

Approve. \_\_\_\_\_

4/9/88  
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by SENATOR EDWARD F. REILLY, JR. at  
Chairperson

11:00 a.m./p.m. on March 15, 1988 in room 254-E of the Capitol.

All members were present except:

Senator Hoferer and Senator Vidricksen were excused.

Committee staff present:

Mary Galligan, Legislative Research  
Mary Torrence, Assistant Revisor of Statutes  
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

Senator Paul "Bud" Burke  
Mr. Roger Endell, Secretary, Department of Corrections

The Chairman announced that today's meeting was for the purpose of hearing from Secretary Roger Endell, of the Department of Corrections.

The Chairman introduced Senator "Bud" Burke, who requested introduction of legislation, concerning licensure and regulation of sellers of dogs and cats. He said the draft contains the same provisions as the bill that was passed out of this Committee, SB563, and the same form that was debated on the Senate Floor. The bill was killed in the House Committee yesterday. The Chairman asked why it is not being considered in the House. The Chairman pointed out that it was passed out of this Committee, and it was amended on the Floor of the Senate, with the majority of Senators voting for it.

The Chairman stated that before the Committee was an outline of the remarks from former Senator Elwaine F. Pomeroy, now Chairman of the Kansas Parole Board. (Attachment #1)

Secretary Endell was welcomed for his presentation of his report entitled "Critical Issues in Kansas Corrections: A Time for Decision," dated March 1, 1988. (Attachment #2) This had been distributed earlier for the Committee Members, and the Secretary gave an overview of the report. The Chairman thanked him for the excellent report.

Secretary Endell answered questions from the Committee.

The meeting was adjourned.



Members

Elwaine F. Pomeroy  
Chairman

Joan M. Hamilton  
Vice-Chairman

Frank S. Henderson, Jr.  
TOPEKA, KANSAS 66612-1220  
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George V. Jones  
Director

**KANSAS PAROLE BOARD**  
**LANDON STATE OFFICE BUILDING**  
**900 JACKSON STREET, 4TH FLOOR**  
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OUTLINE OF REMARKS

By Elwaine F. Pomeroy

Chairman, Kansas Parole Board

Downtown Topeka Kiwanas Club

March 14, 1988

Parole board responsibilities

Parole

Revocation

Advice on clemencies

Statutory charge

Size of agency

Factors considered

Crime

Criminal history

Disciplinary record

Program participation

Parole plan

Public input

Work closely with D.O.C.

Regular meetings

Renewed cooperation

*Senate FSA*  
*3/15/88*  
*Attachment #1*

Increased decisions concerning inmates

FY 1985 - 2,325

FY 1986 - 2,718

FY 1987 - 3,072

First half FY 1988 - 1,785

Increased revocation hearings

FY 1985 - 402

FY 1986 - 496

FY 1987 - 590

Increased number of institutions

Increased hearing days - calendar crowded

Possible legislative prison overcrowding approaches

Make consideration of capacity a factor

Make public input a statutory factor

Increased, full funding of programs

More court services officers

More parole officers

Vocational rehabilitation services

Work release in metropolitan Kansas City area

Permit Secretary to release community corrections

type inmates from non-participating counties

Extended work release

Give Secretary more flexibility

Raise threshold of felonies

Funding of halfway houses

Credit for time in community corrections residential facilities

Risk assessment device

Hearing examiners for parole board

See inmates month before parole eligibility

**CRITICAL ISSUES IN KANSAS CORRECTIONS:**

**A TIME FOR DECISION**

**PREPARED BY: Roger V. Endell, Secretary of Corrections  
March 1, 1988**

*Senate FSA  
3/15/88  
Attachment #2*

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## OVERVIEW

The Kansas correctional system is on the edge of crisis. There are too many inmates in too little space. An unstated correctional policy of benign neglect is neither optional nor affordable. Neither can the state continue to follow a piece-meal approach toward resolving major correctional system problems.

The two most urgent and prioritized issues can be simply stated. First, there is an immediate need to develop alternative placements for 2,400 offenders who either are now or will be residing in the state's existing, overburdened correctional facilities. Alternative placements include two major policy choices. The state must divert 2,400 inmates out of the state correctional system, build 2,400 beds to hold them, or some combination of diversion and construction which will permit the relocation of 2,400 inmates as soon as possible.

Secondly, the state must move as soon as possible to evaluate its policies and/or laws in regard to the intake and/or release of inmates. The system must be brought to a position of zero annual population growth if it is to avoid the construction or development of 475 bed spaces each and every year, unless and until a leveling in the incarceration rate is observed. No hint of any downward or even stabilizing trend is on the horizon. Clearly, if major annual correctional system expansion is not affordable, then steps

must be taken in both policy and law to balance the number of inmates entering the correctional system with the number exiting from it.

The first problem requires immediate attention, while the second requires long-term and ongoing monitoring and adjustment.

In order to make the most appropriate public policy decisions concerning the crisis in the Kansas correctional system, it will be essential that correctional issues be removed as much as possible from the political arena. The focus must remain on the major responsibilities of the three branches of government--Executive, Legislative, and Judicial--which must act responsibly, cooperatively, and justly. All three branches of state government must be held accountable for the conditions of the correctional system. Wherever state executive and legislative branches of government have failed to operate their correctional systems in a manner that complies with constitutionally, statutorily, or professionally defined standards, the courts, particularly the federal courts, have not hesitated to take major, comprehensive, and dramatic steps to correct defined deficiencies. As a result, the state can lose control of its prison system and have little choice in determining the remedial actions which will be taken to bring the system into compliance with constitutional requirements.

Correctional reforms may be painful, costly, or both. The correctional dilemma in Kansas is clearly the result of

the clash of a punishment-oriented public policy, against hard economic realities. For example, while it is relatively easy to get tough on crime and criminals through the passage of more restrictive criminal laws, more diligent law enforcement, harsher sentencing practices, and more restrictive parole policies, it is more difficult to appropriate sufficient funds to the correctional system which must cope with the additional hundreds caught up in the broadening criminal justice net.

Kansas is not unique in facing the correctional dilemma. Most of the states across the nation have faced the same public policy issue. Some have dealt with it more successfully than others. Those states which have failed to act responsibly, however, have without exception had to cope with either state or federal judicial intervention. The State of Kansas will in fact be in Federal District Court in mid-March of this year to present a plan of implementation which must resolve the correctional crisis.



## POPULATION GROWTH

While a plethora of plans, studies, task force and consultant reports have accumulated over the past decade and more concerning the growth in Kansas' correctional population, that population has continued its steady and relentless growth until the entire system is now over capacity. Not only is there insufficient space for additional commitments, the population in several existing institutions must be reduced.

Although the crime rate in Kansas has been relatively steady in recent years, the number of inmates incarcerated in the correctional system has more than doubled since 1981. According to the Bureau of Justice Statistics, Kansas was number one in the nation in its increase in rate of incarceration between 1983 and 1987--a 69% increase. At the same time, the rate of parole of inmates from the correctional system has declined markedly from 80% in 1983 to 43% in 1987. The average annual increase of the inmate population for the years 1978-1980 was 34 offenders a year; but beginning in 1981 a more substantial pattern of growth emerged. In FY 1981 the growth rate was nearly ten times higher than the average yearly increase for the three previous years. Between 1984 and 1987 the population continued to escalate.

<u>Fiscal Year</u>	<u>Average Monthly Increase</u>	<u>Annual Increase</u>
1978 - 1980	2.8	34
1981	27.8	334
1982	28.5	342
1983	31.8	382
1984	53.6	643
1985	42.1	505
1986	37.8	453
1987	55.3	663

Total system growth for the seven-year period--1981-1987--was 3,322 inmates, above and beyond releases, or an average annual growth rate of 475 per year. Although there were some fluctuations from one year to another, the growth rate has been clearly upward and has caused dramatic pressures on the system. Without any doubt, overcrowding is the root of the correctional problem. The terrible irony is that correctional managers have little or no control or influence over the number of inmates who enter or exit the system, but are expected, nevertheless, to maintain institutional peace and dignity and to rehabilitate offenders so that they are returned to society as better citizens rather than more bitter.

## SYSTEM COORDINATION

The legislature defines certain behavioral acts as criminal and classifies those acts in at least a general way according to categories of crimes, i.e., misdemeanor or felon. The legislative process also establishes statutory sentencing ranges which the judiciary must adhere to in sentencing offenders. The judiciary must first determine guilt or innocence, and then, based upon considerations of public safety, must decide whether those found guilty will be supervised in the community or incarcerated. However, for those felons who are incarcerated, it is not the Kansas judiciary that decides on the length of sentence to be served. It is the three-member parole board which determines the actual length of confinement within the broad indeterminate structure of sentences based in the law and set by the judge. The court only sets the parameters of the criminal sanction, while the parole board controls the actual period of confinement.

Other criminal justice practitioners also influence what happens to an individual accused of criminal acts. Law enforcement personnel (i.e. the highway patrol, county sheriffs' departments, city police, and a variety of investigatory and regulatory agencies) and prosecutorial and defense personnel play an active part in determining criminal case outcomes. There are court services (probation) officers, parole officers and hundreds of correctional officers as well

as a multitude of management and therapeutic personnel in the criminal justice agencies. All resources are focused on the criminal violator and his or her behavior.

The criminal justice system might be compared to the conveyor belt of American industry. Something enters at one end, many processes take place along the line and a final product is produced at the other end. It is also possible to divert the product somewhere along the line so that it need not always travel the full length of the system.

The problem with the criminal justice process is that the agencies do not often coordinate their various activities with careful attention to detail and the impact of even minute changes to the way business is conducted.

In Kansas, as in most states, there is a need to more effectively address the proper coordination and management of the state's criminal justice system. A true criminal justice system, of which the correctional system is a component, must be managed in a systematic way. A criminal justice coordinating council could do much to insure that the problems, concerns, and policy and procedural changes necessary for balancing the system are given a high priority. A focus on one part of the system (corrections) will prove ineffective without the involvement, consideration, and coordination with other agencies of justice. The leaders of the state's criminal justice agencies, not substitutes or designees, should meet monthly on an ongoing, permanent basis to coordinate criminal justice policy and procedure.

Representatives of all three branches of state government as well as county and city justice agencies should be included.

This is a low-cost recommendation which could have a substantial and substantive impact on sound public administration of the state's criminal justice system. A variety of views on criminal justice policy should be aired in an environment that includes attention to system impact and limited fiscal resources. A Kansas criminal justice coordinating council should initiate recommendations and seek implementation of policy changes in criminal law, sentencing, prosecution, community and correctional placement and programming and release. To do any less will perpetuate the unplanned and unintentional fragmentation that has evolved between and among the agencies of justice in Kansas.

## OVERCROWDING

Judicial precedent, the experiences of other states in similar circumstances, and American Correctional Association (ACA) standards as well as a variety of other resources and opinions are available to guide correctional policy and decision making with regard to the overcrowding dilemma. A variety of options exist from diversion of inmates from the system entirely to construction of new facilities, with a multitude of variations in between.

Kansas is faced with a decade-old lawsuit which focuses on the Penitentiary. However, if the population is decreased at the Penitentiary, it is certain to overwhelm other parts of the system. Therefore, it is essential that total correctional system capacity be considered in any solution to overcrowding.

In order to remove the Kansas correctional system from judicial intervention, steps must be taken immediately to relieve several severely overcrowded institutions from inmate population pressures.

Utilizing the nationally-recognized guidelines established by the ACA for computation of adequate space per offender held in a variety of correctional environments, it is clear that the system is overcrowded. Although the ACA standards are guidelines and not constitutional minimums, they represent the best professional parameters available. In fact, approximately 1,100 offenders must be removed from the

Penitentiary complex at Lansing, nearly 600 must be removed from the Reformatory complex at Hutchinson and approximately 100 must be removed from the Vocational Training Center at Topeka. To this must be added the average annual increase of 475 new offenders for a total of 2,275 offenders for whom new placements must be developed just to house the present-year population. Because of the time lag which occurs during the development of these new alternatives, the Department estimates that a total of approximately 2,400 placements will be necessary.

There is no question that the least expensive alternative available as a policy choice would be to divert a majority of the 2,400 offenders from incarceration status. For example, if 100 new parole officers costing \$50,000 each (salary, offices, cars, fringe benefits, etc.) were to be hired, they could manage all 2,400 inmates under intensive caseload supervision of 24 each at a cost of \$5 million. This is likely to represent the least costly alternative available; but, the Department of Corrections has no authority to release 2,400 inmates to parole supervision. We must also question whether the citizens of Kansas would accept the immediate release of 2,400 inmates to the streets of Kansas with or without intensive supervision. It is likely that a much smaller number might be acceptable, if the Department could divert some number of low-risk offenders to an expanded community corrections program, and/or the parole board would increase the release of low-risk offenders.

The Department of Corrections' recommendations which follow are based upon development of a balanced spectrum of correctional services directed at all custody levels, i.e., maximum, medium, minimum, and community custody. Any facilities recommended for renovations, additions or new construction should be multi-security level. In reality most correctional facilities are not entirely devoted to a single-custody level, although one or two levels may predominate. Contemporary correctional theory and practice requires that multiple levels of security housing be available within any new physical plant.

Recently, there has been a trend in Kansas for the conversion of antiquated mental health facility space to correctional use. While some conversion alternatives are possible at a reasonable capital cost, the trend cannot continue without incurring substantially increased operating costs over the life-cycle at these converted structures, and without increasing risks to inmates and staff who must live and work in environments not designed for correctional operations. The assumption that this practice should be continued beyond what is proposed herein would be both erroneous and hazardous.

The following six-point plan has been developed to meet the existing critical need for developing alternative placement of 2,400 inmates as soon as possible. The plan represents our best professional judgment. It focuses on the immediate crisis now facing the State of Kansas. (The



Department's long-term policy recommendations are addressed elsewhere in other parts of this plan.)

1. The Ellsworth Correctional Facility presently has one 96-bed minimum security housing unit under construction. Bid documents are being prepared for one 128-cell medium security housing unit. Existing plans include one additional 128-cell medium housing unit to be included in the 1990 budget. This is a total of 352 beds. The Department of Corrections is proposing to delay the bid process for the authorized 128-cell medium housing unit in order to add two additional 128-cell medium housing units at an additional cost of \$9.2 million. This action would complete the Ellsworth Facility with a total capacity of 480. Placing three housing units for bid at one time should result in greater efficiency and considerable savings, as well as creating greater capacity.
2. A 400-bed industrial complex should be developed on the grounds of the former Detroit Mobile Home plant at Hutchinson. The site and existing buildings can be purchased for \$600,000 and developed into a 400-bed work-oriented correctional facility for approximately \$5.5 million. Modular

housing units can be fabricated and erected through inmate labor. The former Detroitter plant can be converted to an industrial complex wherein all offenders assigned will have work in public service projects, correctional industries and joint-venture industries with the private sector.

3. A new 700-bed multi-security correctional facility should be constructed in or adjacent to Sedgwick County so that the treatment and other professional resources of the Wichita area are easily accessible. Although Wichita is the largest city in the state, it has no major correctional facilities which would provide comprehensive correctional services from maximum custody to community programs. The approximate cost of this new facility, estimated at \$64,900 per cell, is \$45.4 million.
4. A second new multi-security level facility is recommended for construction at a location yet to be determined. This facility should be built to hold 500 offenders. The cost of these cells is also estimated at \$64,900 each for a total of \$32.5 million. This facility, along with the proposed 700-cell institution and the increased Ellsworth facility

capacity, would help to absorb the overflow from existing facilities.

5. An additional 260 beds oriented toward mentally retarded inmates (200) and ambulatory or physically impaired offenders should be developed in the remaining housing unit soon to be abandoned by the Department of Social and Rehabilitation Services at Norton. Estimated costs for necessary improvements at Norton which would complete the conversion of the facility to correctional operations is \$6.6 million. The Department of Social and Rehabilitation Services estimates departure from the Norton facility by December 31, 1988.
6. Four-hundred presently incarcerated offenders should be screened and classified for community custody and placed in beds and/or intensive supervision programs developed by counties and/or private vendors under competitive contractual selection by the Department of Corrections. The Department estimates that these 400 offenders can be placed in community corrections programs at little risk to the public safety at a cost not to exceed \$20 per day or a total of \$3 million per year. The Department will

establish and monitor all program standards and award contracts to the lowest responsible bidders, whether governmental or private. Offenders placed in these programs must be selected from those presently residing in existing state-operated correctional facilities. These programs will be developed as re-entry programs focusing on the community-based re-entry needs of the selected offenders.

While this six-point plan obviously does not explore in detail all of the factors that resulted in the selection of each part, it does adequately outline the relocation plan that the Department feels is necessary for the safe removal of approximately 2,400 offenders presently overcrowding the system.

In summary, the following outline represents the six-point plan and the estimated costs in current dollars determined to be essential in alleviating the present overcrowding crisis:

<u>Location</u>	<u>#Placemts.</u>	<u>Capital Improvements.</u>	<u>Operations 1st Full Yr.</u>
1. Ellsworth	256	\$9.2	\$3.8
2. Hutchinson Industrial Complex	400	6.1	6.0
3. Sedgwick Co. Area	700	45.4	10.4
4. Loc. to be Determined	500	32.5	7.5
5. Norton	260	6.6	4.8
Capital Program Mgt.	-	-	.6
6. Community Corrections	400	-	3.0
Subtotal	2,516	\$99.8	\$36.1
Estimated Savings to Existing Institutions	-	-	(4.4)
TOTAL	2,516	\$99.8	\$31.7

In addition, the Department of Corrections plans to remove the present population of the Vocational Training Center in Topeka. The majority, if not all, of the present population at the Center would be likely candidates for the enhanced community corrections re-entry programs. Following evacuation of the present population, the entire female portion of the facility at Lansing (KCIL) would be relocated to the Topeka facility now called the Kansas Correctional-Vocational Training Center.

The relocation of the female correctional population from Lansing to Topeka would not necessarily save any substantial amounts of money. In fact, a small amount of money may be needed for conversion costs, i.e., fencing, toilets, etc. Any staffing or budgetary imbalances would be redirected to other

correctional facilities with identified shortages or critical needs. New construction planned or underway at KCIL in Lansing would need to proceed on schedule but the complex would be used, upon completion, to house male offenders rather than female, and the entire Lansing complex of facilities will be managed by the administrative Director of Kansas State Penitentiary. At both facilities every effort would be made to maintain the existing staff. Reassignment would be minimal.

## COMMUNITY CORRECTIONS

The term "community corrections" as it is used in this document is not synonymous with, and goes well beyond the scope of the Community Corrections Act. Community corrections, in its broadest sense, encompasses any correctional activity occurring outside of an institutional setting. This would include probation, parole, pre-release centers, work release centers, honor camps, furlough programs and those programs funded through the Community Corrections Act. Since Kansans generally think of programs funded by the Community Corrections Act when they hear the term "community corrections" it may be most helpful to focus on that portion of community corrections first.

Confusion and controversy seems to have emerged around a basically sound concept. The State of Kansas enacted legislation several years ago which created another alternative for judges responsible for sentencing felony offenders. Traditionally, the judiciary had two options to consider for felony sentences, i.e., probation supervision or incarceration. The Community Corrections Act created a third alternative as a sentencing provision for judges to consider between probation and incarceration. In fact, the majority of the nearly 2,000 offenders managed under terms of the Community Corrections Act last year were placed in programs of intensive supervision operated by 10% of the state's 105 counties. Community corrections in Kansas consists primarily

of intensive supervision provided by the state's larger counties. The legislative program was oriented toward the relatively lower echelon felony offender, particularly non-violent, non-sex offender, and unrepetitive class D and E felons. For those offenders who fall in this category that the counties did not keep, there was a penalizing charge-back fee used as a negative inducement which would persuade the counties to keep and hold as many of these offenders as possible. The goal was to help alleviate state prison overcrowding as well as to give more deserving low-risk offenders the opportunity to redeem themselves short of being sent to prison.

Because of problems with the system, principally the charge-back fee, a legislative interim committee has proposed new legislation at the various counties' request. The new amendments are now before the legislature.

The Department of Corrections is not opposed to the Community Corrections Act nor to the concept it represents. The Department feels, however, that the program needs review. The Department's analysis is that the program is basically a contract between the legislature and the participating counties with only token administrative management by the Department of Corrections. Ironically, the Department of Corrections has little or nothing to say about placements made by the court into the county programs, except through occasional input from the Diagnostic Center. In fact, the Community Corrections Act programs are not formally available as an option for the placement of offenders committed to the



Secretary's custody, even though many offenders meeting the Act's criteria were not retained by the counties.

The position of the Department of Corrections is that the concept of community corrections is sound but that the Community Corrections Act should be evaluated. The Department will review its leadership role within the Community Corrections Act during the next year. In that time the Department will work with local officials to develop program standards and evaluate current processes. The Department needs to have the latitude to set programmatic criteria and operational standards under contractual arrangements with the counties, both within and outside the scope of the Community Corrections Act. However, we need not eliminate any existing programs, only improve them by increasing their efficiency and effectiveness in the quantity of offenders being reached and programs being delivered.

If diversion of offenders at the front door of the system (sentencing) is matched with diversion of offenders at the releasing end (pre-release programs for incarcerated offenders) then the program might be considerably improved.

It has been noted that considerable interest has been expressed in para-military boot camp programs oriented toward young first offenders who might be likely to change their behavior under a rigid regimen of military discipline. This intensive program of a few months duration should be available to sentencing judges as an option within the generic principles of community corrections. Upon successful

completion the offender might have his sentence modified and thereby avoid long-term incarceration in the state's penal system. The boot camp regimen would be particularly appropriate for contractual operations by either county or private sector contractors. This program should not be operated by the Department of Corrections since the Department has no authority to release those who successfully complete it. A boot camp correctional program should be a front door diversion for those not committed to the custody of the Secretary of Corrections for felony criminal violations.

In summary, community corrections in Kansas ought to be evaluated to determine Department of Corrections input, standard setting and administrative monitoring. The programs should be enhanced by including further development of intensive supervision, development of contract beds including community residential centers and boot camps--all under competitively-selected contractors and/or existing county programs.

## CORRECTIONAL PROGRAMS

The basic programmatic feature being developed by the Kansas Department of Corrections will involve putting the able-bodied correctional population to work; that is, except for the very high risk offenders--the management problem inmates represent a small portion of the entire prison population--all inmates should be provided the opportunity to be meaningfully involved in work. Most offenders would prefer to have something worthwhile to do while serving their sentence.

The goal of the work effort is not necessarily to develop new professional or occupational skills. That might be a fringe benefit. The principal purpose of the program is to teach offenders to develop good work habits and work skills, i.e., being to work on time, putting in a full honest day, etc. The inmate work day should be supported by other rehabilitative programs, such as those for substance abuse, sex offender therapy, mental health counseling, job skills enhancement, medical and dental programs, recreation, etc.; but, these programs should supplement the work orientation the same way they do for law-abiding citizens who live in the community. In other words, our goal through development of a strong work ethic is to teach offenders how to live in society the way most law-abiding citizens do.

Exceptions to the work orientation should be granted only to that exceptional, and relatively small, group of inmates

who are unmanageable or who have other disabilities of a mental or physical nature which would prohibit them from benefiting from work programs. Another exception should include inmates who must, as a first priority, learn to read and those who lack a high school diploma and, therefore, need to acquire a G.E.D. certificate before being permitted to go on to work programs.

Work programs should be developed on three levels. The first is the traditional track of institutional maintenance, the house cleaning and food preparation jobs typically given to new inmates. The second level work program will focus on public service or public works kinds of projects completed by some offenders while inside the perimeter boundaries, but by other offenders while under supervision in the surrounding community or county. The third and most sophisticated level of inmate work programs will be the correctional industries program where goods and/or services are produced for profit and for enhancement and expansion of the industries program. Even more sophisticated is the joint venture industries model where correctional labor joins with private sector enterprise to produce goods and services on the open market.

These programs can and will be developed in a manner that does not compete with private sector jobs. In fact, correctional industries can be utilized as a catalyst to develop small private-sector businesses and industries in Kansas.

Good work programs already exist in the system, but need

to be expanded.

Eventually, as an inmate progresses through the system from more to less restrictive custody levels all therapeutic programs should be completed and the offender readied for pre-release programming in an honor camp or community residential center or other community program (pre-release center, work release center, contract residential center, etc.). With few and rare exceptions, all offenders should prepare for release through community-based re-entry programs. Only the highest risk offenders (i.e., management problems, escape risks) might be excluded from re-entry program opportunities.

An enhanced restitution component can also be incorporated into the work programs. Offenders can return at least a portion of the cost of their crime to the victim and/or the state. The daily cost of care or a portion of it can be fairly and justly required of offenders who have jobs in the community, while another portion of earnings is set aside toward release or toward support of dependents.

The correctional system must make every effort to teach offenders to live like responsible citizens. Those who learn quickly should be rewarded with rapid promotion through the system. Those who do not learn acceptable habits will be retained.

## RELEASE MECHANISMS

The three-member Parole Board is the gatekeeper for the entire correctional system of the State of Kansas. Very few offenders complete their sentences without being paroled. One-hundred and forty-six inmates, or 7.2% of all releases from incarceration in FY 1987 were accomplished via conditional release; that is, released after serving all of the maximum sentence minus time taken off for good behavior. The number, although small, has increased steadily as parole releases have declined. For most offenders, the time of release as well as the conditions of release are set by the Board. It is clear that a better understanding of Board policies might lend more predictability to the system. For example, the Department of Corrections could benefit from knowing the probable release dates of the inmates in its custody, particularly those who are now classified as minimum security. Approximately 3,900 offenders are now within two years of their earliest parole review date, but we cannot predict with any accuracy when most of those might be released.

Predictability is critical to sound management of the system. We need to know who and how many will be released in three months, six months, and one year ahead of time, for example. The Department can then develop the inmate's program toward his or her probable release date.

Parole guidelines, parole contracts, the establishment of

probable release dates and other alternatives are possible; but the release decision is still beyond the control of correctional managers operating within indeterminate sentencing structures. The Department could acquire a degree of predictability if given the latitude to progressively program the offender population. That is, if we can accurately define the offenders programmatic or therapeutic needs, then channel him or her through a progressive treatment and work plan, and when the offender has proven successful we will then provide for his or her release.

For example, if after learning to read, acquiring a G.E.D., completing substance abuse programming, and establishing a successful work history, the offender is placed in a community residential program or honor camp program which he or she completes successfully; the offender ought to be released. If not paroled at that point, a furlough program ought to be considered and if completed successfully, parole should be granted in law, automatically. In other words, successful progress should be recognized via alternative release mechanisms. The offender should be given options for earning his or her way out of the correctional system in a planned, prescribed or predetermined manner set with the offender by correctional staff.

Technology may offer a cost-effective option for a portion of the overcrowding problem. In addition to the population already targeted for community placement, a second group exists which may also be candidates for such placement

with the additional security enhancement of an electronic monitoring/surveillance system. This potential population would be drawn from the more high-risk elements of the prison population. Costs vary from as low as \$3.85 per offender per day to as high as \$19.00 per offender per day. The common feature in all of these programs is that offenders placed in the programs work and pay part or all of the cost of the monitoring equipment. The equipment can be purchased or leased and/or a contract with a private firm for a total electronic monitoring operation is possible.



## COSTS AND METHODS

### Financing

The financing of capital improvements within the Kansas Department of Corrections needs to be managed in the most fiscally prudent manner available. There is little doubt that the nation's largest and most prestigious financial firms are now involved in keen competition for the nation's correctional expansion projects.

The State of Kansas already appears to have an excellent financial tool available in the form of the Kansas Development Finance Authority (K DFA). It is conceivable that all Department of Corrections' capital improvement projects could be combined into one major project funded through K DFA efforts with a good financial result for the state. Thus consolidation of all projects may be more advantageous than financing a variety of separate projects and packages.

Correctional managers and administrators are not finance experts. We must of necessity relinquish project financing decisions to others in the executive and legislative branches of government and in the private sector financial community who possess the necessary skills and expertise.

### Design and Construction Management

The design and construction management responsibilities required for correctional capital improvements must be addressed quickly. A private sector construction and design management firm should be selected at once by the Department

of Corrections. This firm should provide a team to be responsible directly to the Department and should provide ongoing design and construction management services. The firm should provide oversight of all correctional projects for the duration of the projects identified in this plan. The team selected must have had experience in similar work elsewhere in the nation but must agree to set as the highest priority the selection of contractors and sub-contractors who are from Kansas-based businesses and firms. The team must utilize the contemporary concepts of value engineering which expedite design and construction while eliminating waste. All projects must be delivered at or under the budgeted estimates of costs and must be completed on time. The selected firm should serve as the single-point contact for the Department as well as the Division of Architectural Services.

It is imperative that design and construction cost estimates be developed immediately by the selected firm. We estimate the costs for the first six months of construction and design management to be \$565,000, with the balance of the services paid from capital improvement funding.

#### Site Selection

Whenever and wherever construction of new correctional facilities is to be considered, the Department of Corrections will establish minimum standards for site criteria. For example, local jurisdictions interested in competing for consideration as potential sites for correctional expansion will need to be willing to offer a minimum of 300 acres with

roads and utilities to the proposed sites, at no cost to the state.

Other priorities will include the community's rehabilitative resources, access to major transportation corridors, distance from the state's major centers of population, and public acceptance.

#### Other Improvements

Funds must be appropriated annually to permit on-going and emergency maintenance at the institutions and facilities. Because of the great size and age of much of the correctional system's physical plant, a maintenance budget must be provided which will allow management to respond to facility needs as they occur. An annual amount of \$1.5 million is initially recommended for this purpose.

To properly manage and support the current system as well as the expanded one proposed herein, additional central office professional and support staff and additional medical staff for the Penitentiary are required. The U. S. Department of Justice, a private consultant, and institutional management have reported insufficient medical and mental health staff at the Penitentiary to adequately provide proper medical and mental health care. In conjunction with deficiencies cited by the Justice Department, the increased population and the renewed court litigation, additional central staff is needed in the areas of legal counsel, medical management and inmate programming. In total, these initiatives would require 19 additional positions and operating support, seven in the

central office and 12 for the Penitentiary, at an annualized first-year cost of \$800,000. In addition, the Justice Department recommends improvements to the A & T Building at the Penitentiary. Estimates for these improvements included in the Department's budget submission place the cost at \$910,000. These estimates are currently under review.

Finally, we are reviewing the status of operating budgets for all programs and facilities. Preliminary analysis indicates possible shortages in funding for medical care and that some shifting may be required among other budgets to match funding with inmate populations. Also, the report received from the project consultant indicates funding proposed by the Department and recommended by the Governor for electrical improvements at the Penitentiary is understated by \$1.1 million. The report is under review, but improvements must be made in this area.

#### Summary

The following table succinctly represents the costs of improvements discussed in this plan. There is no question that major improvements to the state's correctional system are necessary. The situation requires immediate attention. Decisions and commitments must be made now so that the pressure on overcrowded correctional facilities can be relieved. The Kansas Department of Corrections can be safely operated in a manner that will satisfy statutory, constitutional and professional standards; but it cannot be accomplished without a commitment to action by both the

executive and legislative branches of government.

(Millions Current Dollars)

	<u># Placemts.</u>	<u>Improvemts.</u>	<u>Operations 1st Full Yr.</u>
Six-Point Plan (Page 16)	2,516	\$99.8	\$31.7
Penitentiary			
Medical Staff & Capital			
Improvements	-	2.0	.5
Central Management			
Medical, Legal, Program			
Staff/Support & Major			
Maintenance	<u>-</u>	<u>1.5</u>	<u>.3</u>
TOTAL	2,516	\$103.3	\$32.5

## APPENDIX

### "CRITICAL ISSUES IN KANSAS CORRECTIONS: A TIME FOR DECISION"

Projected costs cited in "Critical Issues in Kansas Corrections: A Time for Decision" represent current dollar estimates. The following information supplements that included in the report and is provided to reflect estimated inflation added costs at the time of implementation and the two primary methods of funding the proposed capital improvement program. This appendix contains the following:

ATTACHMENT 1 - PROJECTED CAPITAL IMPROVEMENT COSTS INFLATED TO BID

- A. SIX-POINT PLAN: FUNDED WITH DIRECT APPROPRIATION
- B. SIX-POINT PLAN: FUNDED WITH BOND PROCEEDS
- C. OTHER: FUNDED WITH DIRECT APPROPRIATION

ATTACHMENT 2A- DESCRIPTION OF BOND FINANCING OPTION

ATTACHMENT 2B- DEBT RETIREMENT SCHEDULE

ATTACHMENT 2C- LEGISLATION SUGGESTED BY THE KANSAS DEVELOPMENT FINANCE AUTHORITY TO AUTHORIZE BONDS TO FINANCE THE CAPITAL IMPROVEMENT PROGRAM

ATTACHMENT 3 - PROJECTED ANNUAL OPERATING COSTS TO FULL IMPLEMENTATION

ATTACHMENT 4 - SCHEDULE FOR IMPLEMENTATION

**ATTACHMENT 1**

**PROJECTED CAPITAL IMPROVEMENT COSTS INFLATED TO BID**

**A. SIX-POINT PLAN: FUNDED WITH DIRECT APPROPRIATION**

<u>Project</u>	<u>New Placements</u>	<u>Cost Current \$ (Millions)</u>	<u>COST AT BID</u>			
			<u>FY 1989</u>	<u>FY 1990</u>	<u>FY 1991</u>	<u>Total</u>
Ellsworth	256	\$ 9.2	\$ 2.0	\$ 5.8	\$ 1.7	\$ 9.5
Hutchinson	400	6.1	1.3	3.9	1.1	6.3
Sedgwick Co. Area	700	45.4	9.8	28.6	8.3	46.7
Undesignated	500	32.5	6.4	21.0	6.1	33.5
Norton	260	6.6	1.4	4.2	1.2	6.8
<b>Total</b>	<b>2116</b>	<b>\$ 99.8</b>	<b>\$ 20.9</b>	<b>\$ 63.5</b>	<b>\$ 18.4</b>	<b>\$ 102.8</b>

**B. SIX-POINT PLAN: FUNDED WITH BOND PROCEEDS**

<u>Projects</u>	<u>New Placements</u>	<u>Cost Current \$ (Millions)</u>	<u>BOND RETIREMENT - 20 YEARS</u>				<u>Total</u>
			<u>FY 1989</u>	<u>FY 1990</u>	<u>FY 1991</u>	<u>FY 1992 thru FY 2009</u>	
Ellsworth	256	\$ 9.2	\$ -	\$ .9	\$ .9	\$ 16.3	\$ 18.1
Hutchinson	400	6.1	-	.6	.6	10.8	12.0
Sedgwick Co. Area	700	45.4	-	4.5	4.5	80.5	89.5
Undesignated	500	32.5	-	3.2	3.2	57.7	64.1
Norton	260	6.6	-	.6	.6	11.8	13.0
<b>Total</b>	<b>2116</b>	<b>\$ 99.8</b>	<b>\$ -</b>	<b>\$ 9.8</b>	<b>\$ 9.8</b>	<b>\$177.1</b>	<b>\$196.7</b>

**C. OTHER: FUNDED WITH DIRECT APPROPRIATION.**

	<u>Cost Current \$ (Millions)</u>	<u>FY 1989</u>	<u>FY 1990</u>	<u>FY 1991</u>	<u>Total</u>
Penitentiary	\$ 2.0	\$ .9	\$ 1.1	\$ -	\$ 2.0
Department	1.5	1.5	1.5	1.5	1.5*
<b>Total</b>	<b>\$ 3.5</b>	<b>\$ 2.4</b>	<b>\$ 2.6</b>	<b>\$ 1.5</b>	<b>\$ 3.5</b>

\*Annual Amount

## ATTACHMENT 2

### A. DESCRIPTION OF BOND FINANCING OPTION

The construction and renovation program outlined in the six-point plan can be financed by the issuance of revenue bonds by the Kansas Development Finance Authority. The bonds would be secured by a lease agreement between the Authority and the Kansas Department of Corrections and paid from annual appropriations to the Department for lease of the various correctional facilities. The term of the lease agreement would match the 20-year life of the bond issue, but like any state lease, it would be subject to annual appropriation of funds. When the bonds have all been retired, ownership of the collateral facilities would automatically transfer to the Department of Corrections.

The issuance of revenue bonds by the Kansas Development Finance Authority for state agency activities or projects is governed by subsection (b) of K.S.A. 1987 Supp. 74-8905, which prohibits the issuance of bonds ". . . for any activity or project of a state agency unless the activity or project either has been approved by an act of appropriation or other act of the legislature or has been approved by the state finance council . . . ." Legislation authorizing the Secretary of Corrections to undertake the improvements outlined in the six-point plan should also include language which specifically authorizes the Secretary to obtain revenue bond financing for the improvements. Legislative language suggested by the Kansas Development Finance Authority follows as Attachment 2.C..



**ATTACHMENT 2**

**B. PROJECTED DEBT RETIREMENT SCHEDULE**

KANSAS DEVELOPMENT FINANCE AUTHORITY  
 SAMPLE DEBT SERVICE SCHEDULES (\$000)

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DEPARTMENT OF CORRECTIONS  
 SIX-POINT CAPITAL DEVELOPMENT PROGRAM

PROJECT COSTS:

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PRESENT VALUE COSTS:	\$99,800
INFLATED COSTS:	\$102,794
CONST INT INCOME:	\$8,694
NET COSTS:	\$94,100

FINANCING PARAMETERS:

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BOND PRIN:	\$109,770	RESERVE:	\$10,528
INT RATE:	7.500 %	COSTS:	\$1,372
AMORTIZN:	20.0 YR	CAP INT:	\$3,771

FISCAL YEAR	PRINCIPAL REPAYMENT	INTEREST PAYMENT	TOTAL PAYMENT	BOND RESERVE	RESERVE INCOME	CAPITALIZED INTEREST	NET PAYMENT
1989		4,116	4,116		345	3,771	0
1990	2,290	8,233	10,523		691		9,832
1991	2,460	8,061	10,521		691		9,830
1992	2,650	7,877	10,527		691		9,836
1993	2,850	7,678	10,528		691		9,837
1994	3,060	7,464	10,524		691		9,833
1995	3,290	7,235	10,525		691		9,834
1996	3,540	6,988	10,528		691		9,837
1997	3,800	6,722	10,522		691		9,831
1998	4,090	6,437	10,527		691		9,836
1999	4,390	6,131	10,521		691		9,830
2000	4,720	5,801	10,521		691		9,830
2001	5,080	5,447	10,527		691		9,836
2002	5,460	5,066	10,526		691		9,835
2003	5,870	4,657	10,527		691		9,836
2004	6,310	4,217	10,527		691		9,836
2005	6,780	3,743	10,523		691		9,832
2006	7,290	3,235	10,525		691		9,834
2007	7,840	2,688	10,528		691		9,837
2008	8,420	2,100	10,520		691		9,829
2009	19,580	1,469	21,049	10,528	691		9,830
<b>TOTAL</b>	<b>\$109,770</b>	<b>\$115,363</b>	<b>\$225,133</b>	<b>\$10,528</b>	<b>\$14,164</b>	<b>\$3,771</b>	<b>\$196,671</b>

ATTACHMENT 2

C. LEGISLATION SUGGESTED BY KANSAS DEVELOPMENT FINANCE AUTHORITY TO AUTHORIZE ISSUANCE OF BONDS

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

Section 1. (a) The secretary of corrections is hereby authorized to construct, renovate and equip correctional facilities of the department of corrections the costs of which shall not exceed \$99,800,000.

(b) For the purpose of paying all or part of the costs of the capital improvements authorized in subsection (a), the secretary of corrections is hereby authorized to obtain revenue bond financing from the Kansas development finance authority pursuant to K.S.A. 1987 Supp. 74-8901 et seq. and amendments thereto.

(c) The secretary of corrections is hereby authorized to enter into one or more financing agreements and related documents relating to the issuance of bonds authorized herein.

(d) Beginning with the budget request for fiscal year 1990 and continuing each year thereafter until the bonds authorized by this section are no longer outstanding, the secretary of corrections shall include in the annual budget request for the department of corrections a request for appropriated funds needed to meet any obligations authorized in subsection (c).

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

ATTACHMENT 3

PROJECTED ANNUAL OPERATING COSTS TO FULL IMPLEMENTATION

<u>Six-Point Plan</u>	New Placements	Cost Current \$ (Millions)	<u>COST AT IMPLEMENTATION</u>				
			Millions \$				
<u>Project</u>			<u>FY 1988</u>	<u>FY 1989</u>	<u>FY 1990</u>	<u>FY 1991</u>	<u>FY 1992</u>
Ellsworth	256	\$ 3.8	\$ -	\$ -	\$ -	\$ 2.3	\$ 3.7
Hutchinson	400	6.0	-	-	-	3.7	5.8
Sedgwick Co. Area	700	10.4	-	-	-	6.4	10.2
Undesignated	500	7.5	-	-	-	4.6	7.3
Norton	260	4.8	-	-	5.0	4.7	4.9
Cap. Prog. Mgmt.	-	.6	.2	.4	-	-	-
Comm. Corr.	400	3.0	-	3.0	3.1	3.2	3.3
Subtotal	<u>2516</u>	<u>\$ 36.1</u>	<u>\$ .2</u>	<u>\$ 3.4</u>	<u>\$ 8.1</u>	<u>\$ 24.9</u>	<u>\$ 35.2</u>
Less:							
Savings	-	(4.4)	-	-	-	(2.4)	(5.0)
Existing Operations							
Subtotal - Six-Point Plan	<u>2516</u>	<u>\$ 31.7</u>	<u>\$ .2</u>	<u>\$ 3.4</u>	<u>\$ 8.1</u>	<u>\$ 22.5</u>	<u>\$ 30.2</u>
<u>Other</u>							
Penitentiary		\$ .5	\$ .1	\$ .5	\$ .5	\$ .5	\$ .6
Department		.3	-	.3	.4	.4	.4
Subtotal - Other		<u>.8</u>	<u>.1</u>	<u>.8</u>	<u>.9</u>	<u>.9</u>	<u>1.0</u>
<b>TOTAL</b>		<b>\$ 32.5</b>	<b>\$ .3</b>	<b>\$ 4.2</b>	<b>\$ 9.0</b>	<b>\$ 23.4</b>	<b>\$ 31.2</b>

## ATTACHMENT 4

### SCHEDULE FOR IMPLEMENTATION

- March 11, 1988 - April 8, 1988 - Legislative Review and Action on "Critical Issues in Kansas Corrections: A Time for Decision"
- April 8, 1988 - May 1, 1988 - Selection of Capital Improvements Program Manager
- April 8, 1988 - June 30, 1988 - Preparation of Standards, Specifications and Contracts for Community Placements
- May 1, 1988 - November 1, 1988 - Capital Program Development, Site Selection, Detailed Cost Estimates, Schedules and Construction Systems
- July 1, 1988 - Initiate Community Placements
- July 1, 1988 - October 1, 1988 (If Bond Option Utilized) - Preparation Bond Documents, Issue Bonds
- October 1, 1988 - January 1991 - Preliminary and Final Design, Preparation of Bid Specifications, Select Contractors and Construction