

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 28, 1980.

Members present were:

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

Staff present were:

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

Conferees appearing before the committee were:

Dolan McKelvy, Magistrate Judge, Atchison County, Atchison
Mary Dunbar, MHT, Winfield State Hospital, Winfield, representing the
Kansas Association of Human Services Technologies
Martha Campbell, MHT, Topeka State Hospital, Topeka, representing the
Kansas Association of Human Services Technologies

The Chairman called the meeting to order.

Judge McKelvy stated he handles juvenile and "people" problems in his court and wanted to express his concerns with the youth centers under SRS. He noted for the record the presence at this meeting of Mr. and Mrs. Barry Wills, Atchison, who have a child at Topeka State Hospital; Shirley Torbett, Atchison, whose son is at the Youth Center at Topeka; Ed Lane, Olathe, whose son is at the Youth Center at Atchison; and Clarence Drimmel, Atchison, an interested citizen who works as a volunteer with people with drug problems.

The Judge called attention to K.S.A. 38-801, the Kansas juvenile code, and read parts of it concerning the requirement that acts committed by juveniles not be deemed as criminal (Attachment A). He objected to this and thought this provision should be changed, pointing out, as an example, that acts committed by children aged six and by those aged sixteen have different connotations as to whether they should be considered to be criminal acts.

Judge McKelvy stated SRS has some fine people working at all levels, but it also has many problems. He mentioned the confusion he experiences in writing court orders with respect to requests from the local and state SRS personnel. Information, directives, and requests from SRS seem to come from all different directions. He wants to cooperate with SRS, and some SRS personnel have been helpful to him.

An example was given of a girl he had sent to the Youth Center at Beloit and a letter he received from the institution regarding her treatment when she returned to Atchison. The gist of the letter was that the local SRS people in Atchison may follow up on the girl, and he felt the requirement from SRS should be the local SRS people will follow up.

An incident where SRS personnel called the Atchison people to come to Topeka and take a youth from the Shawnee County Detention Center to the Youth Center at Topeka, a cross-town trip. This incident can be verified by Francis Christ, probation officer. Judge McKelvy did not understand why the Atchison people had to come all the way to Topeka just to take the youth across town.

The Judge related another incident where he felt concern with SRS. He said Mr. Drimmel was a successful businessman in Atchison who told the Judge he would like to help as a volunteer with people on drugs. The Judge talked with the social worker at Topeka State Hospital and asked if Mr. Drimmel could participate as a volunteer in helping drug patients. She left the impression it could not be done. He then talked with Dr. Johnson who questioned if Mr. Drimmel had any training as a counselor. When he replied "no", Dr. Johnson did not feel it should be done. He offered to bring Mr. Drimmel to talk with her. She said she would contact him the week of February 25, but he has not heard from her. Contacts have also been made with Mr. Wilson at the Youth Center at Topeka who said he already had a program and was also reluctant to let Mr. Drimmel help since he was not trained as a counselor. This contact has also not been resolved. Judge McKelvy said Mr. Drimmel knows the people from Atchison who have been placed in these institutions, and he felt he would be an asset in helping them recover.

The juvenile court in Atchison has had problems in getting psychiatric evaluations for its clients. In contacting YCAA in an effort to get a youth evaluated, Judge McKelvy was told he would have to check with Topeka. Because of a seven-weeks' waiting period, he used a local mental health center which he said was very good.

A letter to Mr. Lane from a boy at YCAA (Attachment B) was distributed to members. The Judge said the implications in the letter have not been investigated. He pointed out that a note in Attachment B supposedly from the Lane's son was not his handwriting. Mr. and Mrs. Lane are trying to act in the best interest of their son. For the record, they want it known their son is not the same person that he was before going to YCAA.

Two incidents occurring at YCAA were related by Judge McKelvy. An undressed student was found with another student and was sent to the security cottage because of sexual intimidation. The incident was discussed by staff, but the identity of the intimidated student was not revealed. The Judge questioned how this student could be protected if it is not known who he is. The other incident involved two boys who were on orders not to go out. Although staff was on duty, the boys went AWOL. When they were picked up, they were suffering from frostbite with one having no shoes and the other having to have his shoes cut off. The Judge noted that incidents like these can happen in any institution, but he felt these were unwarranted.

The problem with runaways was mentioned. In one and one-half years, 136 boys at Atchison have run away 154 times, and 220 have run away at Topeka. Judge McKelvy was concerned with the lack of security at the centers and also at Osawatomie where boys sent there for evaluation have run away. He said it is difficult to protect the public when these runaways are loose, especially when some have committed crimes which, if they were adults, would be felonies. At YCAA, the lack of personnel results in only one female employee being on night shift duty with 14 or 15 boys who are

big enough to take advantage of her. He has some knowledge that 40% of the personnel there have problems with intimidation by the residents.

Judge McKelvy mentioned a letter he received today from Mr. Wilson requesting his assistance with an alleged incident of a YSW supplying a youth with drugs. He noted he does not mind receiving these requests and will do what he can. He felt most residents of youth centers have drug problems.

The Judge recommended the legislature consider some provision that run-aways be reported to juvenile court authorities. At the present time, they do not know who has run away. Also, the legislature should consider a provision that a hearing be held within 48 hours. In his opinion, residents at the YCAA who have been there any length of time are residents of the county. He noted that larger areas such as Wichita might have a problem with this provision.

The Chairman observed that any changes in the state's juvenile code would be a major policy decision, and this committee was restricted in the scope of its study.

In discussing his contacts with the youth center superintendents, Judge McKelvy said Mr. Wilson's philosophy was different from his predecessor's, Mr. Penny's. Mr. Wilson seems to give the Judge more information about Topeka than he does about Atchison. Consequently, the Judge feels he knows more about what is going on at Topeka than he does Atchison, the latter being inferior to Topeka, in his opinion. He stated since he became a juvenile judge in 1973, he has never sent a youth to YCAA except those who were already there and there is no alternative. There have been hearings in his court where social workers from YCAA have stated in open court testimony that it is not in the youth's best interest for him to go back to the center. He noted there have been reprisals for these statements made on the social workers through other YCAA personnel and not necessarily the superintendent.

Mrs. Dunbar appeared to express her concerns regarding the shortage of staff in state hospitals and allegations made concerning staff. Her statement is attached (Attachment C). She said at Winfield, sometimes there are only three employees on a ward to take care of 80 residents and half of these are in wheelchairs. She noted the workload gets larger all the time, and someday the mental health technicians will just have to say they cannot handle any more. In her opinion, an increase in salaries would help the personnel situation.

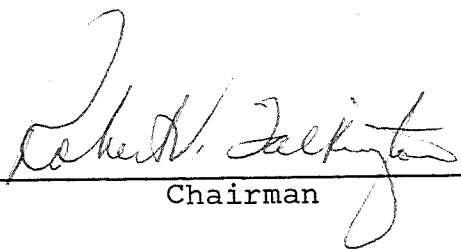
In discussion, Mrs. Dunbar said her institution has problems getting supplies. As an example, this winter there was no kleenex, and they were using anything they could. Obtaining supplies is especially difficult toward the end of the budget year.

Sometimes Mrs. Dunbar experiences problems communicating with her superior and getting answers to her problems. She is not always sure the problem gets to the top of the chain of command or if they pay any attention to it. She does not get answers. She felt there was a problem in every state institution with the chain of command. If she or her group goes beyond the superintendent with a problem, usually it is taken to Secretary Harder. At this point, Mrs. Campbell stated Secretary Harder never gives the group any answers. She has been at meetings with him and all

institution superintendents and no answers were ever given. He tells them he will take it under advisement. At meetings, he always makes the statement that he is there to listen.

Mrs. Dunbar closed her remarks by stating fear of recrimination is why more employees do not appear before the committee. She invited members to come to her institution and spend eight hours with employees on their wards and observe what they do. In this way, she felt legislators would get a better understanding of what the mental health technician's role is in the state system.

The meeting adjourned at 1:20 p.m.



Chairman

ATTENDANCE SHEET
2-28

<u>NAME</u>	<u>REPRESENTING</u>	<u>TOWN</u>
Clarence Drimmel		Atchison, Kan.
BARRY Wills		Atchison, Mo.
Marjorie Wills		Atchison, Ks.
Shirley Sorbett		Atchison, Ks.
Loretta Keling		Atchison, Ks.
Timothy Pulliam		Atchison, Ks.
Stearns		
R.L. Gilstrap		K.C., Mo.
Edward Kane		Shaly, Ks.
Francis Christ	Probation ^{unit} et services	Atchison
3 "Way" students		
Martha Campbell	MHTI Tox ^{mo} State Hospital	Wampfield
William Davis	MHTI, regional dir for st	

Attachment A
2-28-80

Harvey S. Berenson, 38 J. B. A. K. 15, 16, 17, 18, 60, 61, 62, 64 (1969).

Mentioned in "1969 Kansas Legislature—A Review of Enactment," Robert F. Bennett, 38 J. B. A. K. 89, 128 (1969).

CONSTRUCTION AND DEFINITIONS

38-801. Construction of 38-801 to 38-838; proceedings not criminal. This act shall be liberally construed, to the end that each child coming within its provisions shall receive such care, custody, guidance, control and discipline, preferably in his own home, as will best serve the child's welfare and the best interests of the state. In no case shall any order, judgment or decree of the juvenile court, in any proceedings under the provisions of this act, be deemed or held to import a criminal act on the part of any child; but all proceedings, orders, judgments and decrees shall be deemed to have been taken and done in the exercise of the parental power of the state. This section shall not apply to proceedings under section 30 [38-830] of this act. [L. 1957, ch. 256, § 1; July 1.]

Source or prior law: 38-415.

Research and Practice Aids:

Hatcher's Digest, Infants §§ 2, 3, 6, 22½, 23, 24, 26 to 28.

New Juvenile Code, Kansas Probate Law and Practice § 1732.

Law Review and Bar Journal References:

Cited in comment on child dependency under the workman's compensation act, 11 W. L. J. 471, 472, 473 (1972).

CASE ANNOTATIONS

1. Provisions of juvenile code are to be liberally construed for best interests of child. *Lennon v. State*, 193 K. 685, 689, 396 P.2d 360.

2. Original juvenile court act mentioned in holding exercise of power to be exercise of parental power of state; proceedings hereunder not criminal. *State v. Fountaine*, 196 K. 638, 643, 414 P.2d 75.

3. Jurisdictional limits of juvenile court determines if act is criminal or delinquent. *State v. Augustine*, 197 K. 207, 209, 416 P.2d 281.

4. Juvenile code as amended in 1965 mentioned as a "misconceived act" which has placed a "tremendous stumbling block in the path of our judiciary to administer justice expeditiously." (Concurring opinion.) *In re Long*, 202 K. 216, 219, 448 P.2d 25.

5. Applied; 38-808 (b) apparently not complied with; no substantial evidence for finding boys not amenable; reversed and remanded. *In re Patterson, Payne and Dyer*, 210 K. 245, 251, 499 P.2d 1131.

38-802. Definitions. As used in this act, unless the context otherwise indicates:

(a) "Children's aid society" means any organization having among its objectives the care, control or protection of dependent and neglected or delinquent children.

(b) "Delinquent child" means a child less than eighteen (18) years of age:

(1) Who does an act, other than one defined in subsection (e) of this section, which if done by a person eighteen (18) years of age or over, would make him liable to be arrested and prosecuted for the commission of a felony as defined by K. S. A. 1972 Supp. 21-3105; or

(2) who has been adjudged a miscreant child under this act three (3) or more times.

(c) "Miscreant child" means a child less than eighteen (18) years of age:

(1) Who does an act, other than one defined in subsection (e) of this section, which if done by a person eighteen (18) years of age or over, would make him liable to be arrested and prosecuted for the commission of a misdemeanor as defined by K. S. A. 1972 Supp. 21-3105;

(2) who does an act, other than one defined in subsection (e) of this section, which, if done by a person eighteen (18) years of age or over, would make him liable to be arrested and prosecuted for the violation of any ordinance, police regulation, order, rule or regulation adopted by any authority, city, county, township, or other political subdivision of this state;

(3) who does an act, other than one defined in subsection (e) of this section, the commission of which by persons under the age of eighteen (18) years, is specifically prohibited and made unlawful by state law, city ordinance, police regulation, order, rule or regulation adopted by any authority, city, county, township or other political subdivision of this state;

(4) who has been adjudged a wayward child under this act three (3) or more times; or

(5) who escapes from or runs away from any juvenile detention home or farm or other juvenile center after placement therein by an order of a juvenile court.

(d) "Wayward child" means a child less than eighteen (18) years of age:

(1) Whose behavior is injurious to his welfare;

(2) who has deserted his home without good or sufficient cause; or

(3) who is habitually disobedient to the reasonable and lawful commands of his parent, guardian, or other lawful custodian.

(e) "Traffic offender" means a child under sixteen (16) years of age who does an act which, if done by a person sixteen (16) years of age or over, would make him liable to be arrested and prosecuted for the violation of:

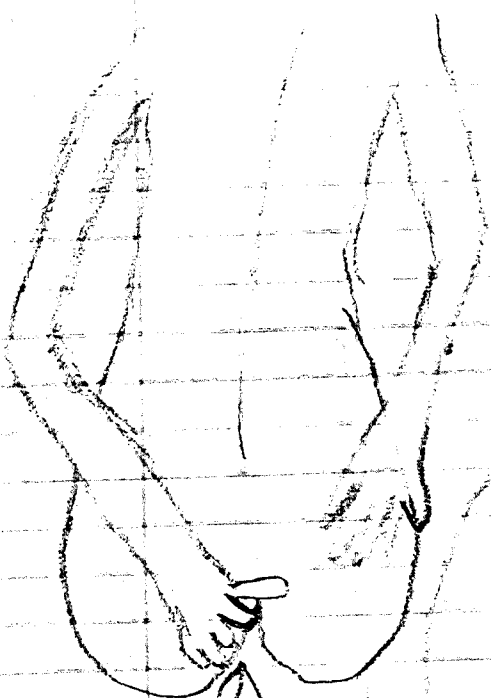


Dear Mr. Lane,
 We are doing an investigation
 on records and you won't
 you won't you fuckin' Dicks head
 grease balls. I bet you suck
 your sons dick you only holy
 rollers. I bet you call an dog
 shit dont you. I know you and
 when you walked by I almost
 past out from your nasty
 smell. I seen your car and I
 never seen a car with someone
 holding and running with it your
 belly looks like a fucked horse
 who made a mistake. Why dont
 you take your mother fuckin
 bible and your holy ghost
 and shove it straight up
 your greasy smelly asshole
 asshole. The only water Bob
 got in his head is yellow
 piss. Your car dont work
 because with fat asshole driving
 it like you nothing will work.

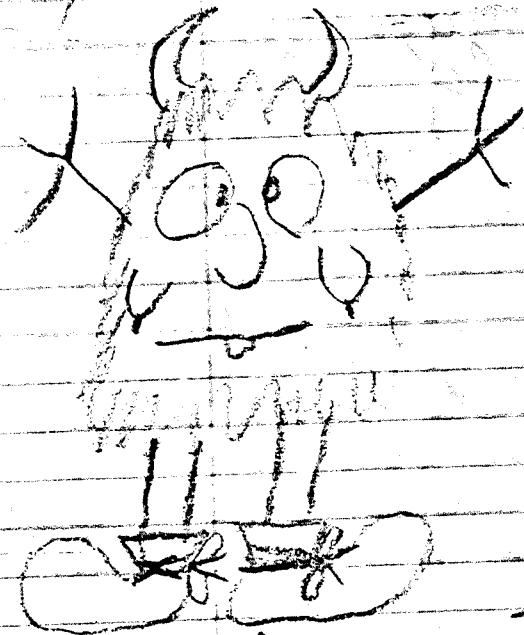
I know you hang around
 in gay bars, I bet you never
 change your tampon do you.
 Bobby said you do his head
 all the time. Well, Billy shall
 die for I am an atheist and
 satan told me he must
 die. Dont bother prayin because
 satans power is 1000 strong
 for your god. Hope to see
 you at Billy's funeral.

OK P D Kiss ass, Satan
 believe

Dr. Boudy's Neck



your name

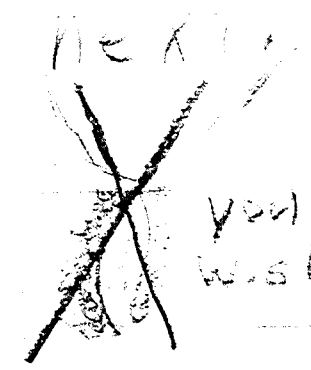


your
mom!

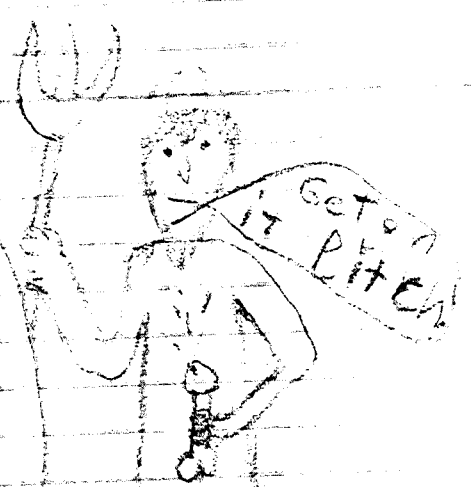
a Lanes
Best
friend!

This is you! (Hot pick!)

THAT'S
HOT!



you
wish!



MOM!

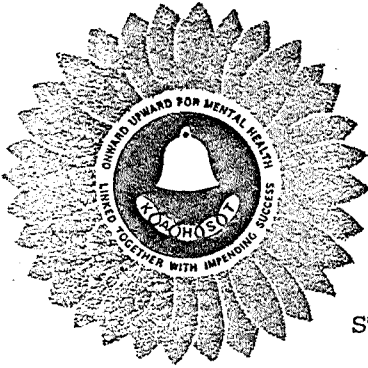
I you should be Ashamed



See what radio,

I have that book and
I would send you a carton
of cigarettes Marlboro please and
I would like to have them by
Thursday. Fly

P.S. You better send them to me too.
And hurry your primitive rusty
BUNS UP. and next time you
come up wear a new pair
of underwear because you
embarrassed me with your
old stinky drawers.



Kansas Association of Human Services Technologies

STATEMENT PRESENTED TO THE LEGISLATIVE SPECIAL
STUDY COMMITTEE ON SPECIAL AND REHABILITATIVE INSTITUTIONS
THURSDAY, FEBRUARY 28, 1980

We represent the Kansas Association of Human Services Technologies; a group of Licensed Mental Health Technicians, Psychiatric Aides and Health Service Workers who are the direct care staff at the various State hospitals in Kansas.

We come before you today to express our concerns regarding allegations that have been made about the State hospital employees. If these allegations are true, let us give you some insight as to why this may have occurred. For some time (now) most of the State hospitals in Kansas have been short of staff. This frequently leaves the ward or area inadequately covered. There are times when one Licensed Mental Health Technician is left on the ward by herself/himself, and it is impossible for one person to control the situation. The Licensed Mental Health Technician is unable to watch what occurs in all areas. It is impossible for one person to give even minimal care to our residents/patients/clients when they are alone on a ward. At Topeka State Hospital alone, for example, last year, there were 65 employees injured by patients, some of which were permanently disabled. This well could have been prevented had we had enough adequately trained staff on the wards. When more than one person is on the ward frequently the other person is an untrained Health Service Worker who is only qualified to give minimal care to the patients. This means that the Licensed Mental Health Technician on duty must spend a great deal of time supervising the Health Service Worker, instead of working with the patients.

The shortage of trained and untrained direct care staff allows the patient instead of the staff to control the environment. And, why is there a shortage of direct care staff? When the total ratio is given for employee-patient, the maintenance department, secretaries, all disciplines are involved in that ratio. Only, approximately one-third (1/3) of that total ratio represents direct care staff, who are responsible for 24-hour a day, seven (7) days per week. Of this one-third (1/3) a large number are untrained in caring for patients. Because of the overwhelming responsibility of the Licensed Mental Health Technician, staff burn-out occurs, and lack of communication and non-responsiveness by administration to the cares and needs of staff have caused staff burn-out and the high turnover of staff

If the salaries of direct care staff of State hospitals were compatible with the salaries and fringe benefits of industries in the State of Kansas, we would be able to attract more qualified applicants, especially male staff. This could help to eliminate staff abuse by residents, as residents seem to respect the male staff more than female staff.

We have a smaller number of Licensed Mental Health Technicians, Psychiatric Aides, Health Service Workers than we have ever had, but are given more responsibility and additional duties than ever before, such as with the Federal mandates on programming, documentation to meet State and Federal standards, more involvement as a member of the treatment team, giving medications, supervising self-help skills, escorting patients to other areas, orientation of Health Service Workers or other staff, attending many work-related meetings. Due to the lack of a career ladder for Licensed Mental Health Technicians, there is little opportunity for advancement, and when advancement does occur, it is very slow in coming; to the extent that highly-trained and well-qualified members of the staff move to other jobs outside of the State hospital system before these openings occur. None of the State institutions except for the Kansas University Medical Center pay afternoon and night differential pay to

attract more qualified staff.

If we have more direct care staff, the level of patient care would improve greatly. The morale of staff would also improve, and if the allegations are true, with adequately trained staff they well may not have occurred.