criminal code K.S.A. 21-3110 (1) which differs from the one in the code of criminal procedure K.S.A. 22-2202.

BERNARD J. DUNN

BJD/lb

1-23

HOUSE BILL NO. 2711

Major E. J. Kuntz
Wichita Police Department

Initially, I extend to you a hearty "thank you" for inviting us to present our views toward this proposed legislation. Moreover, the Special Committee chaired by Mr. Brewster is commended for hearing our concerns in the drafting of this bill, which now includes some of our recommendations. There are however, some serious deficiencies in the draft which I would very briefly like to share with you. Primarily, the proposed bill is better in some areas than existing law.

ADVANTAGES

1. Eliminates the "revolving door" concept currently existing in Municipal Courts.
2. Provides for the same waiting period for persons 18 years of age and older.
3. Provides for a longer period of waiting time for persons convicted of a misdemeanor or a Class D or E felony.
4. Provides for the revelation of expunged records for persons making application for work with a law enforcement agency.

5. Applies to traffic violations as well as criminal violations.

DISADVANTAGES

1. Does away with individual accountability.
2. Hinders criminal investigations.
3. Application for employment.
4. Traffic violations - insurance rates are based on individual driving record.

MOST SERIOUS DEFICIENCIES

In application for employment as a law enforcement officer, as defined by K.S.A. 1977 Supp. 22-2202, a person must if asked, reveal convictions that have been expunged. The term "law enforcement officer" does not encompass persons who are employed in other areas of the Criminal Justice System. This language should be such that persons (civilians) making application for employment with a Criminal Justice Agency, if asked, must disclose any and all convictions that may have been expunged. This would then include persons working in the capacity as clerical personnel in record offices of law enforcement agencies and also those working in the Courts and Corrections segment of the criminal justice system.

In addition, persons engaged in Private Investigations or Security Operations should be required to disclose convictions which may have been expunged. There are approximately 1500 "security officers" within our jurisdiction and a majority of these are licensed to carry a firearm. Even though applicants are required to meet specific criteria as delineated in K.S.A. 1976 Supp. 75-7b04, which includes the disclosure of being convicted of a felony or any crime involving moral turpitude or illegally using, carrying, or possessing a dangerous weapon within ten (10) years immediately prior to the date of application, all expunged convictions would not have to be disclosed under provisions of the proposed bill in some instances.

Approximately 50% of the "security officers" in our city do not carry a gun. Therefore, they would not have to disclose expunged convictions for Class A, B or C felonies or any violations enumerated in K.S.A. 1977 Supp. 8-285. Moreover, any misdemeanor convictions would not have to be disclosed. Our City Ordinance along with the existing State Statute require applicants to be of good moral character and have a good reputation for truth, honesty and integrity.

There is however, broad authority for a court, in an order of expungement to specify circumstances under which convictions are to be disclosed. This provision would permit our concerns to be invalid, providing that each and every court would comply by

mandating disclosure of convictions when the applicant seeks employment with a Criminal Justice Agency or as a "security officer". We suggest this latitude should become a requirement rather than a mere broad provision which will obviously be different from court to court.

ADDITIONAL RECOMMENDATIONS

1. "Repeat offenders" records should be exempt from expungement.
2. In addition to the five (5) year waiting period for Class A, B or C felony or any violation enumerated in K.S.A. 1977 Supp. 8-285, certain crimes should be exempt from expungement.

Murder

Voluntary Manslaughter

Aggravated Assault on Officer

Aggravated Battery on Officer

Attempted Poisoning

Terroristic Threat

Kidnapping

Aggravated Robbery

Indecent Liberties with Child or Ward

Aggravated Sodomy

Aggravated Incest

Aggravated Arson

Rape

REVISION NO.	date:

"SUBSTANTIALLY NEW"

PROPOSAL FOR LEGISLATION

Department of Corrections

State of Kansas

#6

THROUGH: _____ Date: _____

_____ BILL No. _____

BY: _____

An Act Concerning

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 That K.S.A. 21-4201 (2) (ii) be amended to read as follows:

2 K.S.A. 21-4201 (2) (ii). Wardens, superintendents, directors, security personnel and
3 keepers of prisons, penitentiaries, jails and other institutions for the detention of
4 persons accused or convicted of crime while acting within the scope of their authority.

see also 21-3110

6 That K.S.A. 22-2202 (11) be amended to read as follows:

7 K.S.A. 22-2202 (11). "Law Enforcement Officer" means any persons who by virtue of
8 office or public employment is vested by law with a duty to maintain public order or to
9 make arrests for violation of the laws of the state of Kansas or ordinances of any muni-
10 cipality thereof, or with a duty to maintain or assert or reassert custody or supervision over
11 persons accused or convicted of crime, and includes probation or parole officers, wardens,
12 superintendents, directors, security personnel, and keepers of prisons, penitentiaries,
13 jails and other institutions for the detention of persons accused or convicted of crime,
14 while acting within the scope of their authority.

16 That K.S.A. 75-5212 be amended to read as follows:

17 K.S.A. 75-5212: The secretary of corrections shall establish standards of training
18 and procedures for certifying correctional officers and probation and parole officers
19 under the jurisdiction of the secretary of corrections.

20 On and after July 1, 1978, no person shall receive a permanent appointment as a correc-
21 tional officer or a probation and parole officer under the jurisdiction of the secretary
22 of corrections unless awarded a certificate attesting to satisfactory completion of not

REVISION NO.	date:

 "SUBSTANTIALLY NEW"

PROPOSAL FOR LEGISLATION

Department of Corrections

State of Kansas

THROUGH: _____ Date: _____

_____ BILL No. _____

BY: _____

An Act Concerning

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

1 That K.S.A. 75-5202 be amended to read as follows:

2 K.S.A. 75-5202. (g) "Correctional Officer" means a full-time, salaried officer or
3 employee of the state, whose duties are limited to the receipt, custody, control,
4 maintenance, discipline, security, and apprehension of persons convicted of criminal
5 offense in this state and sentenced to a term of imprisonment under the custody of the
6 secretary of corrections.

7 (h). "Probation and Parole Officers under jurisdiction of secretary of corrections"
8 means a full time salaried officer or employee of the state department of corrections
9 whose duties include investigation, supervision, arrest and control of persons on probation
10 or parole and the enforcement of the conditions of such probation or parole.

12 That K.S.A. 75-5247a be amended to read as follows:

13 K.S.A. 75-5247a. The director of any correctional institution within the Kansas depart-
14 ment of corrections, all deputy directors, and all those persons on the staff of the
15 department of corrections who are in the chain of command from the secretary of corrections
16 to the correctional officer, and every correctional officer regardless of rank, in the
17 department of corrections, while acting within the scope of their duties as employees of
18 the department of corrections, shall possess ~~all the~~ such powers and duties of a law
19 enforcement officer as are necessary for the performance of the duties of correctional
20 officers, and may exercise such powers and duties anywhere within the State of Kansas.
21 Such powers and duties may be exercised outside the state of Kansas for the purpose of
22 maintaining custody, security, and control of any prisoner or inmate being transported

1-23

VIEWS ON DETERMINATE SENTENCING

Richard E. LaMunyon
Wichita Police Department

The Wichita Police Department began, a little over a year ago, directed efforts to identify and analyze some of the primary contributing factors to the city's crime picture. Focusing our attention on factors which we felt were realistically within the control of the criminal justice system, we found that repeat offenses by previously convicted felons topped the list.

Provided as Attachment I to this report is a summary of study data which shows substantial evidence of a high level of recidivism. Briefly, the data shows that during 1976, within the city of Wichita, 36% of the individuals arrested for homicide had previous felony arrests. Approximately 54% of those arrested for rape had previous felony records and there were prior felony arrests on 53% of the persons arrested on robbery charges.

These figures are especially significant when supplemented with Wichita's 85% overall felony conviction rate for the same period.

To many law enforcement agencies, the above information may not be too astounding. For quite some time now it has been generally recognized that a very small percent of the population is responsible for a comparatively large percent of the crime.

According to noted Criminologist Marvin Wolfgang, 6% of the population commit more than half of all offenses and approximately two-thirds of the violent crimes. Such a situation necessarily reflects a tremendously high rate of recidivism.

I sincerely feel that recidivism is a factor over which society, through the criminal justice system, has potentially more control than any other recognized contributor to crime. But to be effective, this control must be exercised.

Identifying the habitual offenders is no real problem; as a rule, we know who they are. Again, the problem isn't identifying them; its dealing with them effectively. I contend that it is quite obvious that the system is not doing all that can and should be done in this regard.

All too often crimes are committed by previously convicted felons who are on parole from state institutions. In attempt to substantiate this statement, my office began, a few months ago, a program to closely review Wichita pre-parole reports and to record our recommendations on each case. An additional aspect of the program was to then monitor parole hearing results for comparison to our recommendations. Later, we matched the names of released individuals to our automated arrest file and produced some interesting results. A summary is provided as Attachment 2.

Figures from the study indicate that approximately 24% of the parolees released to Wichita since last May have since been arrested on numerous felony and misdemeanor charges. Note that this figure does not represent arrests of Wichita placements elsewhere nor does it include parolees from other cities who are arrested locally. Also of special significance is the fact that the time since their release is, in some cases, less than a month and, at most, an eight month period.

Actually we did not initially expect to reveal such a significant rate of parolee recidivism in such a short study period. Continued monitoring of the arrests file will, with all indications, increase these figures even further.

As an example of the type of individuals who are, not only being considered for, but all too often, being released on parole. I relate the following situation.

About a week ago my office received a "pre-parole" report on an individual considered parole eligible. Our function is to review the case, and make recommendations concerning release. In this particular case, the offender had served only about 14 months of multiple sentences of two 1 to 5 year terms, a 5 to 10, a 5 to 20, a 15 to life, and a 3 to 10. The offenses for which he was last convicted were burglary, larceny, possession of a firearm, three counts of aggravated burglary, aggravated robbery and two counts of rape. To me this information alone provides evidence enough to recommend against any early release. Let me, however, continue.

This individual was convicted of burglary in 1967. He served four months in prison, and was then paroled. He was convicted, two years later (1969) of burglary and larceny, was confined for sixteen months, then again paroled. Less than four months after his release, he was arrested for burglary, aggravated burglary (3 counts), battery, rape, attempted rape and parole violation. He was again convicted and imprisoned for approximately four years. In December of 1974, he was still again paroled; in February of 1975, less than two months later, he was arrested for aggravated robbery and auto theft. Then, a few months later, he was arrested, sentenced, and confined for the term he is now serving.

With such a history, it seems more than ridiculous that such a person would ever be considered for any form of parole.

Of further interest on this particular case, was that an institutional evaluation of this offender states that he is qualified for release into society because he has, while incarcerated, acquired and developed a skill in waxing floors. Such rationale is astounding.

The case related above has been used here primarily because it was a recently reviewed one. It is, to some extent, typical of the cases which we review. It is, in general, not an exception to the rule, but rather the rule itself.

In further support of this point, the October, 1977 Statistical Report from the Kansas Department of Corrections (P.B-8, Attachment 3) illustrates that, of all the persons evaluated at the Kansas Rehabilitation and Diagnostic Center during the first six months of 1977, 26.4% had been previously confined in some state institution. Over 54% of these repeat offenders had been out for less than two years. Approximately 62% were back in again for repeating crimes for which they had been previously confined. Nearly one-fourth (24.8%) were on parole or probation at the time they committed the new violation.

These figures indicate to me that these individuals were released into society prematurely. The abbreviated prison terms evidently fail to instill desired deterrence toward recurring criminal behavior. I contend that prisons, under existing practices, provide very little rehabilitative function and, with the exceedingly lenient parole practices, the deterrent value is likewise especially low.

Determinate sentencing with more rigid paroling practices would probably not appreciably increase the rehabilitative effect of the institutions but would provide a stronger deterrent value. I am confident that stiffer sentences with determinate terms for repeat offenders and offenders of violent crimes would produce increased discouragement toward such activities. In support of this, I offer a quote from James Q. Wilson, Harvard government professor and noted authority on the issue. He states that "the rate of serious crime would be only one-third what it is today if every person convicted of a serious offense were imprisoned for three years."

At the present time, a very small percent of the convicted violent offenders ever complete the court imposed minimum of their sentence. With exception of the violators serving sentences with one-year minimums, virtually all prisoners are released short of the minimum of their court imposed term. Additionally, a significant percent of individuals convicted on felony charges never even actually serve time in the state institutions. The diagram on Attachment 4 shows that for KDOC's fiscal year 1976 only approximately 28% of the felony convictions in the state resulted in actual institutional confinement. The remaining 72% received suspended sentences or were released on court probation or after KDOC evaluation. The same 72% figure can be derived from fiscal year 1977 figures.

I contend that the above statistics further uphold the need for reformed sentencing and paroling practices.

In attempt to clarify my stand on the issue of determinate sentencing, the following summary is provided.

- 1) The law should provide for specific sentences for specific crimes with relative latitude granted to the courts alone.
- 2) The parole program should apply to only first-time property offenders. Violent and repeat offenders should be exempt from parole consideration.
- 3) While, obviously, I do support the concept of determinate sentencing, I oppose House Bill No. 2712 based on the fact that it does not satisfy the above stated items.
- 4) House Bill No. 2506, introduced in the 1977 session, has considerably more merit, and, with some slight modification could more conceivably accomplish an improved situation.

HOMICIDE, RAPE, AND ROBBERY ARRESTS
DURING 1976

Homicide Arrests

<u>No. of Arrests</u>	<u>Prior Felony Arrests</u>	<u>Prior Juvenile Arrests</u>	<u>Prior Misdemeanors</u>
14	5 36%	2 14%	2 14%
	57% Have prior police record 43% No police record		

Rape Arrests

<u>No. of Arrests</u>	<u>Prior Felony Arrests</u>	<u>Prior Juvenile Arrests</u>	<u>Prior Misdemeanors</u>
41	22 54%	6 15%	13 32%
	71% Have prior police record 29% No police record		

Robbery Arrests

<u>No. of Arrests</u>	<u>Prior Felony Arrests</u>	<u>Prior Juvenile Arrests</u>	<u>Prior Misdemeanors</u>
147	79 53%	43 29%	77 52%
	78% Have prior police record 22% No police record		

Source: Wichita Police Department, Planning & Research Section

Pre-parole Review/Follow-up
Study Summary

(Since May 1, 1977)

303 Pre-parole reports reviewed by Wichita Police Department.

Nearly 2 paroles granted for every 1 approved by WPD (59 vs. 113).

130 Individuals released to Wichita (Full Parole, Halfway House, Work Release).

24% of these parolees have since been arrested in Wichita (31 of 130).

14 Felony Arrests

64 Misdemeanor Arrests

Approximately 2/3 of the arrested parolees were released against the recommendations
of Wichita Police Department. (21 of 31)

Over 1/2 of the arrested parolees had multiple arrests during this period. (16 of 31)

Approximately 1/4 of the arrested parolees were Work Release or Halfway House
type participants. (8 of 31)

Source: WPD, Planning & Research Section (Jan. 1978)

KANSAS DEPARTMENT OF CORRECTIONS

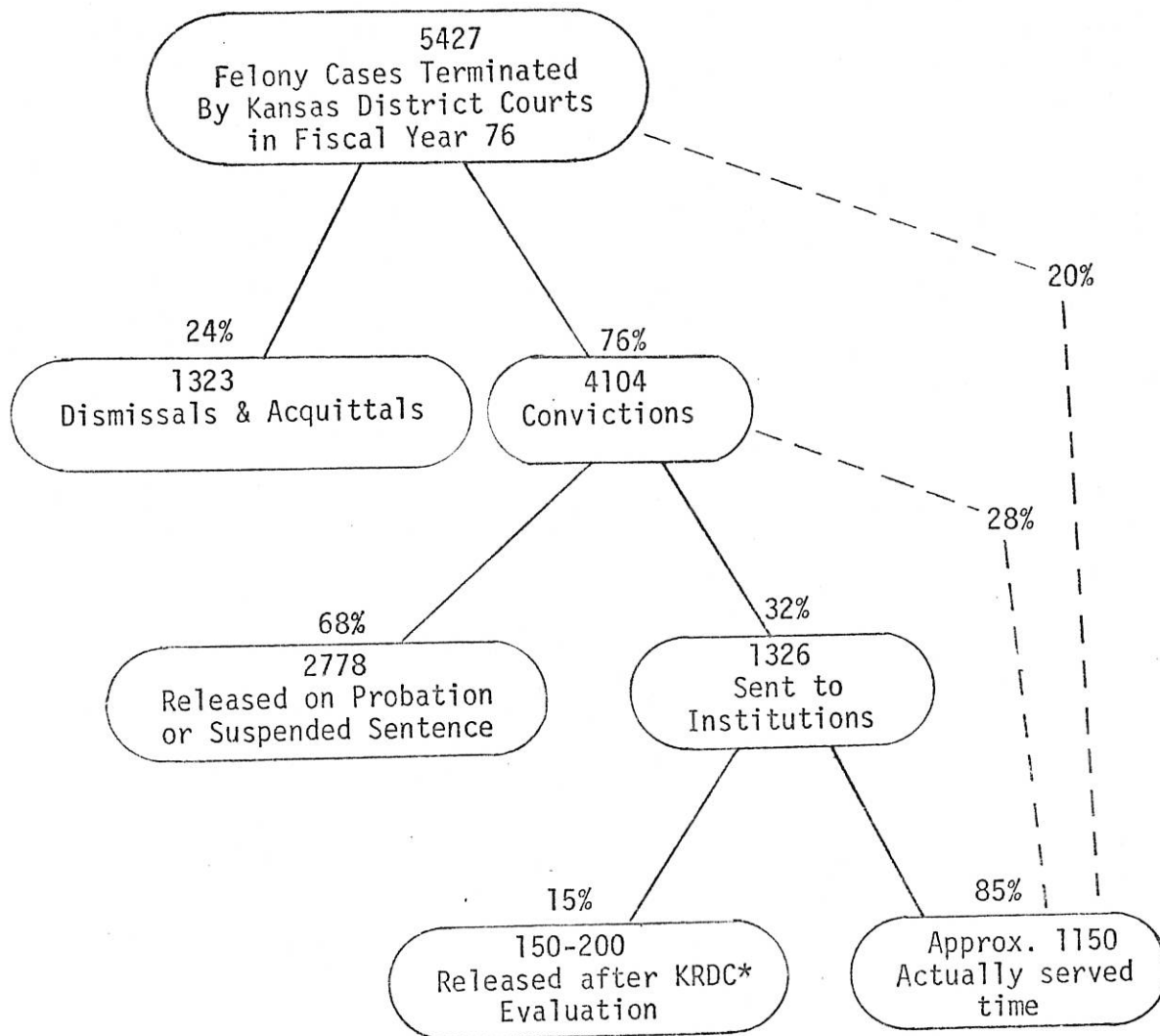
ANALYSIS OF PERSONS EVALUATED
AT KRDC 1977*

	TOTAL	
No. of Inmates Evaluated	740	
Type of Offense		
Person	223	30.1%
Property	371	50.2%
Other.	146	19.7%
No. With Previous Confinement**		
Kansas Institutions.	134	18.1%
Other State's Institutions	45	6.1%
Both	16	2.2%
Total	195	26.4%
Time Since Last Confinement		
0-24 Mos.	106	54.4%
25-60 Mos.	51	26.1%
Over 60 Mos.	38	19.5%
Current vs. Previous Offense		
Repeating Same Type of Offense		
Person	39	16.3%
Property	95	39.8%
Other.	14	5.9%
From person to property.	16	6.7%
From person to other	7	2.9%
From property to person.	24	10.0%
From property to other	16	6.7%
From other to person	8	3.3%
From other to property	20	8.4%
Total.	239	100.0%
Community Treatment		
Alcohol.	34	4.6%
Drug	21	2.8%
Mental	139	18.8%
Total.	194	26.2%
Status Before Confinement		
On Parole-New Crime		
Kansas	83	11.2%
Other State.	19	2.6%
On Probation-New Crime	48	6.5%
Total.	150	20.3%
On Probation-Violation	33	4.5%
No Correctional Supervision.	557	75.3%

*Based on evaluations during January through June

**Other than 120 days for evaluation

Prepared June, 1977, by Kansas Department of Corrections, Research and Planning Section.



* Kansas Reception & Diagnostic Center

Summary:

Overall Kansas District Courts conviction rate: 76%
 2/3 of convictions were released outright on probation or suspended sentence
 Only approximately 28% of those convicted serve 120 days or more

Data Source: KDOC 1976 Statistical Report
 Diagram by WPD, Planning & Research Section

1-23

Kansas Food Dealers' Association, Inc.

LEE E. CIRCLE, EXEC. SECRETARY
P. O. BOX 816 • ARKANSAS CITY, KANSAS 67005
PHONE (316) 442-5220
January 23, 1978

OFFICES
OFFICE BLDG.
ARKANSAS CITY, KANSAS

ASSN. INSURANCE DEPT.
P.O. BOX 816
ARKANSAS CITY, KANSAS

OFFICERS
PAUL DART, PRES.
GARDEN CITY
STAN HAYES, VICE-PRES.
MANHATTAN
LEE E. CIRCLE
EXEC. SEC.-TREAS.
ARKANSAS CITY

DIRECTORS
J. R. WAYMIRE
LEAVENWORTH
HARRY BAUERSFELD
TOPEKA
LEONARD McKINZIE
OVERLAND PARK
REX SUTHERLAND
PAOLA
CHARLES BALLOU
CHANUTE
DONALD CALL
CEDAR VALE
LES BLEIER
WICHITA
BILL WEST
ABILENE
ROY FRIESEN
SYRACUSE
JOE WHITE
KINGMAN
JOHN DONELAN
COLBY
DEL KLEMA
RUSSELL

DIRECTORS AT LARGE
RUSTY SPRINGER
LAWRENCE
JOHN HOWERTON
SHAWNEE MISSION

HONORARY DIRECTORS
DAVID (BUS) STILES
HERINGTON
WAYNE REED
INDEPENDENCE
RANDALL PIERCE
WICHITA

EXEC. COMMITTEE
PAUL DART
BUS STILES
WAYNE REED
STAN HAYES
LEE E. CIRCLE

House Judiciary Committee, HB 2712, Repr. Brewster, Chrm.

Mr. Chairman, members of the Committee, we appreciate the opportunity to appear on HB 2712. I am Frances Kastner, legislative assistant to Lee Circle, Executive Secretary of the Kansas Food Dealers Association, representing 95% of the grocery stores in Kansas. We oppose the passage of HB 2712 which we call a COST OF LIVING INCREASE FOR CRIMINALS.

Each year our grocers are plagued by more and more returned checks. Most people are more reluctant to give insufficient fund checks for an amount that would be classified a felony instead of a misdemeanor. This means the grocer, and other retailers, are now getting more bad checks for under \$50 than they are checks over \$50.

The changes in HB 2712 would double that amount, and no doubt encourage those individuals who deliberately give a check knowing they have insufficient funds, to write that check for \$99 instead of \$49. I am sure you are all aware some people write checks hoping the delay between writing a check, and putting money in the bank, will give them time to cover a check they've written, but some never quite have enough in their accounts to cover ALL their outstanding checks.

AFFILIATED WITH --- NATIONAL ASSOCIATION OF RETAIL GROCERS (NARGUS)
FOOD INDUSTRY ASSOCIATION EXECUTIVES

OWNERS AND PUBLISHERS OF THE "KANSAS FOOD DEALERS BULLETIN."
THE OFFICIAL PUBLICATION OF THE KANSAS FOOD DEALERS ASSOCIATION, INC.

Many of these checks under the \$50 amount are NEVER collected and this certainly adds to the retailers cost of doing business. In other words, the honest, law-abiding consumer must pay more for his goods to cover losses caused by unlawful acts of other consumers.

This is not only true of bad checks, but also of shoplifting which is another major cost factor retailers have to consider. Changing the amount from \$50 to \$100 before shoplifting and theft are considered felonies compounds the problem.

While we are in favor of strengthening our mandatory sentence laws, or bringing them into conformity, we can NOT endorse any measure such as HB 2712 which is little more than a cost of living increase for criminals.

If the bill cannot be separated into two bills, one dealing with our mandatory sentence law, and the other pertaining to the amounts of money or value of goods classified as a felony, we would respectfully request that you NOT recommend HB 2712 for passage.

Thank you for giving us this time to present our views.

Mrs. Frances Kastner
3923 NW Rochester Rd.
Topeka, Kansas 66617

(913) 286-1760

HOUSE BILL NO. _____

AN ACT relating to signs; concerning action making certain signs unlawful or requiring the removal of certain signs; amending K.S.A. 1977 Supp. 68-2234 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1977 Supp. 68-2234 is hereby amended to read as follows: 68-2234. After March 31, 1972, signs which are to be erected in a business area shall comply with the following standards: (a) General. Signs shall not be erected or maintained which (1) imitate or resemble any official traffic sign, signal or device; or (2) are erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(b) Size. (1) Signs shall not be erected which exceed thirty (30) feet in height, sixty (60) feet in length or twelve hundred (1200) square feet in area, per facing, including border, trim and embellishments, but not including base or apron, supports, and other structural members.

(2) The maximum size limitations shall apply to each sign facing.

(3) Two signs not exceeding six hundred (600) square feet each may be erected in a facing, side by side or "double decked," and double-faced, back-to-back or V-type signs shall be permitted and shall be treated as one structure with a maximum area of twelve hundred (1200) square feet permitted for each side or facing. To be classified as "back-to-back" there must not be more than fifteen (15) feet between structures or faces, to allow for crossbracing.

(4) The area of any sign shall be measured by the smallest square, rectangle, circle or combination thereof which will

1-23

encompass the area affected.

(c) Spacing. (1) Signs shall conform to all applicable building codes and ordinances of the city, county or state, whichever is applicable by reason of the locations of said signs.

(2) Signs shall not be erected or maintained in such a manner as to obscure or otherwise physically interfere with an official traffic sign, signal or device or to obstruct or physically interfere with a driver's view of approaching, merging or intersecting traffic.

(3) Signs visible from a primary highway shall not be erected within the limits of an incorporated city less than one hundred (100) feet, and outside the limits of an incorporated city less than three hundred (300) feet, of another sign on the same side of the highway.

(4) Signs visible from a freeway or interstate highway shall not be erected within five hundred (500) feet of another such sign on the same side of the highway, and outside the limits of an incorporated city, no such sign shall be located adjacent to or within five hundred (500) feet of an interchange, intersection at grade or a safety rest area, with such distance to be measured along the freeway or interstate highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way.

(5) The minimum distance between two signs prescribed by paragraphs (3) and (4) of this subsection shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway; but said minimum distance shall not apply to signs described by subsection (a), (b) or (c) of K.S.A. 1977 Supp. 68-2233, nor shall such signs be counted or be used in measuring distances for the purpose of determining compliance with the spacing requirements of this subsection.

(6) The minimum distances between two signs prescribed by paragraphs (3) and (4) of this subsection shall not apply where such signs are separated by a building, structure, roadway or

other obstruction which prevents a view of both signs at the same time by traffic proceedings on any one highway.

(7) Nothing in this subsection shall be construed as preventing the erection of double-faced, back-to-back or V-type signs with a maximum of two (2) signs per facing, as permitted by subsection (b) of this section.

(d) Lighting. (1) Signs shall not be erected which contain, included or are illuminated by any flashing, intermittent, revolving or moving light, except those giving public service information such as, but not limited to, time, date, temperature, weather or news; steadily burning lights in configuration of letters or pictures are not prohibited.

(2) Signs shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of any interstate or primary highway and are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle.

(3) Signs shall not be erected or maintained which shall be so illuminated that they obscure any official traffic sign, device or signal, or imitate or may be confused with any such official traffic sign, device or signal.

(e) Application to local zoning authorities. Nothing in this section, or in the act of which this section is amendatory, shall be construed as prohibiting a local zoning authority from controlling the erection, maintenance, size, spacing and lighting of signs within its jurisdiction in a manner which is not less restrictive than the highway advertising control act of 1972, and any acts amendatory thereof or supplemental thereto; however, signs that are lawfully in existence prior to action by a zoning authority or city or county, with regard to such signs, may not be ordered removed or their existence made unlawful unless just compensation shall be paid for the taking. Just compensation shall be paid for the taking:

(1) From the owner of such sign, all right, title and interest in and to such sign, and his or her leasehold related thereto; and

(2) from the owner of the real property on which such sign is located immediately prior to its removal, the right to erect and maintain signs thereon, other than those signs which may lawfully be erected or maintained.

Full compensation therefor shall be included in the amounts paid to the respective owners.

Sec. 2. K.S.A. 1977 Supp. 68-2234 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.