

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

Held in Room 522, at the Statehouse at 3:30 ~~am~~/p. m., on January 25, 1978.

All members were present except: Representatives Baker, Hurley, Matlack, Mills and Stites, who were excused.

The next meeting of the Committee will be held at 3:30 ~~am~~/p. m., on January 27, 1978.

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



Chairman

The conferees appearing before the Committee were:

Mr. Jim Marquez, Acting Secretary of Corrections
Mr. Lloyd Zook, Shawnee County Court Services

The meeting was called to order by the Chairman, who reminded members that there had been a request from the office of the Secretary of State for two bills dealing with clean-up matters in the Corporation Code. It was moved by Rep. Lorentz and seconded by Rep. Roth that the bills be drafted, introduced and re-referred to the committee. Motion carried.

Rep. Foster noted that while HB 2919 was not on the agenda, he would move that it be reported adversely. Motion was seconded by Rep. Lorentz, and carried.

The Chairman stated there had been changes made in the federal attachment requirements, and asked if members would authorize the drafting and introduction of a committee bill in this regard, and also providing authority for continuing garnishment for child support and alimony. He explained that the military has asked for this because presently a new garnishment must be filed every month. It was moved by Rep. Frey and seconded by Rep. Heinemann that the bill be introduced and referred back to committee. Motion carried.

The Chairman reminded members that February 7th is the deadline for introduction of committee bills, and urged if members have any matters they would like to include in a committee bill, they should make their wishes known.

With regard to HB 2040, the Chairman stated the League of Women Voters had asked him to distribute their printed statement. (See exhibit.)

Mr. Jim Marquez, Acting Secretary of Corrections, stated that they still support HB 2040, but explained they have made some refinements which he hopes the committee will incorporate into the bill.

He explained they feel they need a mandatory presentence investigation, and believes this might cut down on the number of people committed to the Secretary. (See exhibit.)

Mr. Marquez noted that it is possible that medical and psychological evaluations may need to be put back in because of some other provisions. He pointed out that matters to be taken into consideration in the evaluation are set out. In addition they are asking for an analysis of what the information in the report means insofar as the defendant is concerned.

The Chairman pointed out that the first several sections deal with the same statutes mentioned in HB 2712, which is the interim bill. Mr. Griggs stated in particular it mentions the contract parole, and the first meeting with the inmate. Mr. Marquez stated they had seen HB 2712 and had testified in that regard during the summer; that they have no problem with the court ordered restitution nor a statement concerning the reasons for confinement, but that they are not sure they can support a contract parole concept.

Mr. Griggs stated if both bills are passed the problems could be resolved in either the Senate or in conference, insofar as reference to the same statutes are concerned.

Rep. Martin stated he would like to see a comparison of the two bills, and the Chairman pointed out that the package of Corrections proposals are presently being drafted from interim committee recommendations. He urged that when the drafts are completed the committee should look at them in the light of the Department, the court services and the Adult Authority recommendations, as well as the report of the interim corrections committee.

Mr. Lloyd Zook of the Shawnee County Court Services, testified that the judges with whom he works are in favor of the concepts contained in HB 2040; that presently they conduct a presentence investigation on all felons and the judges feel it is essential to court procedures. He stated they support the changes suggested by the Department of Corrections. He also stated that at the meeting of the District Judges during the summer, there was discussion and concern about the wide disparity in sentencing from one locality to another. He suggested that this proposal would make sentencing more uniform.

The Chairman noted that the interim committee had received a survey from Judge Michael Barbara, wherein he had used a number of sample cases with circumstances described and had asked judges to pronounce sentence upon the basis of the information available. There was a very wide variance. The Chairman asked Mr. Purcell to prepare this material for committee distribution.

Rep. Martin explained that the main purpose for the introduction of HB 2327 was to assure that if someone has shown signs of emotional instability there would be an attempt to get appropriate medication. He further explained that it is sort of a companion to HB 2326. Mr. Marquez stated they do not oppose what the bill is trying to do but

pointed out there might be a problem with a probation or parole officer trying to monitor the taking of medication, and also, if medication is ordered by the court there might be a problem about who is to pay for it.

Mr. Marquez stated they had originally requested the introduction of HB 2596, but it is now their wish to have the bill killed. It was moved by Rep. Heinemann and seconded by Rep. Ferguson that the bill be reported adversely. Motion carried. It was further mentioned by Mr. Marquez that the provisions contained in HB 2509 had been addressed in another bill, and there was no longer a need for the bill. It was moved by Rep. Hayes and seconded by Rep. Foster that the bill be reported adversely. Motion carried.

Secretary Marquez told the committee that HB 2523 deals with multiple sentencing and before any action is taken on it they wish to continue reviewing HB 2712 to see if it will cover the matters in HB 2523. Mr. Griggs stated HB 2712 does not address all of the things in HB 2523. Mr. Marquez stated they would like to see HB 2601 passed because he feels the only reason the Department hasn't been sued is that no inmate has through of it up to this time. He expressed the view that such matters can be handled through the Claims and Accounts Committee.

The Chairman noted there have been some comments that there may be some items in HB 2712 which could jeopardize its passage, and asked the committee for carte blanche authority to pull those matters out and place them in a separate bill. It was moved by Rep. Hayes and seconded by Rep. Foster that this authority be granted. Rep. Roth objected on the basis that the interim committee had looked at the ramifications. Upon vote, motion carried.

The Chairman pointed out that he was thinking particularly of the section dealing with narcotics, and that this and other matters would be divided so the issues could stand on their own merit.

The meeting was adjourned.

Wed
1-25-78

Judiciary Committee

Name	Address -	Organization
Ed. Wickland	SHAWNEE COUNTY COURTHOUSE	3 rd JUDICIAL DISTRICT COURT SERVICES
LLOYD W. ZOOK	"	"
TERRY A. SIMONSON	MC PHERSON COUNTY ETHS	9 th JUDICIAL DISTRICT
M. M. Magerz	DOR	Toska
Mrs. Julia Ryan	Stafford	Vida
Mr. Bob Wenzelburg	Stafford	Lillian
Bill Jimmy	Took	Localist of
Fred Sweet	Topeka	Governor's Office

LWVK

LEAGUE OF WOMEN VOTERS OF KANSAS

1-25

6703 Hadley
Overland Park, Ks. 66204
January 25, 1978

STATEMENT TO THE HOUSE JUDICIARY COMMITTEE ON H.B. 2040: An Act relating to crimes and punishments; concerning the disposition of persons convicted of crimes; concerning pre-sentence investigations and reports...

Mr. Chairperson and Members of the Committee:

I am Ann Heberger, member of the Board of Directors of the League of Women Voters of Kansas.

The League would like to be on record in support of H.B. 2040.

We are a bit puzzled as to why the Bill was not passed favorably during the last Session with the number of Legislators and the Governor speaking in favor of mandatory pre-sentence investigations, as well as the Department of Corrections.

We agree that uniform state guide-lines be developed, and are confident in your wisdom to determine whether the courts or the Department of Corrections be responsible for such action.

We urge your support of H.B. 2040.

Thank you for the opportunity of appearing before you today.

1-25

BILL NO. _____

AN ACT relating to crimes; concerning presentence investigations; amending K.S.A. 21-4604, 21-4605 and 22-3429 and K.S.A. 1977 Supp. 21-4603 and repealing the existing sections.

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

Section 1. K.S.A. 1977 Supp. 21-4603 is hereby amended to read as follows: 21-4603. (1) Whenever any person has been found guilty of a ~~crime upon verdict or plea~~ felony and a sentence of death is not imposed, the court may ~~shall~~ require that a presentence investigation be conducted ~~by the Kansas reception and diagnostic center. If such offender is sent to the Kansas reception and diagnostic center, the Kansas reception and diagnostic center may keep such person confined for a maximum of one hundred twenty (120) days or until the court calls for the return of such offender. The Kansas reception and diagnostic center shall compile a complete mental and physical evaluation of such offender and shall make its findings known to the court in the presentence report as provided in K.S.A. 21-4604, as amended. The court may require such a presentence investigation whenever a person is convicted of a misdemeanor.~~

1-25

(2) Whenever any person has been found guilty of a crime ~~and a presentence report has been compiled and submitted to the court,~~ the court may adjudge any of the following:

- (a) Commit the defendant to the custody of the secretary of corrections or, if confinement is for a term less than one (1) year, to jail for the confinement for the term provided by law;
- (b) Impose the fine applicable to the offense;
- (c) Release the defendant on probation;
- (d) Suspend the imposition of the sentence;
- (e) Impose any appropriate combination of (a), (b), (c) and

(a).

In imposing a fine the court may authorize the payment thereof in installments. In releasing a defendant on probation the court shall direct that said defendant be under the supervision of the secretary of corrections or the probation or parole officer of the court or county.

The court in committing a defendant to the custody of the secretary of corrections shall not fix a maximum term of confinement, but the maximum term provided by law shall apply in each case. In those cases where the law does not fix a maximum term of confinement for the crime for which the defendant was convicted, the court shall fix the maximum term of such confinement. In all cases where the defendant is committed to the custody of the secretary of corrections, the court shall fix the minimum term within the limits provided by law.

Any time within one hundred twenty (120) days after a sentence is imposed or within one hundred twenty (120) days after probation has been revoked, the court may modify such sentence or revocation of probation by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If an appeal is taken and determined adversely to the defendant, such sentence may be modified within one hundred twenty (120) days after the receipt by the clerk of the district court of the mandate from the supreme court or court of appeals. The court may reduce the minimum term of confinement at any time before the expiration thereof when such reduction is recommended by the secretary of corrections and the court is satisfied that the best interests of the public will not be jeopardized and that the welfare of the inmate will be served by such reduction. The power here conferred upon the court includes the power to reduce such minimum below the statutory limit on the minimum term prescribed for the crime of which the inmate has been convicted. The recommendation of the secretary of corrections and the order of reduction shall be made in open court.

Dispositions which do not involve commitment to the custody

of the secretary of corrections and commitments which are revoked within one hundred twenty (120) days shall not entail the loss by the defendant of any civil rights.

(3) At the time of committing an offender to the custody of the secretary of corrections the court shall ~~may~~ submit to said officer recommendations on a program of rehabilitation for said offender, based on presentence reports, ~~medical and psychiatric~~ evaluations and any other information available. Such recommendations shall ~~may~~ include desirable treatment for correction of physical deformities or disfigurement that may, if possible, be corrected by medical or surgical procedures or by prosthesis. ~~The court may recommend further evaluation at the reception and diagnostic center, even though defendant was committed for presentence evaluation.~~

(4) This section shall not deprive the court of any authority conferred by any other section of Kansas Statutes Annotated to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty as a result of conviction of crime.

(5) An application for or acceptance of probation or suspended sentence shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation or suspended sentence.

Sec. 2. K.S.A. 21-4604 is hereby amended to read as follows: 21-4604. ~~Whenever a defendant is convicted of a crime or offense, the court before whom the conviction is had may request a presentence investigation by a probation officer. Whenever an investigation is requested, the probation officer shall promptly inquire into the circumstances of the offense; the attitude of the complainant or victim, and of the victim's immediate family, where possible, in cases of homicide; and the criminal record, social history, and present condition of the defendant. In cases involving misdemeanors, the presentence investigation shall be~~

conducted by personnel of the district court. In cases involving felonies, the presentence investigation shall be conducted by personnel of the district court, unless the court does not have personnel therefor, in which case the court may order that the investigation be conducted by personnel of the department of corrections. A presentence investigation shall consist of an inquiry, prior to imposition of sentence, into available information on the defendant's attitude, family background, previous activity in the community, employment history, educational accomplishments and prior criminal activity, circumstances of the offense, the attitude of the complainant or victim, the attitude of the victim's family in cases involving homicide, and characteristics of the defendant, such as alcoholism or other drug abuse problems, which may relate to the type of sentence or rehabilitation program to be imposed. Personnel conducting the investigation may include in their report an evaluation of the significance of information obtained in the investigation, as such information relates to the sentence to be imposed and the type of rehabilitation program that may best serve the defendant and the community. All local and state police agencies shall furnish to the ~~probation officer~~ personnel authorized to conduct presentence investigations such criminal records as the ~~probation officer~~ they may request. ~~Where in the opinion of the court it is desirable, the investigation shall include~~ In addition to the presentence investigation provided for above, the court, in its discretion, may order a physical and or mental examination of the defendant, or both. If a defendant is committed to any institution, the investigating agency shall send a report of its investigation to the institution at the time of commitment.

Sec. 3. K.S.A. 21-4605 is hereby amended to read as follows: 21-4605. The judge shall make available the ~~presentence report, any report that may be received from the diagnostic center,~~ of any presentence investigation and other diagnostic reports to the attorney for the state and to the counsel for the defendant when requested by them, or either of them. Such reports

shall be part of the record but shall be sealed and opened only on order of the court.

If a defendant is committed to ~~a state institution or to~~ the custody of the secretary of corrections or the defendant is placed on probation and is being supervised by a probation officer of the department of corrections, such reports shall be sent by the court to the secretary of corrections ~~and to the superintendent of such state institution~~ in the manner and form prescribed by the secretary. If the defendant is committed to a state hospital or other mental facility, such reports shall be sent by the court to such hospital or facility.

Sec. 4. K.S.A. 22-3429 is hereby amended to read as follows: 22-3429. After conviction and prior to sentence ~~and as part of,~~ in addition to the presentence investigation authorized by K.S.A. ~~1969--Supp.~~ 21-4604, as amended, the trial judge may order the defendant committed to a state hospital or any suitable local mental health facility for mental examination, evaluation and report. If adequate private facilities are available and if the defendant is willing to assume the expense thereof such commitment may be to a private hospital. A report of the examination and evaluation shall be furnished to the judge and shall be made available to the prosecuting attorney and counsel for the defendant. A defendant may not be detained for more than 120 days under a commitment made under this section.

Sec. 5. K.S.A. 21-4604, 21-4505 and 22-3429 and K.S.A. 1977 supp. 21-4603 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Case No. 2

Guilty plea to Giving A Worthless Check Over \$50., a Class E Felony (K.S.A. 21-3707)

Sentence range: One to five years and/or fine not to exceed \$5,000.

Disposition:

4 Sentenced to custody of Secretary of Corrections not less than one year nor more than five years with two defendants fined \$1,000.00 and \$200.00 respectively.

20 Probation granted for period of

- 2 - 1 year
- 3 - 2 years
- 6 - 3 years
- 4 years
- 7 5 years
- 2 None specified

1 Defendant was fined \$240.00

17 Required restitution as a condition of probation.

24 Total Cases

PRESENT OFFENSE

Sue Richards appears before the Court upon pleading guilty to Giving A Worthless Check Over \$50.00 - a Class E Felony.

A check dated June 4, 1976 was drawn on the First National Bank and made payable to the Bowen Muffler Shop for the amount of \$50.46. This check did not clear the bank due to insufficient funds. Subsequently, it was returned to the Bowen Muffler Shop, 19 West 10th Street in this city and charges were filed through the District Attorney's office.

CLIENT'S STATEMENT

Mrs. Richards readily admits her guilt and appears to be well aware of the seriousness of her present offense before the court. She states, "a lot of things have happened and I just got shaky and wrote another check. I knew the check was bad when I wrote it and I really don't know why I did it. I don't think I can give a reason that is acceptable to anyone - I am guilty of the offense with no excuse to offer."

VICTIM'S STATEMENT

After several attempts, this office has been unable to reach Mr. Ken Bowen, owner of the Bowen Muffler Shops, Inc. and the victim in this case.

PRIOR RECORD

The defendant has an extensive prior criminal record. This writer respectfully directs the court's attention to the Bureau of Investigation abstract of record contained in the file.

The following information has been obtained from the classification study by the Correctional Institution for Women April 10, 1974. The defendant's first arrest occurred approximately one year after graduating from high school. She was arrested and charged with Worthless Checks July 16, 1948. Through the years, charges have varied from Shoplifting, to more serious crimes such as Fraud, Theft, Forgery, and Mail Theft.

Mrs. Richards was sentenced to the Federal Reformatory for Women at Virginia in 1959 and released in 1960 after serving nine months and nineteen days. She served seven months of a year sentence for Forgery at the Home for Women in 1962, and was received there on a new charge September 22, 1971, then paroled again in June, 1972.

The Bureau of Investigation records reveal that the defendant was convicted of Passing a Forged Check (two counts) in Riley, Missouri. On February 8, 1974, she was sentenced to the Correctional Institution for Women for a term of one to ten years concurrent. On May 19, 1975 the defendant was paroled by the Adult Authority to Riley, Missouri; she was paroled until February 4, 1984.

A Research and Data, Inc. list dated August 12, 1976, contained in the file, includes nine checks written in July of 1975 and ten checks written in May, June, and July of 1976 with either Mrs. Sue Richards or Mrs. C.E. Richards maker name. The District Attorney's office indicates that based upon information contained in their file, computation reveals the total amount of these checks, plus a \$3.00 service charge on each check to be \$526.21. This figure includes the check on which the present charge has been filed.

In March of 1976, the State of Shawnee filed charges against the defendant, resulting from offenses she committed in 1973, prior to her incarceration at the Correctional Institution for Women. These charges include the following felonies: Theft by Fraud and Operating a Vehicle Without Consent of Owner. Charges on file in Madison, Detroit include the following misdemeanors: One Count of Worthless Check and nine counts of Issuance of Worthless Checks. A restitution agreement was arranged in which Mrs. Richard agreed to pay \$75.00 per month on the amount of \$1,047.36 total restitution due to the State of Shawnee.

FAMILY CONSTELLATION

Sue was born September 24, 1929 in Irene, Oregon and raised by her natural parents in South Dakota and Wisconsin. She was the youngest of four children. A report from the Correctional Institution for Women notes that her father, George, apprenticed as a machinist and went into that trade. He had a kind, lenient attitude toward his daughter and her problems, often in his later years he borrowed money and helped to make restitution and pay off fines. He drank rather heavily, but never let it interfere with his work. He was deceased in 1963 at age sixty-five. The defendant's mother Judith, is described as the controlling influence in the family, with a very strict sense of religious and moral responsibility. She was ill with arthritis and a severe heart condition several years preceding her death in 1958, at age fifty-nine. Sue indicates that she had a "good" relationship with her parents, primarily with her mother. She disliked the fact that relatives were "always" residing with her family when she was growing up.

Mrs. Richards is currently divorced; she has been married three times, twice to the same man. She told this writer that she married Raymond Zawalski in Illinois in 1948, and this relationship terminated when he was killed in an auto-train accident in January or 1949. These dates and information are somewhat inconsistent with information contained in the April 10, 1974 Correctional Institution for Women's report.

The defendant married Carl Richards August 1, 1953 in Madison, Detroit and they divorced in August of 1963. They remarried September 5, 1965 in Forest, Detroit and divorced again in 1972 in Madison, Detroit. Carl, like Sue, has a long record of arrests which includes charges of Grand Larceny, Forgery, Parole Violations, etc. Their marriage is described as a stormy, sporadic one, due partially to both parties frequent institutionalization. From this union the defendant relates that she has given birth to five children. Don was born May 21, 1954 and died when he was four years of age in October of 1958. This resulted from an overdose of aspirin and pneumonia. Her son, Bill, twenty, was born June 19, 1956. He currently resides with his wife and child in Kansas and is on supervised probation after being convicted of Theft Over \$50.00 on June 18, 1976. Sue states, "Bill visited me frequently and stuck by me when I was last in prison. His behavior in the past had to be because of me". Mrs. Richards states her son, Mike, died twelve hours after his birth in 1967; he encountered respiratory complications. In 1968, she relates giving birth to Jim, who was stillborn. Her daughter, Tanya, fifteen, was born September 17, 1961.

Upon the defendant's arrest in February of 1974, both Tanya and Bill were made wards of the County Court and placed in the care of foster parents. Both children were disturbed and obtained therapy at the Central Guidance Center. Tanya was then referred and admitted to the State Hospital August 14, 1974. State Hospital records note that psychological and ps-chiatric examinations revealed that Tanya was a severely emotionally disturbed youngster who required long term residential treatment. On December 3, 1976, this writer interviewed Dr. Dwayne New, staff psychiatrist, and Mrs. Bess Rowdy, ACSW, at

the State Hospital Adolescent Unit, Childrens Section. They report that Tanya has made significant progress in her treatment program. During the past semester she has been attending classes at Stevens Junior High School and has been making a successful adjustment. Tentative plans were to discharge Tanya to the care of her mother at the close of the current school semester. However, discharge planning is held in abeyance pending the determination of Mrs. Richards current legal status.

EDUCATION

Mrs. Richards relates attaining a formal high school education; she reports attending East Junior High School (1940 to 1943) and East High School (1943 to 1947). The defendant reportedly graduated 175th out of 341 in her class. She states angrily, "I hated high school because I was expected to be just exactly like my older sister and follow in her footsteps. She was an excellent athlete in school, but I had other interests and just couldn't live up to her performance. I participated in after school sports just to satisfy my parents."

The defendant related to this writer that she attended nursing school in Milwaukee, Wisconsin from 1947 to 1949. The Correctional Institution for Women classification study notes that Sue reportedly was connected with the School of Nursing at Sun Prairie, Detroit for a few days in June of 1949.

Mrs. Richards has enrolled in various classes, attending only sporadically, at various institutions in which she has served time. The Correctional Institution for Women report notes that she has requested to be assigned to the library as a resident librarian; "she seems to be happier when she can work alone, as in the case of the library work".

MILITARY

The CIW classification study includes the following information. Mrs. Richards claims a two and a half year Nurses Aide Training Course plus a four year hitch in the Womens Army Corp - with a disability from the Korean War. However, in truth, none of this can be verified, and she has a criminal record, work experience, and other data which account for the Korean War years otherwise.

Mrs. Richards advised this writer that she entered the Womens Army Corp in February of 1949 and received a medical discharge in February of 1953. She describes these four years as "a thoroughly enjoyable period of my life - it was interesting and educational." The defendant relates performing bookkeeping and administrative clerk duties in the paymasters office of the finance corp. She reportedly was transferred to Korea on "a mixed up assignment" where she was injured in a jeep accident. Sue relates suffering a skull fracture and a serious arm injury, for which she underwent seven operations to retain it's use.

EMPLOYMENT

The defendant reports that she has held approximately seven employment positions. She relates that she has been fired before due to her police record. Sue indicates that she has left several jobs in the past prior to her being arrested on criminal charges because "I didn't want to embarass my employers, so I just left the job." She reportedly has been employed in the past as a factory worker, bookkeeper, and nurses aide at local convalescent centers. She maintained employment at the Hill Convalescent Center for one and one-half months and at the Tide Convalescent Center for four and one-half months. She worked approximately forty-four hours per week and received remuneration at the rate of \$2.50 per hour.

The defendant was unemployed at the time of her interview with this writer. She related that she had been terminated from the Tide Convalescent Center until the disposition of her current court case. However, on December 2, 1976 she informed her Parole Officer, Mr. John Deem, that she returned to work at the Tide Convalescent Center.

Mrs. Rowdy, State Hospital ACSW, notes that Sue has recently indicated her interest and desire to receive training to enable her to qualify for more remunerative employment. Referral was subsequently made to the Department of Vocational and Rehabilitation Services. She has recently been involved in the testing and assessment process at the Vocational Rehabilitation Unit.

HEALTH

Mrs. Richards indicates that she has been admitted to hospitals for physical illnesses and injuries. She relates suffering two miscarriages; one in 1966 and one in 1970. The defendant has had the following operations: hysterectomy, cholecystectomy, appendectomy and a reconstruction of her left wrist. She suffers from pancreatitis and border line diabetes.

During her last prison term (February 8, 1974 to May 19, 1975), arrangements were made with the Superintendent of CIW, Mrs. Diane Mirian, for Mrs. Richards to be transported twice monthly for regularly scheduled therapy and for therapeutic visits with her daughter at the State Hospital. She has maintained these visits weekly with Mrs. Rowdy, State Hospital ACSW, since her parole in May of 1975. Because of suspected neurological difficulties, Mrs. Rowdy advised her to seek a neurological evaluation at the Page Hospital. After several weeks, she consented to do so. Page Hospital records note that Sue was admitted there June 21, 1976 and discharged June 30, 1976. Dr. M. Thomas, Page Hospital Department of Neurology, diagnoses include the following: (1) Explosive personality with left and right temporal lobe electroencephalogram abnormalities; temporal lobe epilepsy suspected, not proven. (2) Marked obesity. (3) Hyperlipidemia (presence of excess fat or lipids in the blood), type IV. (4) Chronic muscle tension and headaches, partially relieved. While in the hospital, Mrs. Richards was given medication for her headaches and for an upper respiratory allergy. She conformed to 1200 calorie weight reduction diet and for her hyperlipidemia. She was also placed on Dilatin (100 mg., 3 h.s.) therapeutic trial.

The 1974 CIW classification study describes the defendant in the following manner. "She demands and craves attention - will talk for hours on past experience and yarns much of which are concoctions of her own imagination; yet, when pinned down to strategic dates she will rise to the defensive-becoming belligerent and resentful." Mrs. Rowdy, who counsels Mrs. Richards, describes her behavior in past counselling sessions similarly.

However, Mrs. Rowdy relates that there has been a noticeable improvement in her emotional stability and social functioning since her acceptance of the medication prescribed by her physician in the Department of Neurology, Page Hospital. She states that the defendant is currently a very depressed lady and has indicated that, for the first time since she can remember, she is experiencing feelings of guilt and remorse for her past behavior. Consistent with this information, State Parole Officer, John Deem states, "I sincerely believe that in the midst of all this difficulty, Mrs. Richards has somehow developed a conscience."

CURRENT ADJUSTMENT

The defendant currently resides alone in a home located at 11 Southwest Lane Street in this city. She has been under state parole supervision since May 19, 1975. Her parole officer relates that she has been very cooperative and honest in her dealings with him and the other members of his office. Mr. Deem states, "while Mrs. Richards performance on parole has been far from ideal, I feel that she has tried to make a good adjustment and has been sincere in her efforts to overcome the many problems which she has been faced with in the last eighteen months."

This writer respectfully directs the court's attention to two letters contained in the file. A letter dated December 7, 1976 written by Mrs. Rowdy, ACSW and casework supervisor, Adolescent Unit, Childrens Section of the State Hospital; Mrs. Rowdy has dealt closely with the defendant and her daughter the past thirty-four months. The other letter is dated December 3, 1976 and is written by Mr. Deem, State Parole Officer, who has been meeting with the defendant the past eighteen months.

It appears that Mrs. Richards has made efforts to make financial restitution for her offenses in Detroit. Recently, on December 2, 1976, she provided her parole officer with a receipt for restitution to Bowen's Muffler Shop, the victim in this case. At that time, she advised him that she was forwarding a \$75.00 moneyorder to Detroit and estimates that she still owes \$600.00 there. She also relayed intentions of paying Research and Data, Inc. \$50.00 from her next paycheck. The defendant states, "I never had to make restitution before - it isn't very pleasant".

Mrs. Richards request that the Court allow her "one last chance" to prove herself on probation and parole rather than sentence her to prison. She relates that this would allow her to continue in treatment, individual therapy, and family therapy with her daughter. She feels that she could also complete her vocational rehabilitation testing and training, maintain employment as a nurses aide locally, and make full restitution to victims in Detroit. Mrs. Richards states that Dilantin medication has helped considerably in controlling her impulsive behavior and temper. She relates plans of re-involving herself in the Step Foundation and AA to be among a supportive fellowship.

SUMMARY

Sue Richards is a forty-seven year old, divorced, Caucasian female who is before the court for Giving a Worthless Check Over \$50.00 a Class E Felony. She possesses an extensive prior criminal record.

This case was presented to the entire Adult Services Staff, for a careful review and discussion, in Court Clinic. As might be expected, both positive and negative factors were thoroughly assessed. After careful consideration of all available information in this case, this writer feels that the defendant may have finally reached a point in her life where she may be ready to develop and maintain a lifestyle as a law-abiding citizen. In view of her current adjustment it appears that she has been demonstrating this. She is involved in individual and family therapy at the State Hospital and has recently been involved in the testing and assessment process at the Department of Vocational and Rehabilitation Services. The defendant is employed at the present time and has paid a considerable amount of restitution.

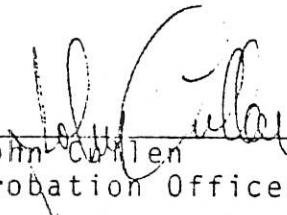
RICHARDS, Sue
CASE NO.: 4456

CASE NO. 2 PAGE 6

This writer agrees with State Parole Officer, John Deem when he states, "I feel that incarceration at this point, although probably warranted, would not be the best solution to her problem. It would indeed destroy the progress she has made and seriously diminish her chances of ever becoming a useful and productive member of society".

RECOMMENDATION

Respectfully submitted,



John Cullen
Probation Officer

March 18, 1977
JC/iew

Case No. 3

Guilty plea to Possession of Heroin. Class C Felony (K.S.A. 65-4127 a).

Sentence range: Minimum of not less than one year nor more than five years and maximum of twenty years and/or fine not to exceed \$10,000.

Disposition:

12 Sentenced to custody of Secretary of Corrections:

- 3 - not less than one year nor more than 20 years
- 1 - not less than two years nor more than 20 years
- 5 - not less than three years nor more than 20 years
- 3 - not less than five years nor more than 20 years

One defendant was fined \$1,000 in addition to the five to twenty year sentence.

13 Probation granted for period of:

- 0 - 1 year
- 1 - 2 years
- 3 - 3 years
- 1 - 4 years
- 4 - 5 years
- 4 - not specified

Four indicated some confinement (60-120 days) would be required.

25 Total cases

PRESENT OFFENSE

On about July 12, 1976, officers from the Police Department had an occasion to stop the defendant in his vehicle with his wife and child present. When he was advised that the officers would like to search his vehicle, he proceeded to reveal inside one of his socks twelve ballons of heroin. He also stated that the dope was on him and it would not be necessary to search the vehicle. However, a search of the defendant's automobile revealed a bag containing twenty-six ballons of heroin and two openly viewed bags of heroin. In all, testing by the Bureau of Investigation confirmed that forty ballons contained heroin.

After being advised of his rights, the defendant stated that the only reason he was selling was due to his failure to obtain employment. He further stated that the heroin belonged to him and his wife had no knowledge of this fact.

On September 17, 1976, the defendant pled guilty to the charge of Possessing Heroin. Subsequently, he was transported to the Central Plains Drug Rehabilitation Center for the purpose of an admission evaluation.

CLIENT'S STATEMENT

The client explained that he was pulled over on the highway by law enforcement officers, who searched him and indicated that he was suspected of having heroin on his person. In order to protect his wife, he then voluntarily stated that he did have heroin on his person and proceeded to reveal about \$200.00 worth in a sock.

PRIOR RECORD

The Police Department records indicate that the client was charged with AWOL in June of 1971. The Bureau of Investigation has recorded charges of Prostitution by Employment, Procuring an Inticement of Chaste Women on November 7, 1972 in Kalamazo, New Mexico, which resulted in being dismissed one year later.

In addition to the present offense, the client related that he was charged with Possession of Heroin in August of 1976 while on bond. He explained that at the time he was still using and voluntarily retrived five ballons of heroin upon the search of his home.

FAMILY CONSTELLATION

Mr. John Smith was born in Dawn, Idaho and until the age of seventeen was raised in Bole, Idaho. When about three years of age, his parents dissolved their marriage by divorce and he was taken custody by his mother. At the age of eight or nine, his father John Smith Sr. of Morrystown, Idaho, married again; however, he is now experiencing a separation within the marriage. His mother Delda Jones of Morrystown, Idaho, married Mr. George Well when the client was about twelve years of age.

Finally, the client indicated that he did not desire his family ties in Idaho to become knowledgeable of the present situation, i.e., he would not want them to be disappointed with him or hurt because of his aberrant behavior.

MILITARY/EDUCATION

In 1966, the client was seventeen years of age and reportedly one or two credits short of a high school diploma. He then at this time discontinued his formal education to tenter the United States Army.

While in the service, Mr. Smith was reportedly a drill sergeant and taught ROTC Cadets. In 1972, he was apparently honorably discharged and is presently eligible for veterans benefits. He indicated obtaining a General Educational Development Diploma while in the Army, but somehow lost the verification. Thus, he related that he has enrolled in a GED program on Tuesday and Thursday evenings at the high school.

The client reportedly attended Memorial Christian College between 1975 and 1976 and completed thirty hours in pursuit of a Theology major. He now has a desire to return to the Christian College at the same time work a part or full time job as a cook or in some laborer position.

RELIGION

This writer contacted the Reverend Curtis Black of the Memorial Christian College and learned that the client had indeed attended the school. He also reportedly attended the Church of God and Christ. Reverend Black considers the client a personal friend, but could not answer queries as to whether Mr. Smith attended the church with his family or provide information about them. Finally, Reverend Black was knowledgeable of the client's present situation and felt as though deep down Mr. Smith is a good person who went wayward due to not knowing how to cope with economics as a Black person.

EMPLOYMENT

In 1972, Mr. Smith related being an assistant manager at a local Bo's Restaurant for about one and one-half years. He then in 1974 began training cooks for Bo's Restaurant on a nation wide basis which required a great deal of traveling. Eventually, he resigned from this position apparently in 1975 due to his traveling being a problem within his marriage. He was then transferred to a Bo's Restaurant in this city as a cook and eventually left this position. Thereafter, he met failure in obtaining another position of employment and "got into the street and started chipping in drugs and using heroin".

MARITAL HISTORY

Through being stationed at Fort Jo, Missouri while in the Army, the client became acquainted with this city in 1968 and has been residing or associated within the city since. In January of 1975, Mr. Smith married Margaret White who is originally of this city. Before marriage, their union apparently procreated a son in December of 1972. His wife also has in her custody from a previous relationship a son and daughter who are seven and eight years of age respectfully. His wife and children are now reportedly subsisting upon welfare at 36 East B. Street.

The client related that his wife was knowledgeable of his deriving an income from dealing drugs, but did not take an interest within the business dealings. Furthermore, he related that his wife does not use drugs and was displeased with his habit.

PERSONAL ADJUSTMENT

Mr. Smith indicated shooting an amount of heroin valued at between \$75.00 to \$100.00 daily. He would reportedly sell between \$400.00 to \$800.00 of drugs each day, but reportedly has nothing to show for his profit margin. In reference to the client's addiction to heroin, he indicated undergoing "cold turkey" while incarcerated within the county jail and had previously used daily for a period of about one and one-half years.

As mentioned previously, Mr. Smith began a three week evaluation at the Drug Rehabilitation Center beginning on September 17 and ending on October 8, 1976. Upon this writing, this writer contacted the Drug Rehabilitation Center and ascertained from personnel therewith that the client would be acceptable within their treatment program. A summary of the pre-admission evaluation may be found within this file.

Mr. Smith's expectations of himself five years from now would entertain the thought of his owning and operating a restaurant. In addition, he would like to develop an activity program for young persons within his church. He views himself as residing in this city for only a couple of years from now upon wanting to return to his grass roots in the state of Idaho.

CLIENT'S IMPRESSION

The client in writing indicated that he pled guilty to the present offense due to feeling that prison was the answer to receiving help for his drug problem. He felt that the offense was committed upon his inability to obtain employment and need to feed his family.

Mr. Smith now had a desire to return to society and live "like a human again" and take care of his wife and children. He feels that he is now in the process of re-adjusting to new social life and behavior in order to deal with society as a responsible person once again. He related being cognizant of his wrong and wants to "clean it up", but verbally expressed that prison would not be appropriate for him.

He indicated that his marriage is somewhat on the "rocks" and thereby would willingly accept domestic counseling. It may be noted that this writer to date has not received information requested from his wife. Finally, he related not wanting his family to experience a broken home life such as his as a youth and is desirous of "working things out for his family".

SUMMARY AND CORRECTIONAL PLAN

Mr. John Smith is appearing before the court after pleading guilty to the charge of Possessing Heroin. He is now twenty-seven years of age and has been previously charged with AWOL in 1971 and Prostitution by Employment, Procurring and Inticement of Chaste Women in 1972. He has very recently undergone an admission evaluation and was reviewed as being acceptable within a treatment program provided by the local Drug Rehabilitation Center, Inc.

In that Mr. Smith has apparently no previous drug related convictions or charges and is seemingly motivated to overcome his drug dependency problem, probation with much structuralization may be an appropriate disposition to ultimately begin the steps toward his becoming a responsible citizen.

Respectfully submitted,



Joe Byow

March 16, 1977
JB/iew

Case No. 4

Guilty plea to one count of Giving a Worthless Check Over \$50, Class E Felony reduced from three counts of same offenses through plea negotiations in case number 30137 (K.S.A. 21-3707)

Guilty plea to one count of Attempted Forgery, Class E Felony, reduced from two counts of Forgery in case number 30142 (K.S.A. 21-3710 and 21-3301).

Both cases are being disposed of in this sentencing.

Sentence range: One to five years and/or fine not to exceed \$5,000 on each count.

Disposition:

6 - Sentenced to custody of Secretary of Corrections not less than one year nor more than five years - two counts run concurrently.

1 sentence stayed until after child born
1 probable probation within 120 days

18 - Probation granted for period of:

0 - 1 year
3 - 2 years
5 - 3 years
1 - 4 years
6 - 5 years
2 - Not specified

5 ran sentences consecutively

13 required restitution as a condition of probation

24 Total cases

PRESENT OFFENSE

Linda Jones, age 21, pled guilty to one count of Giving a Worthless Check (over \$50.00), reduced through plea negotiations from three counts of that offense, in case number 22345. In August, 1975, the defendant passed worthless checks purporting to be drawn on the First National Bank. Those checks were made payable in the amounts of \$158.20 to the Robinson Tire Company, \$236.93 to the State Tire Services, and \$181.14 to the County Body Shop.

In case number 22346 the defendant pled guilty to one count of Attempted Forgery reduced through plea negotiations from two counts of Forgery. In January of 1976, while apparently on bond for the above-mentioned worthless checks, the defendant wrote a check purporting to be made by Mae Jones (the defendant's maternal grandmother) and drawn on that individual's account at the Park State Bank. That check was made payable in the amount of \$200.00 to Linda Smith (the defendant's maiden name). Indications were that the defendant attempted to pass the check at the State Bank and subsequently did pass it at the State Motor Bank.

CLIENT'S STATEMENT

With regard to worthless checks, described above and numerous other such checks she had passed, the defendant insisted to this writer that she thought there was enough money in her account to cover those checks. With regard to the forged checks, which she wrote while out of jail on bond for the worthless check charges, the defendant admitted her willful intent and guilt. She claimed she was "desperate" at that time, and explained "I needed the money to pay bills."

VICTIM'S STATEMENT

The victims have not been contacted by this office. However, it would appear that restitution due for the checks in these two cases would amount to at least \$776.27 (face value) plus \$12.00 (statutory \$3.00 rate service charge per check), equals \$788.27. Information supplied to the District Attorney's file by Research and Data, Inc. indicated seventeen other worthless checks ranging in value from \$6.21 to \$45.00. It would appear that restitution due for the checks on hand at R&D would amount to at least \$407.18 (face value) plus \$51.00 (statutory \$3.00 rate service charge per check) equals \$458.18. Thus, restitution due would amount to at least \$1,246.45 (this figure of course, does not include any other outstanding worthless checks which may still be out, nor does it include R&D's contractual agreement fees.

CRIMINAL RECORD

The Bureau of Investigation records showed only arrests for the offenses presently under consideration. Police Department records reveal no prior conflict with the law.

FAMILY CONSTELLATION AND UNIT DEVELOPMENT

Linda was born and raised in this city by her natural parents. Her father, Norman Johnson, is employed with the Cement Construction Company as a laborer. Her mother, Beverly Johnson, is head key-punch operator at the Pacific Offices. Linda has a nineteen year old sister, who is a student at the University, and a fourteen year old brother. There were no indications of other relevant areas of concern within the Johnson family unit and its development. Mr. Dale Brown, a neighbor whose name was used by Linda as a character reference, reported that the Johnson's "have always been hard-working and have taken a great deal of pride in their home and their family ...I know them as honest, generous, concerned neighbors." Mrs. Johnson

reported that she and her husband have already gone through a great deal of financial expense in trying to help their daughter with her present situation, but that they could not afford to do so any further. She noted that they would continue to lend moral support to their daughter, but that further financial responsibilities would have to be taken care of by Linda and her husband.

EDUCATION

The subject reportedly made average grades before leaving high school after completing the eleventh grade, 1972. She said she obtained a GED one year later. Linda expressed desire for more schooling in the field of nursing.

EMPLOYMENT

Linda was employed in the past as a nurse's aide at the Methodist Nursing Home in this city, October of 1974 to October of 1975. Her supervisor Mrs. Carol White, R.N., said that the subject left work due to pregnancy and without notice. Mrs. White further reported that Linda had to be counseled several times about appearance, usage of unsuitable language, and attitude towards patients, co-workers, and supervisors. It was noted that Linda "is not eligible for rehire." The subject has also worked as a laundry presser at the Paul Cleaners, September of 1973 to September of 1974. Linda said she left that job to go to work at the Nursing Home. The only other reported employment was as a maid at the C Motel, for a period of one month. The subject reported that she quit that job because of a disagreement with her boss.

PERSONAL ADJUSTMENT

In her efforts with this writer, the subject was polite, cooperative, and seemed to be sincere. Indications from jail services were that Linda has conducted herself properly, unlike the other female inmates, who have shared her cell, while she has been housed in the county jail. Yet, because of the fact that she was forging her own grandmother's checks while out on bond for the worthless checks written earlier, it would appear that Linda's sincerity and commitment to change her patterns of behavior must be held in question. No usage of alcoholic beverages or drugs of any kind was reported by the subject, and there were no indications of any such usage.

Linda felt she was in need of some type of therapy or counseling. There were indications that her check writing may have been due to emotional pressures brought to bear by her husband's desires for material things. When this is coupled with other indications that her husband's financial affairs have been managed in the past by his rather dominant and bestowing mother; it would appear though Linda was not forced or instructed to write bad checks by her husband, she was probably under considerable psychological as well as verbal pressure to manage what was actually an unmanageable budget of expenditures. Thus, in an attempt to supplant her husband's mother by providing her husband with what he wanted, Linda turned to deception as a means of gaining and holding on to his acceptance. With these factors considered, it would appear domestic counseling would not only be helpful, but also necessary, if probation is granted in this case.

HEALTH

Linda is eight months pregnant. She is expecting her first child in early April of this year. There were no reports of severe illness, injury, or complications with her current condition. Overall, the subject appeared to be in good physical health. Her emotional status has been spoken to earlier in this report.

RELIGION

Lutheran religious preference was expressed and some recent church attendance was reported by the subject.

ECONOMIC AND ENVIRONMENTAL

Indebtness was reported to now be \$800.00 to a credit union, with monthly payments having been \$60-65.00 for that debt, which was being taken out of her husband's pay check. Mr. Jones was clearing \$430.00 per month from his job, with the city Street Department, and Linda was earning \$320.00 per month until she left her job at the nursing home.

They were both employed at the time Linda began writing bad checks and evidently living outside their means by purchasing non-essential and expensive commodities. Neither one of them is employed at this time. However, having taken his being fired before a grievance board, Mr. Jones is confident that he will be returning to work for the city.

The Jones' were evicted from their former residence for non-payment of rent. In November of 1975, they began residing with Mr. Jones mother and his brothers at 1218 J. Street. Linda reported that she did not like living there, because of the loud and explosive verbal arguments that went on between her husband and his family.

MARITAL

Linda married Stephen Jones in January of 1975. As has been mentioned earlier, she is eight months pregnant with their first child. Mr. Jones is presently on probation in the Magistrate Court for the offense of Battery. He is being supervised by Probation Officer Joe Wilson. Mr. Wilson reported that Linda's husband is now doing fairly well with supervision, but that there had been initial difficulties with Stephen's rather infantile temper and the fact that Stephen is so dependent and controlled by his domineering and overly protective mother. Indications are that Linda has an understandably difficult time coping with her husband's temper and expectations, and a difficult time competing for his favor with her mother-in-law. She felt that counseling would be helpful. This writer spoke with Stephen, who came to this office accompanied by his mother. He indicated that he was mystified as to why his wife had continued to deceive him by writing bad checks while she was left in charge of their account and management of their finances. Stephen expressed willingness to enter into domestic counseling with his wife and to help her make restitution, if probation is granted in his case. His mother indicated that she was also willing to offer some help with that financial obligation.

CLIENT'S IMPRESSIONS

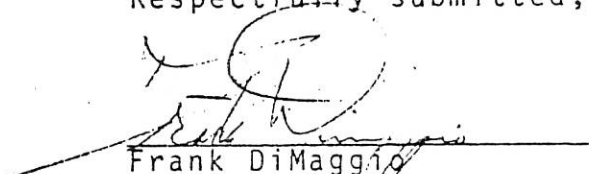
The subject felt probation would be helpful because "I could pay back on the checks, start a new life, and raise my baby."

SUMMARY

Linda Jones, 21 years of age, stands convicted of Giving Worthless Check (over \$50.00) and Attempted Forgery in two (2) separate cases. Restitution (face value and statutory \$3.00 rate service charge check) due on these checks, on the checks dismissed as part of plea negotiations, on other worthless checks on hand Research and Data amounts to at least \$1,246.45 (not counting any other checks which still may be out, nor Research and Data contractual agreement fees with the firms they represent). Payment of said restitution at this time would appear to be rather bleak considering the current economic and employment status of the defendant and her husband. The defendant has no other record of previous conflict with the law, but she was out on bond for the worthless check charges when she forged checks belonging to her grandmother. Linda is eight (8) months pregnant and is expecting her first child in April of this year. Her marriage appears to be one in which domestic counseling is a necessity. Without such counseling the defendant may resort to further such offenses in the future, due to the psychological

pressures that she has been unable to cope with in the past. Meanwhile, Linda and her husband have both expressed willingness to enter into marital counseling and to rectify their problems. Whether they are mature enough to work out their problems is in doubt. The program of supervised probation outlined below is offered as an alternative to incarceration because it might enable this pregnant woman to avoid further such conflict with the law. At this time, this writer cannot wholeheartedly endorse this or any other program of probation as being truly workable or without a great deal of potential for dismal failure.

Respectfully submitted,



Frank DiMaggio
Probation Officer I

March 18, 1977

FD:sa

Case No. 5

Guilty plea to Aggravated Battery, Class C Felony (K.S.A. 21-3414).

Sentence range: Minimum of not less than one year nor more than five years and maximum of twenty years, and/or fine not to exceed \$10,000.

Note:

See Chapter 168, 1976 Session Laws, requiring sentencing or imprisonment without probation which is applicable here.

Disposition:

24 Sentenced to custody of Secretary of Corrections:

- 13 - Not less than one year nor more than twenty years
- 4 - Not less than three years nor more than twenty years
- 1 - Not less than four years nor more than twenty years
- 6 - Not less than five years nor more than twenty years

One defendant was fined \$1,000 in addition to the five to 20 year sentence.

All defendants were sentenced to the penal institution although nine judges stated that consideration of modification granting probation would be given after confinement from 30 days to 120 days.

24 Total cases

BROWN, Oliver
CASE NO: 78910

PRESENT OFFENSE

Oliver Brown, age seventy-two, pled guilty to Aggravated Battery, a class C felony. In September of 1976, the defendant shot Charles Parker with a .25 caliber automatic pistol. Official reports indicated that law enforcement officers were dispatched to 317 Boulevard regarding the incident. The victim was found to have been shot several times; he advised police that he had been shot by Oliver Brown; and he required hospitalization. The defendant was found lying underneath an automobile within the vicinity; he told police he had drunk a quart of whiskey and was intoxicated; he explained that the victim had slapped him and accused him of "messing" with his wife; and he admitted shooting the victim.

CLIENT'S STATEMENT

The defendant told this writer: "I don't remember a whole lot..... I was drunk. We had an argument about his wife and it got kind of vulgar. He pushed me which set me off. I guess I just picked up the gun and started using it....I don't know where it came from: Evidently, the pistol happened to be within reach on Parker's screened porch where the argument took place. He went on to explain that he had been living with Mr. and Mrs. Parker, who are in their fifties, for the past three years or so; that he was "the best of friends" with them; and that he "felt bad" about what happened because the victim had been very good to him. The defendant felt probation would be helpful because of his health and age. He expressed no need nor desire for alcohol counseling or treatment.

VICTIM'S STATEMENT

At this writing, this office has been unable to contact the victim by phone and he has failed to respond to written inquiry.

PRIOR RECORD

Bureau of Investigation Records revealed the following:

- 1) May of 1920, Grand Larceny Auto, sentenced to fifteen years at the State Industrial Reformatory;
- 2) December of 1924, Bogus Check, sentenced to one year at the State Penitentiary;
- 3) February of 1927, Grand Larceny, sentenced to one-five years at the State Penitentiary;
- 4) June of 1934, First Degree Robbery, sentenced to ten-twenty-one years at the State Penitentiary, discharged by expiration of sentence in October of 1947;
- 5) April of 1949, Grand Larceny, sentenced to one-five years at the State Penitentiary, discharged by expiration of sentence in July of 1952; and
- 6) December of 1959, Grand Larceny, sentenced to 0-five years at the State Penitentiary discharged by conditional release in January of 1963, discharged from parole in December of 1964.

Police Department records showed several minor traffic violations over the years; Driving While Intoxicated/Leaving the Scene of An Accident in April of 1964; and another DWI/Leaving the Scene in August of 1970.

FAMILY BACKGROUND

Oliver was born and raised in this city by his natural parents. He reported that his mother had been married once previously. Both parents are now deceased; his mother having died in 1940 and his father having died four years later. Oliver has an older step-brother and a younger sister whose whereabouts are unknown. Little else could be learned about the Brown family unit and its development. Oliver

reportedly spent periods of his adult life residing in the State of California, in Joseph, Missouri, and in Honeyman, Kansas.

MARITAL

The subject has been married three times. He indicated that his marriage to Maggie Lewis, 1923-1929, had not been finalized by divorce when he married his second wife. Oliver's marriage to Sue White, 1926-1934, ended in divorce when he was incarcerated. He subsequently married Anne Williams, 1952-1967, and their union reportedly ended in divorce due to "jealousy". Oliver has had three children; one was killed in action during World War II, the others are now forty and twenty years of age. Since being released on bond for the present offense, the subject has been residing with his third ex-wife at 11 East 26th Street. She indicated that Oliver could stay with her as long as he wanted to, but that he might decide to leave her home after sentencing. The subject's ex-wife felt he committed the present offense because the Parker's had "boozed him up". She went on to report that she forbids his use of hard liquor in her home, but that she allows him to drink beer.

EDUCATION

The subject reportedly made good grades in school, graduated from Union High School (while incarcerated at the State Industrial Reformatory?) in 1921, and completed two years of study at what used to be Smalls Business College.

EMPLOYMENT

Oliver is a retired warehouse foreman and house painter. Past employment was reported by the subject as follows: three or four years as warehouse foreman with the Friend's Furniture Company, six years as office manager with the Moving and Storage Company of California, and retired in 1968 after construction and painting work with the Trailer Court of Honeyman, Kansas.

PERSONAL ADJUSTMENT

In his efforts with this writer, the subject was polite and cooperative. He initially reported no alcohol usage since committing the present offense, but he later stated "I drink but I don't crave it." As indicated earlier in this report, his ex-wife noted that he continues to drink beer and the subject expressed no need nor desire for alcohol treatment or counseling. No indebtedness was reported. Oliver's income consists of \$168.70 a month from Social Security benefits, and he has use of a medical card provided by the Department of Social and Rehabilitation Services. This elderly man requires the use of a cane and appeared to be in very poor physical condition. He reported having been hospitalized twice over the past year and currently receiving prescribed medication for a heart ailment.


The Allen Hospital discharge summary supplied by E.L. Smith, M.D., which is contained in this file, verified that Oliver was a patient at that facility during April and May of this year and that he is in poor physical health. "Chronic alcoholism...generalized arteriosclerotic disease...mild to moderate restrictive and obstructive lung disease...cirrhosis of the liver with mild splenomegaly" were diagnosed, and the patient was "strickly told to avoid alcohol and tobacco" by physicians at that time.

This case was discussed in Court Clinic with psychiatric consultant Dr. James and the entire adult services staff. It was generally agreed that a three month period of jail time followed by placement into a nursing home, as special conditions of probation, would be the most advisable course of action in this case. The proposed period of incarceration, for this elderly man who has had continued conflict with the law, would serve to reflect the very serious and violent nature of his offense. Furthermore, as pointed out by Dr. James, a minimum of three months in jail would also serve to insure that this individual is properly "dried out" before entering a nursing home facility where his drinking can be restricted and his failing health can be properly cared for. This writer contacted Ruby Conway who is the subject's caseworker at Social and Rehabilitation Services. Mrs. Conway verified that needed supplemental funding and assistance in selecting a rest home with adequate levels of care could be arranged through SRS. While insuring that the subject is properly "dried out" via the three month term of confinement, the necessary physical examination could be performed and the necessary medical forms could be prepared by Dr. James within the required thirty day advance needed for entrance into an adequate nursing home facility.

SUMMARY

Oliver Brown, seventy-two, stands convicted of Aggravated Battery. The defendant's record of prior conflict with the law dates back to 1920 and consists of six felony convictions over the years for which he has been incarcerated: he was last discharged from parole in 1964 and he has subsequently had a DWI as recently as 1970. It appears obvious that this elderly man is a chronic alcoholic who is in very poor physical condition. He expresses no need nor desire for alcohol counseling or treatment. However, indications are that he has continued drinking since being placed on bond and taking up residence in his third ex-wife's home, and despite the previous directives from his physicians. This case was discussed with psychiatric consultant Dr. James and the adult services staff. It was generally agreed that the probation plan outlined below, would be the best course of action in this case. It would serve to reflect the very serious and violent nature of his offense. Furthermore, it would insure that he is properly "dried out" before entering a nursing home where his drinking can be restricted and his failing health can be properly cared for.

Respectfully submitted,


Frank Berra
Probation Officer I

March 14, 1977
FB/iew



W. L. ALBOTT
DIRECTOR

STATE OF KANSAS

KANSAS BUREAU OF INVESTIGATION

3420 VAN BUREN
TOPEKA, KANSAS 66611
(913) 296-3026

January 24, 1978

JACK H. FORD
ASST. DIRECTOR

ROBERT R. CLESTER
SAC—INVESTIGATION

JACK A. WEST
SAC—SPECIAL SERVICES

DWAYNE SACKMAN
ADMIN. OFFICER—CRIMINAL
JUSTICE SERVICES

1-25

The Honorable Richard Brewster, Chairman
House Judiciary Committee
Statehouse
Topeka, KS 66612

Dear Representative Brewster:

At the Committee hearing yesterday concerning House Bill 2711, you expressed a desire to have additional copies of the letter written by Director Albott to you and Senator Pomeroy on January 19th concerning the bill.

I have included twenty copies of the letter. If you need any additional copies, or any other information that we can provide, please let us know.

Cordially,

W.L. ALBOTT
Director

John Carey Brown, Supervisor
Identification/Information
Services Section

JCB:ss
enc.

Department of Corrections

State of Kansas

ROBERT R. RAINES, Secretary



535 Kansas Avenue - Suite 200

Topeka, Kansas 66603

(913) 296-3317

September 9, 1977

Mr. Paul Purcell
Research Assistant
Legislative Research Department
Room 545-N
Statehouse
Topeka, Kansas 66612

Dear Mr. Purcell:

This letter addresses your request for information needed by the Interim Special Committee on Judiciary - B for its determinate sentence study. The numbers and percentage enclosed are for the inmate population housed at the Kansas State Penitentiary as of March 31, 1977.

1. The percentage of the inmate population at KSP serving time for drug-related offenses was 3.5%
2. The number of inmates serving time for drug-related offenses at KSP was 35.
3. The percentage of the inmates serving time for non-violent crimes at KSP was 38.7%.
4. Attachment I indicates the type of non-violent offenses and the number of inmates at KSP serving time for each type of non-violent crime.

On March 31, 1977 there were incarcerated 2214 male felons in the Kansas correctional system. Of the total, 1101 were incarcerated for non-violent crimes. Inmates incarcerated at KSP for non-violent crimes totaled 383. On this date, KSP had a population of 990 including 46 inmates serving sentence in absentia.

If I may be of any further assistance, please advise.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lee N. McMahan".

Lee N. McMahan
Chief of Research and Planning

LNM:CJA:kk

cc:CWT

ATTACHMENT I

<u>Offense</u>	<u>No. of KSP Inmates Serving Time For Non-Violent Crimes</u>	<u>No. of Total Male Inmate Population Serving Time for Non-Violent Crimes</u>
Burglary	152	475
Larceny	111	302
Stolen Vehicle	1	22
Forgery	39	106
Fraudulent Activity	33	59
Embezzlement	0	0
Stolen Property	0	3
Damage to Property	6	17
Drugs	35	109
Commercial Sex	0	0
Obstructing Justice	3	4
Bribery	1	1
Traffic Offenses	2	2
Smuggling	0	1
Total	<u>383</u>	<u>1101</u>

1-25

Leo D. Jenkins' presentation to the Interim Legislative Committee studying criminal sentencing.

Many of us use a number of terms rather interchangeably -- some of these terms are:

Mandatory sentence
 Fixed sentence
 Flat sentence
 Definite sentence
 Indefinite sentence
 Determinate sentence
 Indeterminate sentence
 and
 Fixed Mandatory Parole Eligibility

These terms should be defined to prevent confusion.

"Determinate sentences are different in that they have only one fixed term of years---the maximum.

Were there no other provisions in the code (e.g., for parole eligibility), the prisoner would be required to serve out the entire term of years. But under an "indeterminate" sentence, the minimum sentence obviously indicates earlier release is possible.

Strictly speaking, of course, there is no such thing as a "determinate" or "definite" sentence in this country: All states have some parole programs, whether they are widely used or not, with varying eligibility dates i.e. parole eligibility begins at 1/3 of the maximum, a "determinate" sentence of 15 years is for all practical purposes a sentence of 5 - 15 years.

For purposes of analysis, however, it is more convenient to refer to the one set of statutes as "indeterminate" and the other as "determinate". One aspect of employing this terminology is that it helps indicate who sets the minimum and who sets the maximum sentence in the case of any specific individual. There are varying possibilities: (1) a statute may fix both, and allow the sentencing body absolutely no discretion; (2) the statute may fix minimum and maximum sentences, but allow the sentencing tribunal (judge or jury) some leeway within those limits; or (3) the statute may set no minimum, allowing the sentencing body to set a minimum (this may occur either with a fixed, unmovable maximum or with one which may be lowered by the court)."

The Kansas Department of Corrections feels that there is some disparity in indeterminate sentencing; however, it would be reluctant to embrace the mandatory determinate sentencing concept. One reason for this reluctance is due to the assumption that prisoners sentenced determinately will serve more time which will contribute to additional overcrowding. For example, the mandatory firearms felony came into effect in July, 1976. We have the following data:

INSTITUTION	NO. of INMATES	AS OF:
KSP	23	7-25-77
KSIR	34	7-25-77
KCIW	2	7-25-77
KRDC	<u>10</u>	7-25-77
TOTAL	69	

The Reformatory currently has the following breakdown:

- 24 - 5 year mandatory minimum
- 1 - 3 year mandatory minimum
- 1 - 2 year mandatory minimum
- 8 - 1 year mandatory minimum

The Classification Supervisor claims that prisoners sentenced to a 5 to life are serving approximately 2½ years.

Our current system employs the thinking that went into the formulation of S.B. 72. The 90-day review of prisoners is a good method of judging when an individual should be placed before the Board of Parole (KAA) for release consideration