

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by REPRESENTATIVE ROBERT H. MILLER at
Chairperson

1:30 a.m./p.m. on April 8, 1986 in room 526S of the Capitol.

All members were present except:

Representative Peterson

Committee staff present:

Lynda Hutfles, Secretary
Mary Torrance, Revisor's Office
Russ Mills, Research

Conferees appearing before the committee:

George Sims, Mobil Oil Corp.
Ron Hein, Mesa
Robert Anderson, Mid-Continent Oil
Senator Daniels
Richard Mills, Department of Corrections
Phil Magathan, Ks. Association of Court Service Officers
Marjorie Van Buren, Office of Judicial Administration
Rosalys Rieger, Riley County Commissioner
Ron Miles, State Board of Indigents Services
Steven Robinson, Office of Ombudsman
Ann Heberger, Kansas Correctional Association
Paul Swartz, Department of Corrections

The meeting was called to order by Chairman Miller. The Chairman pointed out the revised agenda.

Representative Sallee made a motion, seconded by Representative Eckert to approve the minutes of the April 7 meeting. The motion carried.

SB501- Authorizing the dispensing under the uniform controlled substances act of certain designated schedule I substances

Representative Barr made a motion, seconded by Representative Gjerstad, to report SB501 favorably. The motion carried.

HB3141 - Natural gas; infill drilling

HB3143 - Natural gas; maximum price for sale to agricultural users

The Chairman announced that the sponsor of these bills has indicated he will ask for an interim to study this issue.

George Sims, Mobil Oil Corporation, told the committee that in view of the possible interim he would just say that they were in opposition to the bills.

Ron Hein, Mesa, gave testimony in opposition to these bills. See attachment J.

Robert Anderson, Mid-Continent Oil, was also in oppoistion to the bills.

Hearings were concluded on HB3141 and HB3143.

SB401 - Makeup of Kansas Comprehensive Criminal Justice Commission

Senator Daniels gave testimony in support of the bill and distributed copies of an article that was in Saturday, April 5, paper concerning complaints from inmates and attorneys on the conditions at the Kansas State Penitentiary in Lansing. (See attachment A) This article points out more critically the need we have to begin to address this problem of prison overcrowding. This bill creates a 16-member Kansas Comprehensive Criminal Justice Commission made up of four members of the Legislature and others.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal & State Affairs,
 room 526S, Statehouse, at 1:00 a.m./p.m. on April 8, 1986

Dick Mills, Department of Corrections, told the committee that by establishing this commission we will provide a strong message to all of the decision makers within the criminal justice system that the incarceration of criminal offenders in Kansas is not only a matter of punishment and retribution, but also a question of resource allocation. In order to make the best out of the states resources for the future, it is incumbent upon this government to coordinate its efforts to insure that Kansas has an adequate, secure and safe correctional system. See attachment B.

Phil Magathan, Kansas Association of Court Service Officers, gave testimony in support of SB401. This commission would better coordinate all facets of court services. See attachment C.

Marjorie VanBuren, Office of Judicial Administration, supports the general thrust of SB401. She suggested an amendment that would give some flexibility for the chief justice to appoint a person with a statewide perspective on court services. See attachment D.

Rosalys Rieger, Riley County Commissioner, gave testimony in support of SB401 which establishes a comprehensive criminal justice commission to study recommended improvements in the criminal justice system. See attachment E. Ms. Rieger read Frank McCoy's testimony in support of SB401. Mr. McCoy is Director of the Riley County Community Corrections and was unable to attend the meeting.

Ron Miles, State Board of Indigents Services, gave testimony in support of the bill. The criminal justice system needs to be made more comprehensive.

Steven Robinson, Office of Ombudsman, gave testimony in support of SB401. Creation of this commission can be the first step in providing Kansas with an integrated system which encompasses what now are three separate entities: the courts, the Department of Corrections, and the Parole Board. See attachment F.

Ann Heberger, Kansas Correctional Association, gave testimony in support of SB401. An on-going commission study of all facets of the system and making appropriate recommendations to the Governor, Legislature and Supreme Court is needed by the State of Kansas. Ms. Heberger stated that she also spoke for the League of Women voters in support of the bill. See attachment G.

Hearings were concluded on SB401.

SB731-Prison made goods

Paul Schwarts, Department of Corrections, gave testimony in support of SB731. There exists in Kansas a market for subcontracting inmate work through the Kansas Correctional Industries. The principle markets identified involved labor-intensive service work requiring minimum level skills and minimum capital requirement. The markets are technically administratively and legally feasible with respect to federal and state law. See attachment H.

There was discussion of taking work from the surrounding communities and also concerning the liability involved in this type of situation.

Ann Heberger, Kansas Correctional Association and the League of Women Voters, gave testimony in support of SB731. See attachment I.

Hearings were concluded on SB731.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal & State Affairs,
room 526S, Statehouse, at 1:00 a.m./p.m. on April 8, 1986

The Chairman announced that the written documentation requested by the committee from Chris Edmonds, on behalf of the Kansas Tavern Association on figures he presented in his testimony on the happy hour bill have not been presented and, therefore, the Chairman feels that the testimony must have been inaccurate.

SB539 - Amendments to the real estate brokers' & salespersons' Act

Representative Sprague made a motion, seconded by Representative Roenbaugh, to change in line 526 the word "1 year" to "2 years". The motion carried.

Representative Aylward made a motion, seconded by Representative Long, to reinsert the laundry list beginning on line 423. The motion lost.

Representative Hensley made a motion, seconded by Representative Ramirez, to report SB539 favorably as amended. The motion carried.

HB3140 - Membership on the Judicial Council

Representative Walker made a motion, seconded by Representative Sallee, to adopt the amendment suggested by the judicial administrators office to make the nonattorney serve the same term as the Governor who appointed him. The motion carried.

Representative Ramirez made a motion, seconded by Representative Hensley, to report HB3140 favorably as amended. The motion carried.

The meeting was adjourned.

Jan 5
A

Sat April 5, 1986

Complaints spark inquiry at Lansing

The U.S. Justice Department, after receiving complaints from inmates and attorneys and seeing accounts in the media, has begun an investigation into the conditions at the Kansas State Penitentiary in Lansing, authorities confirmed Friday.

Larry Cowger, special assistant to the secretary of the Kansas Department of Corrections, said that two civil rights attorneys briefed state officials Wednesday and toured the prison in eastern Kansas on Thursday.

According to Cowger, the federal inquiry focuses on the delivery of medical services, inmate safety, cleanliness of the general environment and overcrowding.

"They are looking for patterns of abuse, patterns of inmate violence," he said. "Individual instances of inmate violence doesn't get it."

The investigation is limited to the Lansing prison, Cowger said. It was not known how long the investigation would take.

"We asked the question, of course, 'Why us?' They said there was no one complaint but rather a combination of inmate complaints, letters from attorneys and stories in the media," he said.

Cowger said Gov. John Carlin was notified of the investigation Feb. 18 as required by the U.S. Civil Rights of Institutionalized Persons Act. He said Kansas has never been investigated previously for violations defined under the federal act.

One of the complaints lodged against the corrections department came from Jouett Arney, an inmate who sued the prison system and won a consent decree in 1980 in which the department pledged to improve conditions, he said.

The corrections department has lobbied for a \$12.5 million medium-security prison and honor camp at Ellsworth in central Kansas to help alleviate prison overcrowding. The proposal has passed in the House but remains pending in the Senate. Neither chamber has allocated any money for the project.

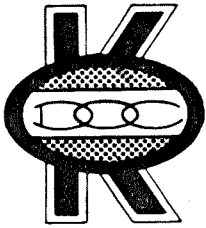
Cowger said there are 2,359 inmates at the Lansing prison. It has a maximum capacity of 2,475, including the new medium-security facility that was opened last year.

The state prison system adds an average of 41 inmates each month, Cowger said.

If lawyers find that conditions at the prison violate the civil rights of inmates there, a federal lawsuit could be filed. State and federal officials could negotiate to correct the problems. If the problems could not be corrected, the prison could be closed, said Cowger.

ATTACHMENT A

H. FLSA
4/8/86



R

KANSAS DEPARTMENT OF CORRECTIONS
INTERDEPARTMENTAL MEMORANDUM

TO: Representative Robert H. Miller DATE: April 8, 1986
Chairman, Federal & State Affairs Committee

FROM: Richard A. Mills, Secretary of Corrections

SUBJECT: Senate Bill 401

Since 1962 there have been nine studies conducted by various legislative interim and special committees concerning the Kansas penal system. With each study and report the legislature, the Governor and the people of Kansas were benefited by the recommendations concerning various aspects of the Kansas penal system. Not surprisingly, these recent studies were built upon the work of many legislatures and administrators who went before them. The words of an early 20th century warden of our State Penitentiary remain as true today as when they were reported to the Governor,

"Without any undue emotional sentiment, it must be continually realized that we are dealing with men and women who are unable to care for themselves in an orderly way and must be cared for by the state; also that the penal institution which does not send out men in better condition, physically, mentally, and spiritually, than when they entered, is somehow failing in its purpose; that the institution which destroys the body and spirit of men instead of giving them spirit, courage and efficiency, has not fulfilled the entire purpose of its existence."¹

The problems faced by Kansas prison officials in 1986 are similar to those that plagued the system at the beginning of the century--outdated facilities, an increasing inmate population and an insufficient number of correctional staff. However, never in the history of the Kansas penal system has the problem of prison overcrowding been as acute as it is today. On July 1, 1980, Kansas penal institutions held some 2,264 inmates. Today, our prisons house 4,721 offenders, an overall increase of 108%.

This surprising increase in inmate numbers, without a corresponding increase in resources to house and manage them, is the result of the uncoordinated actions of many independent actors within the criminal justice system. The persons who actually determine who goes

¹ Report on the Penitentiary to Governor Hodges, F. W. Blackmar, Warden, Kansas State Penitentiary, February 23, 1914.

to prison and for how long, make their decisions independent of the needs and concerns of the Kansas Department of Corrections or the other actors within the justice system. It is the cold, hard fact that prison beds are becoming a scarce commodity which has forced the system to reexamine its motives and purposes in institutionalizing offenders. The enthusiasm of state lawmakers for a tougher response to crime is beginning to be tempered by this fact. The sentencing patterns of judges are certainly impacted by crowded prison conditions as well. And finally, the release decisions of the Parole Board must also be somewhat affected by these same conditions.

The purpose of the proposed Comprehensive Criminal Justice Commission is to create a statutory forum which would require representatives from every area of the criminal justice system to come together, hopefully promoting more cooperative efforts in examining the crisis facing our prison system today. The Commission will provide an opportunity for sharing information and for joint analysis of the effect that the actions of each member of the system have upon the Department of Corrections and the Kansas penal system. The joint recommendations of the committee will provide the best thoughts of those people who are most directly involved, in an effort to coordinate the actions of these diverse groups. The commission will provide the Kansas Department of Corrections with information concerning policies and trends within the Kansas criminal justice system which directly and indirectly impact upon our operations, but which we often do not learn about until we feel their effects.

As of October 15, 1985, the Department's optimum capacity was 3,090 inmates. The maximum capacity of the Department's facilities equalled 4,451 inmates. Our facility population today (4,721) exceeds maximum capacity by approximately 270 beds. Future capacity projected for January 1, 1988, including the construction of the proposed correctional facility at Ellsworth, will increase optimum management capacity to 3,743 and maximum capacity to 5,576 beds. When compared to year-end population projections, it is clear that the Department will be operating at maximum capacity for years to come.

	<u>FY 1986</u>	<u>FY 1987</u>	<u>FY 1988</u>	<u>FY 1989</u>	<u>FY 1990</u>
Committed	5,012	5,319	5,510	5,626	5,686
In-House	4,855	5,162	5,353	5,469	5,529

Without the joint efforts of this proposed statutory commission, the Department of Corrections is left to deal with this problem between legislative sessions. It is difficult enough to manage a prison population which has doubled in the last 48 months on limited resources, but it is unreasonable to expect the Department alone to devise the total solution to the prison crowding problem. The bill before you will provide guidance for the improvement, management and operation of our criminal justice system by bringing together a 16-member commission made up of members from the legislature, the

Department of Corrections, the Parole Board, the Attorney General, county or district attorneys, the judicial branch, a court service officer, community corrections director, a public defender, the Secretary of Social and Rehabilitation Services, law enforcement officers, and the general public to analyze the increase in prison population; population projections; prison capacity; sentencing and release policies; alternatives to incarceration; the effect of overcrowding on staff, inmates and existing facilities; and the cost of various solution options. The Commission will also assess the number and quality of programs activities available to incarcerated persons; the adequacy of probation and parole; and work to develop a state incarceration policy which is specific in its articulation of who should go to prison and how long they should stay.

It is the hope of the Department of Corrections that the legislature, by establishing this Commission will provide a strong message to all of the decision makers within the criminal justice system that the incarceration of criminal offenders in Kansas is not only a matter of punishment and retribution, but also a question of resource allocation. In order to make the best use of the state's resources for the future, it is incumbent upon this government to coordinate its efforts to insure that Kansas has an adequate, secure, and safe correctional system.

RAM:dja

KANSAS ASSOCIATION OF COURT SERVICES OFFICERS

EXECUTIVE BOARD

President

Cecil Aska
Topeka

Vice President

Kathy Russell
Goodland

Secretary

Sue Jilka
Wichita

Treasurer

Mark Bruce
Parsons

Nomination/Membership

Donna Hoener
Olathe

Legislative Chairperson

Phil Magathan
Topeka

Training Chairperson

Mark Gleeson
Lawrence

Parliamentarian

Nancy Trahan
Salina

Public Relations Chairperson

Royal Scott, Jr.
Kansas City

Immediate Past President

Douglas Smith
Salina

Testimony on S.B. 401

By Phil Magathan

February 4, 1986

The Kansas Association of Court Services Officers represents professionals throughout the State of Kansas who work with adult and juvenile offenders.

Statewide, Court Services Officers are providing supervision to a Kansas probation population that is currently over 19,000. During fiscal year 1985, 13,229 formal reports were prepared to aid judges in determining the most appropriate sentence and correctional plan.

The Legislative Committee of Kansas Association of Court Services Officers has reviewed S.B. 401. We are in support of this legislation establishing a Kansas Comprehensive Criminal Justice Commission charged with reviewing and making recommendations for improvements of the state's criminal justice system.

ATTACHMENT C

H. FISA

4/8/86



State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 West 10th
Topeka, Kansas 66612-1507

(913) 296-2256

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE
SB 401

Testimony of
Marjorie J. Van Buren
Executive Assistant to the Judicial Administrator

The Judicial Administrator supports the general thrust of SB 401. We would suggest an amendment increasing the representation on the commission from the judicial branch.

The bill includes in the commission membership four members of the legislative branch and eight members of the executive branch. In order to give the commission an appropriate perspective from the judicial branch, we recommend an increase in the number of judges. Just as one legislative or executive officer would not give a very broad perspective or variety of experience from these branches, so having only one judicial officer is not adequate. Judges with different backgrounds of experience and training in the criminal law can bring a rich variety of perspectives to discussions of sentencing, probation, and other alternatives to incarceration.

Also, we would respectfully request amendment of line 42 as indicated on the attached "balloon," to give flexibility for the Chief Justice to appoint a person with a statewide perspective on court services, whether or not that person is presently a field officer.

We support the Senate amendment including the Chief Justice among those to receive the commission's reports and recommendations.

ATTACHMENT D
H. FLSA
4/8/86

SENATE BILL No. 401

By Senator Daniels

12-9

0016 AN ACT establishing the Kansas comprehensive criminal justice
0017 commission to study and make recommendations regarding
0018 the improvement of the criminal justice system.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. The people of the state of Kansas can best achieve
0021 a fair, efficient and effective criminal justice system through
0022 comprehensive planning which coordinates and provides guid-
0023 ance for the improvement, management and operation of the
0024 state's criminal justice system.

0025 Sec. 2. (a) There is hereby established the Kansas compre-
0026 hensive criminal justice commission which shall consist of 16
0027 members, as follows:

0028 (1) Four members of the legislature, one to be appointed by
0029 the speaker of the house of representatives, one by the minority
0030 leader of the house of representatives, one by the president of
0031 the senate and one by the minority leader of the senate;

0032 (2) the secretary of corrections or the secretary's designee;

0033 (3) the chairperson of the Kansas parole board or the chair-
0034 person's designee;

0035 (4) the attorney general or the attorney general's designee;

0036 (5) a county or district attorney appointed by the executive
0037 director of the Kansas association of county and district attor-
0038 neys;

0039 (6) a judge of the district court appointed by the chief justice
0040 of the supreme court;

0041 (7) a court services officer appointed by the chief justice of
0042 the supreme court;

0043 (8) a director of a community corrections program appointed
0044 by the governor;

representative of

COMMISSIONERS
ROSALYS M. RIEGER
DARRELL WESTERVELT
MARJORIE J. MORSE

RILEY COUNTY
BOARD OF COUNTY COMMISSIONERS

Riley County Office Building
110 Courthouse Plaza
Manhattan, Kansas 66502
(913) 537-0700

4/8/86

Testimony supporting SB 401
Chair Robert H. Miller, and Vice Chair Robert J. Vancrum
Members of the Federal and State Affairs Committee:

I am Rosalys Rieger, Riley County Commissioner and President of Kansas Citizens for Justice, the lobbying arm of Kansas Council on Crime and Delinquency (KCCD), and appreciate having the opportunity to testify.

We heartily endorse establishing a comprehensive criminal justice commission to study recommended improvements in the criminal justice system. It appears to be a state counterpart of the local twelve-member Community Corrections board which has worked so well in Riley County to avoid duplication and to recommend needed services to both community and offenders.

This concept was discussed in a public forum with Mark Corrigan, Director of the National Institute for Sentencing Alternatives at Brandeis University, keynote speaker at the KCCD annual conference last October. Mr. Corrigan felt that this was a wise direction to take so that planning--especially long-term planning--could be coordinated among all corrections entities. Subsequently, we were delighted to learn that Senator Daniels was working on this bill.

Because we appreciate the thoughtful drafting that has gone into SB 401 which reflects most of the concerns we expressed at last summer's hearings by the special committee of the State and Federal Affairs Committee, we urge that you approve this bill.

It would appear that a study by this commission would have provided much needed background on the question of building the Ellsworth prison. It might have answered, and still might answer, questions regarding the use of alternative or diversionary measures as opposed to the appropriation of \$170,000 in planning money and the possible appropriation of \$12 to \$15 million in construction funds. We have already built a \$22 million expansion of medium security quarters at Kansas State Penitentiary (KSP) for 400 inmates, which was completed in June 1985. The question might be asked, "Are we headed

H. FLSA
4/8/86

ATTACHMENT E

Testimony supporting SB 401 - Rieger - 4/8/86

for the same overcrowded prison situation that haunted us before it was completed?"

The charge to this commission might provide us with some answers and alternatives.

In view of the importance of this commission and the scope of its charge, we strongly support the appointment of an executive director and one (1) clerical staff. Thus, the most efficient use could be made of the commission's time in executing its legislative charge. If the commission is effective, literally millions of dollars may be saved by this in-depth study and review. For example, it might find that granting the eight (8) to ten (10) thousand dollar request by Geary County for planning money for a new community corrections program might save a large portion of the annual \$250,000 a year that is expended for their twenty-one commitments a year to KSP or KSIR.

Enclosed, is testimony by Frank McCoy, our Riley County Community Corrections director showing overlap and misdirection of services to a young offender.

Because he is out of the State attending his father's funeral, I would like to present a portion of his testimony: (see attachment).

Thank you. If I can be of help in any way, please call me.

###

My name is Frank McCoy and I am the Director of Riley County Community Corrections. I am very encouraged by the prospect of establishing a state-wide criminal justice commission in Kansas and I commend you for considering this task.

I have worked in the criminal justice system for the past fifteen years in various capacities, and it is my observation that the criminal justice system is an "organizational Frankenstein." We have patched together the various subcomponents of our law-related agencies in an effort to preserve and protect the public's safety and, in doing this, we have created a functional, but uncoordinated, "Frankenstein." The criminal justice system, as it now exists, is neither extraordinarily effective or efficient. The tasks at hand are usually accomplished, but there is considerable room for improvement through the planning and coordination of services.

In my capacity as director of a community corrections program, I have many opportunities to "track" individual offenders through the Kansas criminal justice system. By legislative design (and foresight), community corrections cannot duplicate or supplant existing correctional services. In order to accomplish this goal, we "track" the offender to make sure we are not duplicating past or present services. Our "tracking" has revealed some interesting facts that strongly indicate that the right hand doesn't always know what the left hand is doing, so to speak. I would like to present one offender's "trek" through the system as a graphic example of why we need a criminal justice commission. This is an actual case and the offender is presently under probation supervision(s). The record of the individual indicated the following:

- *Committed to Youth Center at Topeka, age 15; released, age 17.
- *Stole auto in Wichita several months later, fined \$27, and told to "stay out of town for one year."
- *Apparently took the above order seriously as he was arrested in Arizona several months later for another auto theft.
- *Sentenced to an Arizona Department of Corrections prison and served 18 months, age 18.
- *Returned to Kansas after release from Arizona prison and stole another vehicle, age 19.
- *Convicted and committed to Kansas Department of Corrections. Transferred to Larned State Hospital. Later transferred to Kansas State Industrial Reformatory, age 19.
- *Placed on Court Services probation after release from KSIR with the supervision of probation transferred to community corrections, age 21. Probation was granted versus parole despite the fact that the offender had served approximately 18 months in the KDOC.
- *New misdemeanor conviction, placed on misdemeanor probation.
- *New municipal conviction, placed on municipal probation.
- *New misdemeanor conviction. Served jail time and placed on parole status.
- *New misdemeanor conviction in another county. Placed on another District Court's Court Services probation. At this point a "new" KBI arrest/conviction report indicated a past felony conviction that occurred in Oklahoma. This felony conviction was not noted on any prior documentation. As this was offender's third felony conviction, he was no longer eligible for community corrections.

*Arrested and convicted of a new Federal offense. Served 60 days and released.

4/8/86

It is more than a little confusing, but this offender is currently being supervised by at least four agencies within the state of Kansas. He has had at least six probation or parole officers assigned to him as well as having a minimum of seven pre-sentence investigations conducted. He has had approximately seven public defenders assigned, as well as being evaluated for mental health status purposes by at least four different public or private agencies. He has also been arrested out-of-state on two occasions and was returned to Kansas for supervision. My conservative fiscal estimate is that the public has "invested" over \$150,000 in this individual without the benefit of a coordinated plan. Services and resources have been duplicated and reduplicated many times. Often one agency was not aware of another agency's present or past involvement with this offender. This case is unusual as far as the number of offenses committed; but I feel it is representative of the degree of overlap and duplication caused by the uncoordinated status of the criminal justice system. The problem is not a lack of resources and services, but rather the lack of a focus in the application and allocation of resources and services. The establishment of a criminal justice commission would go a long way towards correcting this problem.

It is also my observation that local versions of a criminal justice commission presently exist in the various community corrections counties of Kansas. The County Commissions and Advisory Boards of these counties represent a county-wide criminal justice commission that includes all key representatives. Their collective desires, in the form of directives and recommendations, are enacted through their community corrections programs. Since the passage of the Community Corrections Act in 1978, it has been demonstrated that there are many benefits to be gained through the establishment of a planning commission (in this case, the County Commission and Advisory Board) with the authority to carry-out their directives and recommendations. Such a body has the collective ability (and responsibility) to act through planning, while the various subcomponents of the criminal justice system are often forced to react and operate from a crisis management style. As we all know, crisis management is the most expensive form of government, while a planning approach that mandates the coordination of services can often save more money for the tax payer than it expends in operations.

If the implementation and resulting recommendations of a criminal justice commission would increase the criminal justice system's effectiveness by only ten percent, the savings in total tax dollars would be considerable. This is an obtainable objective in my opinion, and would create both short-term and long-term savings in the millions of dollars.

This is a situation where delaying implementation will cost more in duplicate services and missed opportunities than implementation would ever cost.

I urge you to pass the necessary legislation to enact this much needed bill.

Thank you for your time.

**CORRECTIONS OMBUDSMAN BOARD
OFFICERS**

Luella Wolff, Ph. D. Chairman
Representative Wanda Fuller, Vice Chairman
Floyd Gaunt, Secretary



**OFFICE OF THE OMBUDSMAN
FOR CORRECTIONS**

717 Kansas Avenue
Topeka, Kansas 66603
(913) 296-5295
KANS-A-N 561-5295

BOARD MEMBERS

Don Canfield
Shari Caywood
Karen L. Griffiths, J.D.
J. Russell Jennings
Barbara Owensby, R.N.
William E. Richards, Sr.
Forrest Swall, MSSW

STATE OF KANSAS

April 8, 1986

OMBUDSMAN

Carol L. Keith

OMBUDSMAN ASSOCIATES

Steven A. Robinson
Micah A. Ross

TESTIMONY TO HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
on Senate Bill No. 401

We presently have a situation within the Kansas Criminal Justice System that is, at best, tenuous. On one end we have the courts that decide who will be remanded into the custody of the Department of Corrections for an indeterminate amount of time. On the other end, we have the Parole Board that decides who shall be released and, within certain established limits, when. This leaves the Department of Corrections in the middle, with absolutely no control over the number or types of inmates they receive, or the length of time those inmates must be incarcerated. As you well know, this situation has over the past few years caused the inmate population to grow at a phenomenal rate. Inmate overcrowding can be alleviated by building more and larger prisons. I do not; however, view this as a cost effective means of obtaining a long-term solution.

I do believe that the creation of a Comprehensive Criminal Justice Commission as proposed in this bill, can be the first step in providing Kansas with an integrated system which encompasses what now are three separate entities: the courts, the Department of Corrections, and the Parole Board. I also believe that this approach can help Kansas avoid the fate a large number of other states now experience, a Federal Court order to reduce overcrowding. If this were to happen, we could lose relatively all control over our prison system. The Court could mandate additional prison construction, order the release of numerous inmates if the population exceeds a specific number, and prohibit the admission of new incarcerations, thus causing county jails to become overcrowded. This is a fate I do not wish for Kansas. I would much prefer that we, as a State, maintain control of our own prison system. Therefore, I urge passage of Senate Bill No. 401, as amended.

ATTACHMENT F

H. F+SA

4/8/86

President William Lucas
Secretary Betsy Gillespie
Treasurer Terri Howe



Vice President Sue Osborn-Gore
President Elect Frank McCoy

April 8, 1986

STATEMENT TO THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE IN SUPPORT OF A COMPREHENSIVE CRIMINAL JUSTICE COMMISSION. (SB 401)

The Kansas Correctional Association is a non-partisan organization comprised of over 250 members who work in all facets of the correctional system, adult and juvenile. (By system, we mean prisons, parole, jails, community corrections, local correctional facilities, detention and court services.) The K.C.A. is dedicated to improving the criminal justice system at all levels in the State of Kansas.

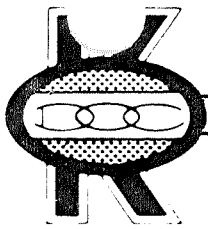
Three years ago, the Board of Directors of the K.C.A. came to the conclusion that whenever one part of the criminal justice system is changed, other parts of the system, in many cases, have the tendency to break down. One example is that a change in a sentencing law can either raise or lower the prison population as well as affect probation and/or parole. Another is that Parole Board policy does alot to determine the prison population and parole population. There are many such examples.

The organization is very supportive of a comprehensive criminal justice commission. WE would like to see an on-going commission studying all facets of the system, and making appropriate recommendations to the Governor, Legislature and the Supreme Court. We also see the need of such a commission in relation to assisting in long-range planning.

WE urge your support of such a concept.

Thank you for the opportunity to appear before you today.

Ann Heberger
Ann Heberger, Lobbyist
Kansas Correctional Association



KANSAS DEPARTMENT OF CORRECTIVE S

JOHN CARLIN — GOVERNOR

RICHARD A. MILLS — SECRETARY

JAYHAWK TOWERS • 700 JACKSON • TOPEKA, KANSAS • 66603-3798
913-296-3317

April 7, 1986

TO: House Federal & State Affairs Committee

FROM: Richard A. Mills, Secretary of Corrections

SUBJECT: **SENATE BILL 731**
Subcontracting for Kansas Correctional Industries

ISSUE

The feasibility of Kansas Correctional Industries subcontracting with private business for the production of goods or services to help reduce inmate idleness.

BACKGROUND

The Kansas Department of Corrections contracted with the Institute for Economic and Policy Studies Inc. to investigate the feasibility of Correctional Industries subcontracting with private sector business for the production of goods and services as a cost effective method to help reduce inmate idleness. The Institute for Economic and Policy Studies Inc. is a nationally recognized leader in the area of prison industries research and technical assistance.

SUMMARY OF REPORT

There does exist in Kansas a market for subcontracting inmate work through Kansas Correctional Industries. Principal markets identified involved labor-intensive service work requiring minimum level skills and minimum capital requirements. The markets are technically, administratively and legally feasible with respect to Federal and State law. The study includes a survey of other states involved in subcontracting; market feasibility; technical feasibility; administrative feasibility; and, legal feasibility review.

ATTACHMENT H

H. FLSA
4/8/86

Should the Legislature decide to make the necessary legislative changes to enable subcontracting with the private sector, Correctional Industries could expect to employ inmates at a minimal cost.

RAM/PGS/jh

April 8, 1986

STATEMENT TO THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE IN
SUPPORT OF SB 731.

The Kansas Correctional Association is a non-partisan organization comprised of over 250 members who work in all facets of the correctional system, adult and juvenile. The K.C.A. is dedicated to improving the criminal justice system at all levels in the State of Kansas.

The K.C.A. is concerned that inmate idleness continues to be a significant problem in that approximately one half of the inmate population do not have anything to do. We realize that the problem is not unique, but we do see that it is a problem that needs to be addressed.

The K.C.A. favors the expansion of programs to reduce idleness within our State facilities. We believe that SB 731 could expand the work program by providing additional employment.

We urge your consideration of the matter.

Thank you for the opportunity to appear before you today.



Ann Hebbenger, Lobbyist
Kansas Correctional Association
PO Box 1501
Topeka, Kansas 66601

ATTACHMENT I

A. FSA
4/8/86

J

LAW OFFICES
HIATT & CARPENTER, CHARTERED
627 S. TOPEKA AVENUE
TOPEKA, KANSAS 66603-3294

EUGENE W. HIATT
EDWIN P. CARPENTER
RONALD R. HEIN
DAVID C. CARPENTER
STEPHEN P. WEIR

TELEPHONE
AREA CODE (913)
232-7263

TESTIMONY OF MESA PETROLEUM
HOUSE FEDERAL AND STATE AFFAIRS
RE: HB3141 and HB3143
April 7, 1986

Mr. Chairman, Members of the Committee:

My name is Ron Hein. I am Legislative Counsel for Mesa Petroleum. We appreciate the opportunity to testify on HB3141 and HB3143, but must stand in opposition to both bills.

Mesa Petroleum certainly has concerns for the rights of surface owners and the needs of irrigators. We are proud of the efforts and actions of Mesa to compensate surface owners quickly and fully when damages occur. But we do not feel that HB3141 and HB3143 are the appropriate solution to the problem.

Both bills represent substantial changes in policy for the State. Both bills raise significant constitutional and practical questions.

Property owners, when they hold surface interests without mineral rights, know and understand the rights of mineral owners, and there is no need to disproportionately change the relationship in favor of surface owners at this time.

Although surface owners' rights generally are subject to reasonable access and use by producers, producers such as Mesa have historically fully compensated the surface owner for damage. For example, Attachment A indicates compensation Mesa has recently paid surface owners.

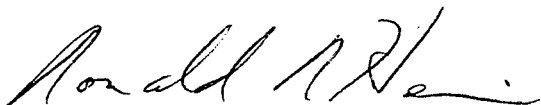
These bills contemplate paying surface owners for more value than the total fair market value of the land. Such compensation is not realistic and is inappropriate.

For your information, Attachment B summarizes some of the major problems with the bills being considered today.

Thank you for permitting us an opportunity to testify.

Sincerely,

HIATT & CARPENTER, CHARTERED



Ronald R. Hein
Legislative Counsel
Mesa Petroleum

RRH:lc

ATTACHMENT J
#18/86 H.F.LSA

ATTACHMENT A

EXAMPLES OF RECENT
SURFACE DAMAGE SETTLEMENTS
HUGOTON AREA

Charles 1-12 Well - Irrigated Cotton

Surface Damage - 5.2 acres at \$1,000 per acre	\$ 5,200
Fair Market Value of Crop	0
Irrigation Line (in lieu of crop damage)	6,274

	\$11,474

Hungate 2-13 Well - Dry Land Wheat

Surface Damage - 4.1 acres at \$1,000 per acre	\$4,100
Fair Market Value of Crop - 4.1 acres at 47 bushels per acre at \$3.53 per bushel	680

	\$4,780

Benney 1-6 Well - Pasture Land

Surface Damage 1.5898 acres at \$1,000 per acre	\$1,590
---	---------

ATTACHMENT B

MESA'S COMMENTS TO
KANSAS HOUSE BILL 3141 AND 3143

1. The existing leases are legal contracts which already provide compensation for damages and clearly define the rights of the parties.
2. The existing lease is a contract of record. The surface owner holds the surface rights subject to the existing lease created at the time the rights were severed. The surface value is always less than for land including the mineral rights.
3. No realistic correlation exists between surface damages and a 1/32 producing override. The override would be a substantial amount of money from some wells and insignificant from others. Such an override would not be equitable or fair to the surface owners or the producers. The override ignores a standard based on the actual damages incurred.
4. The bill is ambiguous concerning which parties are to receive the override. It is unclear if all surface owners within a proration unit or only the well site surface owner would share in the override. If all owners within the proration unit share in the override, some would be compensated even though no "ongoing damage to soil and growing crops" would occur. If only the well site surface owner received the override, other surface owners would not be compensated for roads and other obstructions to agricultural operations. The bill ignores the existing mechanism of compensating for surface damages where they occur.
5. The State of Kansas would be in effect creating a mineral interest for the surface owner. Would the bill make this mineral interest not severable from the surface rights?
6. The bill does not address the problem of tenants on the land. Would tenants receive compensation?
7. A conflict of interest could develop between mineral and surface owners. The 1/32 override would detract from the economic feasibility of drilling some wells. The override would also cause the premature abandonment of wells. State severance taxes would also be adversely affected by such an override.
8. In many cases, the surface and mineral owners are the same. Whether or not the same, owners already receive payment for surface damages and compensation under the terms of the mineral lease.
9. A significant administrative burden would be incurred to monitor changes in surface ownership. Who would be responsible for monitoring liens on the surface and acquiring subordinations from mortgage holders?
10. The definition of "extraordinary damages" is ambiguous in the bill.