

Approved

Stephen R. Cloud  
Date 3-20-84

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Rep. Stephen R. Cloud at  
Chairperson

9:10 a.m./p.m. on March 15, 1984 in room 522-S of the Capitol.

All members were present except:

Rep. Louis - Excused  
Rep. Sprague - Excused

Committee staff present:

Russ Mills - Research Department  
Jackie Breymeyer - Committee Secretary

Conferees appearing before the committee:

David Barclay, Assistant to Secretary Barbara, Department of Corrections

I The meeting was called to order by Vice Chairman Smith at 9:10 a.m. He called on Russ Mills, Research Department, to give the staff review of the Report of the Advisory Committee on Prison Overcrowding. (See Attachment) Mr. Mills went through the recommendations of the Committee.

David Barclay, assistant to Secretary Barbara, stated that the first three recommendations were going to be introduced into a bill by Senate Federal and State Affairs. Work is being done at this time on recommendations 4 through 7, but focus is not being put on number 7. Numbers A and C are being addressed in recommendation number 12. One meeting has been held and another scheduled later this month on recommendation number 13. Recommendation number 14 has been funded. Mr. Mills and Mr. Barclay clarified several questions from Committee members.

II Vice Chairman Smith asked Rep. Wanda Fuller to give the Subcommittee A Report on Department of Corrections. (See Attachment) Rep. Fuller went through the 15 recommendations. Several comments were made regarding each recommendation and Mr. Barclay helped with input and statistics when asked.

Rep. Sughrue moved to adopt the Subcommittee A Report on the Department of Corrections. Rep. Harder gave a second to the motion. The motion carried.

Mr. Barclay was asked to give an update on the prison overcrowding situation. He responded that the Department has talked to the Senate leadership and have approached the Governor's office but that a more global approach with long term solutions is being focused on at this time.

The minutes of the March 1 meeting were approved.

The meeting was adjourned at 10:18 a.m.

SRM 31-

**Controlling Overcrowding**

**in the**

**Kansas Prison System**

**Report of the**

**Advisory Committee on Prison Overcrowding**

**January 1984**

*Atch. I*

**MEMBERS  
OF  
ADVISORY COMMITTEE ON PRISON OVERCROWDING**

The Honorable Patrick Brazil  
Judge, 13th Judicial District  
Eureka, Kansas

Mr. Bert Cantwell, Superintendent  
Kansas Highway Patrol  
Topeka, Kansas  
(Mr. Cantwell was selected in his former capacity as Executive  
Director of the Kansas Sheriff's Association)

Mr. James W. Clark, Executive Director  
Kansas County & District Attorneys Association  
Topeka, Kansas

Dr. John Gaston, Ph.D.  
Assistant Professor, Minority Studies  
Wichita State University  
Wichita, Kansas

Mrs. Joan Hamilton, Vice-Chairperson  
Kansas Adult Authority  
Topeka, Kansas

Mr. Theodore L. Heim, Chairman  
Department of Criminal Justice  
Washburn University  
Topeka, Kansas

The Honorable Cordell D. Meeks, Jr.  
Judge, 29th Judicial District  
Kansas City, Kansas

Dr. Walter Menninger, Director  
Division of Law and Psychiatry  
Menninger Foundation  
Topeka, Kansas

Ms. Georgia Nesselrode  
Johnson County Victim Witness Coordinator  
Johnson County District Attorney's Office  
Olathe, Kansas

Mr. Simon Roth, Former Chairperson  
Kansas Adult Authority  
Topeka, Kansas

Ms. Nancy Scott, President  
Kansas League of Women Voters  
Wichita, Kansas

Ms. Kathleen Sebelius, Executive Director  
Kansas Trial Lawyers Association  
Topeka, Kansas  
(Chairperson of Advisory Committee on Prison Overcrowding)

The Honorable Robert Stephan  
Attorney General of Kansas  
Topeka, Kansas

Ms. Eleanor Wiebe, Board Member  
Kansas Council on Crime & Delinquency  
Wichita, Kansas

Mr. Ron Wurtz, Public Defender  
Third Judicial District  
Topeka, Kansas

## Report Summary

The Advisory Committee on Prison Overcrowding was created by Secretary of Corrections Michael A. Barbara in May, 1983, to analyze overcrowding in the state's prison system. The Committee felt strongly that a system-wide perspective had to be taken because the combined but uncoordinated efforts of the criminal justice system lie at the heart of the problem.

The Kansas prison system is overcrowded. The state incarceration rate (the number of people incarcerated per 100,000 Kansans) shot up from 76 per 100,000 in 1975 to 140 per 100,000 in mid-1983--an 84% increase. The population is growing at a rate roughly equal to one 500-bed prison every year. Unless major changes are made soon, the crowding will become much worse. Current judicial sentencing practices, legislatively adopted sentencing and parole statutes and parole release practices together insure that the current alarming rate of population growth will continue.

Resolving prison overcrowding can only be done in one or some combination of three ways:

1. Change the number of offenders sent to prison.
2. Change length of stay in prison.
3. Change prison capacity.

Traditionally, state prison populations have been viewed as the inevitable consequence of crime and factors outside the criminal justice system. States are now coming to realize that prison populations are the consequence of policies and practices of criminal justice decisionmakers--legislators, judges, parole boards, and prosecutors.

As population projections exceed projected capacity, policymakers are faced with a simple choice: Either (1) create more capacity or (2) stabilize the population by reducing the number of commitments, length of stay or both. In analyzing capacity expansion options, the Committee looked at (a) the cost of construction, (b) the basic issue of whether expanding capacity really relieves overcrowding and (c) the question of whether incarcerating more offenders reduces the crime rate.

The cost of incarcerating inmates was \$11,000 per year in FY 1983. The cost of constructing each additional 500-bed prison is \$34 million at \$68,000 per bed. But it is only when the long-term cost of prison construction is considered that the true

cost is revealed: The initial \$34 million capital investment represents only 8-10% of the 30-year cost, bringing the total to a staggering \$340 million.

Ironically, the experience of other states seems to demonstrate that the addition of prison beds does not solve the overcrowding problem. Additional beds are filled nearly as soon as they become available. No one can point to an active prison building state that is not overcrowded. Most are now under federal court order to reduce overcrowding and improve overall conditions.

Finally, the Committee found that there appears to be little if any relationship between the frequency with which incarceration is used and the crime rate. A comparison of states found that those with low incarceration rates were as likely to have low crime rates as high ones. Conversely, states with high incarceration rates were as likely to have high crime rates as low ones.

In light of the high cost of prison construction and fundamental indictments of its effectiveness as a solution to overcrowding, several basic questions must be raised.

- Are we putting people in prison who don't need to be there?
- Could they be made to accept responsibility for their actions in a non-prison setting without jeopardizing public safety?

Contrary to public perception, Kansas prisons are not filled with serious violent offenders. Forty-five percent of inmates are convicted of non-violent Class D and E offenses. Even more surprising is that 35% of inmates have no prior felony record, not even felony probation. An additional 24% have only one prior felony conviction. Together, nearly two-thirds of the Kansas prison population has one or no prior felony convictions. The statistics speak for themselves--Kansas uses the harshest and most expensive sanction it has available to punish large numbers of first-time relatively minor felons.

The Committee's recommendations attempt to control overcrowding in each of the three possible ways. We have recommended changes in who goes to prison and how long they stay. We have also recommended a limited capacity expansion program to buy time, recognizing that it will only ease immediate pressure in the short term. We have listed other possible solution options for consideration. Inaction is the worst option.

Recommendations

I. Recommendations Affecting Who Goes to Prison and Length of Stay

A. Entry Proposals

Recommendation Number 1

Kansas Statutes should be amended to return the minimum sentence length for Class D and E felonies to their pre-1982 length as shown below:

<u>Felony Class</u>	<u>Pre-1982 Sentence Minimums</u>	<u>Current Minimum Sentence Lengths</u>
D	1-3 years	2-3 years
E	1 year	1-2 years

Recommendation Number 2

Kansas statutes should be amended to provide that the presumptive sentence for first-time Class E felons is probation. This would not apply, however, if they have committed or attempted to commit article 34, 35 or 36 crimes against persons.

Recommendation Number 3

Kansas statutes should be amended to reclassify the following offenses:

<u>Felony Classification</u>	<u>Crime</u>	<u>K.S.A.</u>
D	Theft over \$100	21-3701
D	Theft of services over \$100	21-3704
D	Forgery	21-3710
E	Giving of a worthless check over \$50	21-3707
D	Habitual giving of a worthless check	21-3708
E	Criminal damage to property over \$100	21-3720
E	Unlawful use of a financial card over \$50	21-3729

The proposed new classification for each of the above offenses is shown below:

<u>Crime Value</u>	<u>New Classification</u>
\$ 0-299	Misdemeanor
\$300-2,999	Class E Felony
\$3,000 and above	Class D Felony

Recommendation Number 4

Community Corrections should be expanded in an effort to divert additional non-violent, prison-bound offenders from incarceration.

Recommendation Number 5

Judges, prosecutors, the defense bar and court services personnel should identify and use alternatives to incarceration for prison-bound offenders.

Recommendation Number 6

The Kansas Department of Corrections should attempt to accelerate the evaluation and diagnosis of offenders upon entry into the prison system through greater use of community resources.

Recommendation Number 7

A state-wide commission should be established to study the entire sentencing structure, to reassess the state's sentencing philosophy and to make recommendations to the 1985 legislature regarding needed changes in state sentencing policy. The commission should be composed of representatives of all major parts of the criminal justice system.

**B. Exit Proposals**

Recommendation Number 8

The Legislature should adopt a statutory prison population cap equal to 90% of maximum capacity. When the prison population exceeds this cap for 30 consecutive days, an emergency release mechanism should be triggered.

Recommendation Number 9

The legislature should appropriate funds to study risk assessment mechanisms similar to the Iowa risk assessment model with a view towards implementation.

**II. Recommendations Regarding Prison Capacity**

Recommendation Number 10

The state should take immediate affirmative steps to reach Optimum Management Capacity.

Recommendation Number 11

No additional medium or maximum security prison space should be constructed.

Recommendation Number 12

The Legislature should fund the following projects designed to increase prison capacity:

- a. Three pre-release centers
- b. Two honor camps
- c. Expansion of KSP Outside Dorm II

**III. Recommendations Indirectly Affecting Prison Population**

Recommendation Number 13

A study should be done to identify the reasons for the disproportionate number of minorities in the Kansas prison system and to recommend changes to the Department of Corrections and 1985 legislature.

Recommendation Number 14

The Committee endorses the joint SRS/DOC proposal to make 80 Larned State Hospital beds available for severely mentally-ill inmates and urges the legislature to appropriate the required capital improvement funds.

Recommendation Number 15

The Kansas Legislature should appropriate funds to reimburse counties so that competency to stand trial evaluations can be conducted locally and much more cheaply rather than at a state hospital facility.

Recommendation No. 16

The Department of Corrections should continue to use the option of co-correctional facilities and programs to insure that women offenders have equal access to appropriate services within the correctional system.

3/15

SUBCOMMITTEE REPORT

February 23, 1984

TO: House Governmental Organization Committee  
FROM: Subcommittee A  
RE: Department of Corrections

The subcommittee makes the following recommendations pursuant to its sunset review of the Department of Corrections:

1. The Office of Secretary of Corrections and the Kansas Department of Corrections (DOC) should be continued in existence under the Kansas sunset law until 1992. Enactment of S.B. 535 will effect this recommendation.
2. No changes should be made in the statutory sentencing terms established by 1982 H.B. 3104.
3. The existing community corrections programs should be adequately funded, and the expansion of these programs is recommended.
4. The time frame for evaluation of offenders at the State Reception and Diagnostic Center should be accelerated through better utilization of existing reports on the offender already prepared by law enforcement agencies and the courts.
5. The subcommittee does not recommend the establishment of an emergency release mechanism, whereby inmates would be released whenever the prison population reached a certain limit.
6. Funds should be appropriated for a new work release center to be located in the Kansas City area.
7. The subcommittee endorses the establishment of two additional honor camps, one to be a mobile, roving camp to serve the northeastern lakes, and one to be located in the western part of the state. The Department should explore the possibility of establishing one honor camp to be operated for female inmates.

Atch. II

8. The subcommittee endorses the proposed capacity expansion of O.S. Dormitory No. 2 at Kansas State Penitentiary.
9. The subcommittee supports the concept of conducting competency testing at local mental health centers, rather than at Larned State Hospital, and recommends state funding for such testing.
10. The Department of Corrections should study the need for an alternative facility to house women inmates, including the feasibility of converting Kansas Correctional-Vocational Training Center (KCVTC) into an all-female institution.
11. Efforts should be undertaken to expand the educational and vocational programs at all institutions, and additional inmate access to the libraries should be implemented.
12. The farming operation should be further expanded to provide additional inmate jobs in a labor-intensive farming operation.
13. The four-month layoff policy for inmates terminated from their jobs should be enforced in order to provide more job opportunities for other inmates. Inmates should not be paid after being fired from their jobs.
14. In FY 1982, Kansas State Penitentiary (KSP) was allocated 1,000 inmate jobs but only 862 were actually created. The Department of Corrections should set as its goal that 85 percent of all inmates be employed in some type of work.
15. The subcommittee recommends that the Department undertake innovative efforts to increase the industrial jobs, both private and Correctional Industries, available for inmates.

Subcommittee Members:

Representative Wanda Fuller,  
Chairperson  
Representative Clarence Love  
Representative Alfred Ramirez  
Representative Marvin Smith  
Representative Kathryn Sughrue