

MINUTES OF THE SPECIAL STUDY COMMITTEE ON SOCIAL AND REHABILITATIVE
INSTITUTIONS

Held in Room 313-S at the Statehouse, at 12:30 p.m., on February 27, 1980.

Members present were:

Senator Robert Talkington, Chairman
Representative Joe Hoagland, Vice Chairman
Senator Mike Johnston
Representative Phil Martin
Representative David Heinemann

Staff present were:

Fred Carman, Revisor's Office
Emalene Correll, Legislative Research Department
Ray Hauke, Legislative Research Department
Marlin Rein, Legislative Research Department
Robert A. Coldsnow, Legislative Counsel

Conferees appearing before the committee were:

Edwin Bideau, Neosho County Attorney, Chanute
Thomas F. Werring, Atchison County Attorney, Atchison

The Chairman called the meeting to order.

Mr. Bideau stated the main reason he was testifying before the committee was because of his interest in the mental illness laws which affect the cases he handles as Neosho County Attorney. In November, he read a newspaper article which he felt portrayed an accurate account of staff procedure and sexual activities between patients and staff at Osawatomie State Hospital. His opinion was based upon his contact with both juvenile and adult mental patients from his county who had been there and on statements made by the sheriff for Neosho County.

Mr. Bideau said he opposes the manner in which Secretary Harder administers SRS and felt the past two governors, one Democrat and one Republican, made big mistakes in not making a change in this area. He noted the agency has become so large perhaps no one else wants to take on its responsibilities.

Examples of instances which concerned Mr. Bideau were given. He told of a man from his area who had been sent to Osawatomie for child abuse. At Osawatomie, he was made an unpaid trustee. After his release, he was offered a job on the Osawatomie staff as an aide. This same offer was given to other people who had been patients, who subsequently could say they were good risks because Osawatomie had offered them a job. Another example given was of a man with a history of making lewd propositions to elderly women. He had had nine separate commitments and said he did not mind going to Osawatomie because he could get all the sex he wanted there. Not until he physically assaulted a staff member did anyone get upset, and the doctor finally said he needed to go to Larned which is the only state mental facility where patients cannot just walk off. At the time, Larned was reported to be full, and the man was released again. The community as a unit complained so much something was finally done about the man. Mr. Bideau quoted the Neosho County sheriff as saying that patients are sent to Osawatomie for "bush" therapy. Two years ago, the sheriff found a patient and an aide on a couch "making out", and the

aide had also checked the patient out for a weekend. He questioned why something cannot be done about sexual violations and why these people cannot be separated. Mr. Bideau also felt the alcoholic treatment program was poor. One individual in the alcoholic unit from his county walked off the hospital grounds because alcohol was in the treatment ward, and the temptation was too great for him. This has been verified with the probation officer. Mr. Bideau said he would not let any member of his family become a patient at Osawatomie because of the lack of treatment and supervision. He could not believe the administration at the hospital and SRS does not know these things are going on. Their general philosophy seems to be that nothing can be done about them. He noted that perhaps they get frustrated with the legal restrictions placed on them as a result of SB 26.

Mr. Bideau said he has had trouble with foreign doctors who have little use of the English language. He has felt the need of an interpreter when foreign doctors have had to testify in a case. Psychoanalysis is based on communication, and he questioned how an analysis could be made with a language barrier. The staff aide is given too much responsibility, calls the shots, and makes the diagnosis. He has attempted to talk with the doctor concerning cases and has been told to talk with the aide. He felt a step in the right direction would be a requirement that psychiatrists be certified in their ability to speak English.

Communications between various staff members is poor. One might report a patient as being dangerous while another might say the patient should be released; then Mr. Bideau, as District Attorney, has to answer to the citizens of his county as to why the patient is back on the streets. Problems at Osawatomie have been attributed to low pay. He said this may be true with the medical staff, but the different philosophy among the staff is a contributing factor to problems.

The only way Mr. Bideau can get information he needs from Osawatomie is through a legal clerk there. Neosho County has had eight mental illness cases, all different individuals, at Osawatomie, and he has had problems with the administration in each case. He has not communicated with Supt. Mills, the doctors, Secretary Harder, or the SRS administration with respect to his concerns.

Another concern of Mr. Bideau's was a new proposal regarding diagnostic procedure on releasing patients where physicians will no longer express an opinion as to whether or not the patient will be a danger in the future. The court will make this decision. He felt it was impossible to predict the patient's future behavior beyond a reasonable doubt and noted it was hard enough to get them committed the first time.

Mr. Bideau recommended the committee request local SRS people from the district offices, staff case workers, to testify. They will have to be given immunity from being fired. He noted they will tell him things in private that they won't reveal in public. Everyone in the lower echelon is afraid to speak out. The committee hears from "ivory tower" people, but not from the people who handle the cases. In his opinion, the SRS philosophy is community treatment, getting the patient stabilized in the hospital then releasing them to community programs. This might work if they had somebody to follow them around everyday to make them take their medicine, etc., but, so often the patient goes to the hospital, gets medicine and stays a few weeks, then gets a conditional release if he

takes his medicine which he usually fails to do once he is home. Consequently, treatment deteriorates, and he is back in the hospital.

Mr. Bideau recommended that someone be placed in charge of each institution who is accountable; there should be some way of keeping the two sexes separate at the institution, and perhaps it could be set up like the prison system; there was too much "due process" making it impossible to get anything done; and some sort of disciplinary action for unprofessional conduct of hospital staff should be instigated.

Mr. Werring stated, in 1977, he had conducted an inquisition, used very rarely, into an alleged child abuse case concerning two children and staff members at the Youth Center at Atchison. Although no criminal acts could be proven, two things were apparent from the inquisition: (1) personnel hired by SRS to work at the youth center, excluding professional workers, are minimally trained or not trained at all, cottage parents testifying to this and saying all they had to do was take an exam, and no training on child supervision was required or given; and, (2) there is no adequate procedure for investigation of crimes committed by personnel or students. He has handled about 300 cases involving assaults and runaways who commit crimes in the three years he has been District Attorney for Atchison County. These students constantly tell him they are locked up, beaten, and abused. He felt there had to be a reason students run away other than to just be away from the center. There is no procedure to safeguard a student if he is abused. In Mr. Werring's opinion, it was a waste of time, money, and personnel that an inquisition had to be held and that two years later the KBI had to conduct another investigation. He felt incidents should be handled adequately within the institution.

A concern of Mr. Werring's was the lack of security at the center. The people of Atchison County have no idea of the type of resident that is housed there. Most people think they just come from broken homes. Personnel from the center will tell civic groups there are no violent offenders or residents there for assault or crimes against a person when, at the very time they are telling this, he, as DA, will have one as a case for assault on a teacher. It was unfair to Atchison County citizens not to have security especially since additional transfers are coming from Topeka. There are youths at YCAA who are capable of murder. He pointed out that putting additional bars on the windows would not help since the resident knows more about taking them off than the installer does.

In Mr. Werring's opinion, treatment at the center is inadequate. Some residents are serving extraordinary periods of time. They are not released for two or three years and have no idea how long they will be there which gives them no incentive to get out. He objected to the level system, stating residents do not know what they are supposed to do to achieve certain levels or what not to do to avoid being put in lower levels. The level system seemed to be used at the whim of the cottage parents.

Mr. Werring felt strongly there should be some type of legislation to clearly define what the jurisdiction of the juvenile court in Atchison County and that of the youth center is. At present, the youth center considers itself to be a kingdom unto itself, the sole judge and jury

about what happens to the residents. Mr. Hamm of SRS has told Mr. Werring the juvenile court cannot retain residents and must return them to the center immediately. Mr. Werring stated Mr. Hamm quotes one statute and he quotes another. He noted there is a running battle among SRS, YCAA, and the local judge handling juvenile cases. When residents commit crimes in Atchison County, Mr. Werring stated he should have the authority to keep them rather than having to send them back to the center. He said he would submit written recommendations for a new statute.

In discussion, Mr. Werring said, with the exception of an open house held by the center, he knew of no attempts by the youth center, civic leaders, and the court to sit down and work out their problems. He would be willing to try this approach.

There was difficulty in getting information and records from the center. Mr. Werring said he has to issue a subpoena in order to get these. Mr. Carman asked if the difficulty in getting information arose from the SRS legal opinion or from the attitude of the administration. Mr. Werring said he has no problem if the information is subpoenaed. Sometimes there is a problem with who will bring the information to him. With respect to the inquisition, there was hesitancy on the part of the administration in furnishing the entire log records. Representative Hoagland asked if, in the routine requests for information not involving a subpoena, did personnel tell him they would have to check with someone else. Mr. Werring said they tell him they will check on the matter and let him know. If he is prosecuting a resident and asks for an entire file, he is told he can have it if it is subpoenaed. Mr. Werring said he was surprised recently when youth center personnel came to him of their own accord with a request that the KBI investigate an allegation that alcohol was being given to a resident by staff. Also, a juvenile petition had been filed by a staff person for assault by a resident.

Mr. Werring said that incidents of residents threatening staff by saying they will blow the whistle on staff if certain things are not done were true. He noted they also try to hoodwink him.

Mr. Coldsnow asked Mr. Werring if the allegations made at the inquisition two years ago were well founded. Mr. Werring said they were.

The program at Sequoia Cottage was mentioned. Mr. Werring felt it was the best on campus. To his knowledge, the juvenile court has had no problems with residents in that cottage.

There was discussion regarding runaways. Mr. Werring said these average 100 a year. There are no guidelines from the administration for procedure in handling these. A misdemeanor charge is filed 25 to 30% of the time. If a resident is adjudicated as a miscreant for running away five times, SRS makes the decision where he will go, and Atchison County has no say in the matter. With respect to filing cases as aggravated juvenile delinquents, Mr. Werring said this has never been used at Atchison.

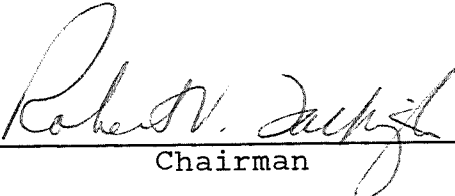
Mr. Bideau pointed out perhaps some residents run away because it is easy for them to get out of the program by doing this. They know if they cause a problem they will get to go home. Before they are sent to a youth center, they have already been through the group and foster home programs, and they are already hard-core. He felt the youth center program was too lenient, that residents were treated like the center was their first

placement.

Representative Heinemann asked Mr. Werring if an ombudsman for the youth centers would be helpful. He replied residents are very distrustful and would have to be assured the ombudsman was not working for the institution.

Mr. Werring thought background checks on non-professional workers should be made. He knew of one convicted felon that worked at YCAA. He felt a conviction record and not an arrest record should be used. Because of the use of plea bargaining, Mr. Coldsnow asked if an arrest record would be more pertinent. Mr. Werring said it would be in cases of indecent liberties, but getting arrest records would be difficult. He stated, if an applicant had a prior record of crimes against persons or children, that applicant should not be hired under any circumstances.

The meeting adjourned at 1:35 p.m.


Chairman

ATTENDANCE SHEET

FEB. 27

<u>NAME</u>	<u>REPRESENTING</u>	<u>TOWN</u>
Pulliam		
Sachman		
Hamm		
Miller		
Klaty		
Dorline	(League of W Voters)	