

Approved 6/16/89
Date

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS

The meeting was called to order by SENATOR WINT WINTER, Acting Chairman at
Chairperson

9:10 a.m. on APRIL 21, 189 in room 123-S of the Capitol.

All members were present except:

Senators Doyen and Rock who were excused

Committee staff present:

Research Department: Diane Duffy, Paul West, Russ Mills

Revisor: Norman Furse

Committee Staff: Judy Bromich, Pam Parker

Conferees appearing before the committee:

Robert Stephan, Attorney General

Roger Endell, Secretary of Corrections

Hardy Rauch, Director of Standards, American Correctional Association

Larry Vardaman, President, Kansas Correctional Association

Kay Harris, Temple University

Michael Barbara, Washburn University

Jim Henderson, Correctional Consultant, Leavenworth

Charles Benson

Chip Wheelen, Kansas Medical Society

The Acting Chairman announced the purpose of this meeting was for discussion of issues relating to prison overcrowding in Kansas and no formal recommendations would be made until the next meeting, Monday, April 24th.

The first conferee was Attorney General Robert Stephan who commented on the recent statements by Judge Rogers and the hearing which was held April 13th. He stated the judge has made it very clear that he looks to the legislature to enact appropriate legislation this session to meet the demands of his order and pointed out that the judge has found that the state of Kansas has acted in an unconstitutional manner as to the inmates in the state's correctional facilities. By reason thereof, the Judge has taken extraordinary corrective action. General Stephan stated the court has, in his opinion, been very patient in regard to this matter. He quoted some of the relevant statements made at the last hearing with the judge. (Attachments 1 and 2) He said any plan submitted must contain not only the numbers outlined in the order, but support services and compliance with ACA standards.

Mr. Stephan stated that it is always possible to use some existing structures but he anticipates construction of some new facilities. His advise in regard to the order is that the numbers should be considered; expert advise will be required, and upon that expert advise, a mix of renovation and construction will be expected which will meet ACA standards; and the provision of adequate support services will also be expected. He stressed the importance of having the facilities within the range of community support services and facilities that are available. States that have not met court orders have seen a tremendous increase in cost insofar as prison construction is concerned, because once decisions are made by Special Masters, costs accelerate.

In answer to questions, Mr. Stephan stated he agrees with the court's opinion that the current facilities violate the cruel and unusual clause of the Constitution. He feels the court looks at the 1980 consent decree that was almost totally ignored and does not think that much good faith has been

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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exercised thus far and expects some specific action by the Legislature. He thinks Judge Rogers generally feels a new facility will be necessary as a portion of a new plan but there is not any way to make a definite statement in that regard until experts have studied the matter and reported. He did not think that any plan submitted to date, except that of the Secretary of Corrections, has been supported by any expert advice or testimony.

Secretary Endell was next to appear. He stated that they have before the Committee the Governor's proposal as contained in his Budget Amendment of a 768-bed facility plus a 256-bed mental health unit to take care of their mentally ill prisoners. That is combined with the reach of 1,024 people and the estimated cost is approximately \$73.2 million. Their proposal has followed very carefully legislative directives to develop a plan and present the solution as recommended by the Department and the experts they have retained. The recommendations are based on a logical analysis of the facts in regard to continuing growth of the population and the continuing pressure from the court. He noted that their design team is the same team selected by the U.S. Federal Bureau of Prisons to develop the latest generation prototype institution for the federal system. He stated that the rumor which had started that the Department intends to close KSP is "simply silly." The state cannot operate its correctional system without both KSP and KSIR but they must meet the terms of the Judge's order for population capacities, safety and rehabilitation at both facilities. Other alternatives include a piece-meal approach using incorrect or unsubstantiated data and cost estimates which he thinks would be very time consuming and costly.

Secretary Endell stated that Norton will not be safe for more than 500 prisoners. Those are not cells at Norton, they are "soft rooms" using normal glass, normal walls, etc. The halls are curved and the supervision of those halls and rooms will be very staff intensive. New space should not be added to the Hutchinson Work Facility unless it is high security space. The A&T unit at KSP should not hold prisoners, nor should additional housing units be crammed onto the KSP grounds. He said the Secretary the Governor, the Department and the Court stand together in recommending a professional and carefully considered solution to the overcrowding crisis.

A member of the Committee asked if any of the directors present or anyone who works in the administration present at the meeting disagree with the remarks made by the Secretary. There was no response.

In answer to questions, Secretary Endell stated that in Kansas there are many more inmates classified as minimum and community custody than most of the 50 states. Kansas is lower than national averages in the medium security area and nearly the same in the maximum security percentages. In regard to the classification system, Secretary Endell felt Kansas has a fairly solid system. When the populations are reduced to a safe operating level at both KSP and KSIR those institutions will have many years of service left. He stated that the major deficiency in Kansas right now is the lack of a major correctional resource in the south central area of the state. Twenty-six percent of their inmate population comes from that region of the state. He stated that their plan has been from the very beginning to take the most difficult to manage inmates out of both KSP and KSIR and place them in the newest generation institution where they will be most easily managed.

During Hardy Rauch's introduction, the Acting Chairman noted that Mr. Rauch had been in Kansas less than 24 hours and on his way to Topeka he stopped in Lansing and toured KSP. (Attachment 3) In answer to questions, Mr. Rauch stated that there is absolutely no doubt on the part of the committees he has attended in the last decade that single celling is a must in maximum custody prisons. He described two types of maximum security prisoners: 1) long term,

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those who rape, kill, and constitute a tremendous threat to society; and, 2) short term, those who violate rules in the institution. Mr. Rauch stated that double celling per se is not unconstitutional. Courts have consistently found that it is the totality of conditions that violate the constitution. He thought that 40 to 50 percent of the accredited facilities now have some level of double celling, especially in the lower custody classification levels.

Mr. Rauch stated that they do not have a separate set of standards for mental health care facilities and he thought that should be a psychiatric discussion versus a corrections discussion. He stated that they have not established the square footage requirement for double celling. In dormitories they have established 50 square feet. He indicated that most correctional agencies in the U.S. believe this overcrowding burden is a temporary stage in the long term picture. He believes that in the short term, Kansas is going to have to maintain KSP.

They have a square footage requirement of 60 square feet in a regular cell and 80 square feet for a maximum security segregation cell and in the minimum security facilities where there are two or more people the requirement is 50 square feet. This is an essential standard and it is the best judgement of the national standard study group. Mr. Rauch stated that they regularly engage consultants to provide them with legal breakdowns of court opinions throughout the U.S. to keep them abreast of what the various courts are ordering.

Anthony Travisano stated that more than sixteen states have an apparatus in place for emergency release, 12 of whom have done it by legislation, which has been brought on by the capping of institution populations through federal intervention, i.e., Georgia, New York, Florida, among others. More than \$20 billion have been spent since 1978 in a collective spending of states and federal government on correctional building. This year approximately \$11 billion is being spent in the U. S., one-half of which is coming from counties. Counties are building at a faster rate than the states. The national correctional budget has gone from \$4 billion in 1978 to more than \$12 billion in 1988. There are now 40 states, one way or another, not including Kansas, that are under some form of court order, 11 of whom are fully under court order and 37 under court order for overcrowding. The remaining 10 states have not been scrutinized yet. One out of every 55 Americans is under correctional supervision in the U.S. today; this equals about 3.5 million people. This number is jumping daily. They are netting 900 people per week in prisons and correctional institutions and more than 2,500 per week in probation around the U.S. All legislators are going to have to face the issue of how to solve the problem of how to respond to the community and the concept of "0" tolerance we are creating. He stated his comments do not include "cleaning the streets of drug abuse and users."

Mr. Travisano stated that the plan provided by Secretary Endell and the Governor sounds reasonable. He noted that he has only been to one institution for one hour so he does not have the necessary depth of knowledge of Kansas to make recommendations but he and Mr. Rauch know that a 19th century prison does not fit the 21st century.

Mr. Rauch and Mr. Travisano responded jointly to questions. Mr. Travisano stated that with nothing impeding the progress of crime, both the community corrections and institution corrections will have to be increased. They had mixed feelings on sentencing commissions. Mr. Rauch stated that all of the studies he has seen indicate that maximum security runs from 20 to 33 percent, the medium range is about 30 to 40 percent and the bottom range takes the remainder.

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In regard to a question concerning the ability to receive ACA accreditation in a newly built institution with a number of cells double bunked, both conferees stated it would depend on the totality of conditions. Mr. Rauch stated that if there is no violation of any of the mandatory standards and 10 percent of the non-mandatory standards are not exceeded a facility can be accredited. Mr. Travisano stated they recommend an individual in a cell should not be locked up any longer than 10 hours per day in a double bunking situation. The size cell providing the widest range of flexibility is 80 to 90 square feet. Mr. Rauch stated that he sincerely hoped that Kansas does not have to double bunk a great many inmates because of the added operational burden to wardens and administrators.

In regard to KSP, Mr. Rauch felt it could be accredited but it would be very difficult. There will be a great amount of staff support needed for the next couple of years. He was unable to make an estimate of the complete necessary physical renovation. It was his estimate that it would not be accomplished by October. Mr. Travisano stated if it were his decision, he would raze the A&T building at KSP immediately if he knew what to do with the inmates.

Mr. Travisano stated that their standards presently call for an ideal prison at 500 inmates, however because of the pressure throughout U.S., they are starting to think in different terms. A 300 unit is the minimum requirement with as many units as needed with central core facilities supporting the various 300-inmate units. They are looking at the living unit being the most significant factor in the environment of a prison because that is where most of the time is spent by an inmate. He pointed out that in the U.S., he did not know about Kansas, 85 percent of the prisoners do nothing all day long.

Mr. Rauch stated that the state should review the entire system to find out how many inmates are in need of psychological or psychiatric services. He guessed it would not be over three to four percent. He felt that if a consultant had not been hired for a long range mental health plan then that should be done because a mental hospital or wing of some type will be needed within the system.

Mr. Travisano stated that construction and operation of correctional institutions by the private sector is a development caused by overcrowding. It has been helpful because generally speaking the private sector is able to move quicker and get their money quicker than sometimes legislatures are willing to appropriate. There is no maximum security facility privately operated to date.

Appearing next was Michael Barbara. (Attachment 4) In answer to questions, Mr. Barbara stated that rehabilitation has been pushed into the background as far as any objectives in imposing sanctions. It was his opinion that less than 15 percent of the prison population is actively working and we a long way from active programming. He stressed the need to focus on the provision of active mental treatment for mentally ill inmates.

Mr. Barbara suggested continuing the use of Larned State Hospital for the competency evaluations and possibly on a permanent long term basis. He expressed concern for any kind of a piecemeal plan. In 1980 there were 80 percent of inmates eligible for parole who were released, when he was Secretary of Corrections it went down to 45 percent and now it is up to about 60 percent. He felt the certainty of punishment would be an improvement over length of sentence. It was his opinion that part of the solution for Kansas should include some construction of a new ACA accredited facility, however he was not certain of the size. With the appropriation of some funding for construction, it would show Judge Rogers the state is trying to solve the problem of prison overcrowding in Kansas. He suggested having a

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long range plan based on some projections which must go hand in hand with new construction and population control.

Chuck Simmons reviewed past meetings with Judge Rogers and distributed the latest Memorandum and Order dated April 21, 1989 at 10:01 a.m. (Attachment 5)

The meeting was recessed for lunch.

AFTERNOON SESSION

The Acting Chairman called the meeting back to order at 1:40 p.m. Larry Vardaman was the first conferee of the afternoon. (Attachment 6) Mr. Vardaman stated that he and all other juvenile correctional workers in his association that he has talked with strongly favor Secretary Endell's plan which is the only professional plan they have seen.

Appearing next was Kay Harris. (Attachment 7) Ms. Harris stated that policy makers can choose the size of prison facility they want to build as the policy makers have to choice of deciding how many beds they want to have in the state prison system.

At this point in the meeting, a long distance telephone call was placed to Australia and the Committee discussed the prison overcrowding situation in Kansas with Mr. Don Hutto, Past President, American Correctional Association. Mr. Hutto gave a brief personal background on his career in corrections. He stated that last fall he was asked by the Department of Corrections to evaluate the operating conditions at KSP and KSIR at which time he spent two weeks on his evaluations, talking with the inmates and staff and observing the conditions. He has reviewed information provided by Chuck Simmons and looked at the various plans and recommendations being considered in deliberations by the legislature.

Mr. Hutto felt it very necessary to explore as much as possible the community corrections opportunities and to take a very close look at sentencing practices in Kansas in order to maintain reasonable control on long term population. He wanted it understood that any comments he had in regard to building and renovations were prefaced on the idea that Kansas is going to go forward on these two items. He expressed concern about the possibility of renovating KSP for maximum security inmates because the long straight, tiered cell blocks do not lend themselves to direct supervision and there is no day space. He noted that if an inmates behavior warrants it, there are alternatives to being locked up all of the time.

In regard to double celling, Mr. Hutto pointed out that it increases illegal sexual activity, it increases the risk of violence and more than anything else, it raises the level of fear among the inmates.

In answer to questions, Mr. Hutto stated that the A&T building at KSP should be replaced. He stated that there are benefits in having a mental health unit located near a correctional facility, particularly a maximum security facility which houses a good number of difficult prisoners and also provides core support.

Following the telephone conference with Mr. Hutto, Ms. Harris concluded her remarks and answered questions. She stated that decisions of the legislature on the prison overcrowding issue and the issue of a new prison facility have long term implications so she suggested making choices which

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provide the greatest degree of flexibility. Evidence indicates that there is very little difference between the increase in the average length of stay and the impact on crime.

Following a short break, James Henderson, Correctional Consultant, Leavenworth, appeared. (Attachments 7a and 7b) A copy of the Kansas Department of Corrections, National Institute of Corrections, Technical Assistance Number 84-253 by J. D. Henderson, NIC Consultant, September 20, 1984 is on record in the Kansas Legislative Research Department. Mr. Henderson gave a short personal background and outlined some of the factors needing consideration. They included population projections, in his experience most population projections have been low, and classification. To design a maximum security bed in any institution around the country it costs between \$50,000 and \$100,000 per bed. Minimum security is \$15,000 or below. The correction department must have sufficient beds to lock up the dangerous, violent, predatory type prisoners. Classification levels need to be specifically designed. The term "maximum security" in Kansas is not what is generally referred to as maximum security around the country. Maximum security includes those needing a great deal of lockdown time with only exercise and showers within the unit. Maximum security in Kansas more closely parallels "close custody" in many facilities where they are actually out and work and recreate.

Another factor needing evaluation is the total impact of the federal court order on capacities. A fact to consider is expanding existing facilities, either additional inmate housing or minimum security satellite camps which ordinarily is an excellent option for expediting projects and is cost effective. Most existing facilities have the high cost items such as food service, medical, dental, utilities, etc.

Another factor entails building programs for new beds. Design effectiveness is another factor. The design/construction cost of a new facility is only 10 percent of the total cost. The operation for the life cycle is 90 percent of total costs. The elimination of one correctional officer position with benefits can save, over the life cycle of an institution, approximately \$2 million. Some institutions have put showers in special management cells figuring that in a 200-bed special management unit the correctional staff would have to make 1,000 moves per week just for showering. The staff time without that is a substantial savings.

In regard to ACA standards, Mr. Henderson raised the question as to whether accreditation and simply meeting ACA standards is what is required by the court order. He is an advocate for a master plan. It is an excellent guide for the direction for the corrections department, however he pointed out the incredible failure rate of master plans due to the fact that they are generally written in a critical path grid and legislative bodies do not appropriate adequate resources to accomplish the plans in the correct sequence. The Ways and Means Committee should be directly involved in the master plan, be supportive and recommend the adequate resources.

In answer to questions, Mr. Henderson stated that he felt in order for Kansas to get out of their crisis, all options, building, expanding and renovating are needed. He felt that anything with special management or maximum security should not be double celled. It was his opinion that there are tremendous advantages to having an air control system in a prison facility from a management perspective. The noise level is lower, the use of fixed windows enhance security and it has a positive effect on staff.

Appearing next was Charles Benson (Attachment 7c) who pointed out that he has only been in Kansas a short time. He stated he felt that mental health is an area which must be addressed because that is a population which must be

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segregated as soon as possible upon entry to the prison system. He discussed how to cope with net increase of the prison population. Some of the alternatives are work release centers, community programming, parole, sentencing. He suggested construction of a compact facility at the KSP farm to house all of the 300 minimum security inmates. This would free some space in the medium facility, enhance security and lower staff costs. A similar plan would be applicable to KSIR.

In answer to questions, Mr. Benson stated that he did not see how KSP could be renovated totally to meet the program needs required by the Judge. In answer to a question, Mr. Simmons stated that the court did not order the new facility to be accredited but the Judge did say that the facility should be built according to ACA standards.

Ed DeVilbiss discussed differences between his cost estimates and those included in the plan presented by the House in addition to differences in the number of spaces. In answer to a question, Mr. DeVilbiss stated that the numbers used in the House debate are clearly not accurate and well below what the true cost would be. It was determined that Mr. DeVilbiss would make some additional estimates on the cost of the House plan and report back to the Committee on Monday.

Chip Wheelen distributed and reviewed his testimony. (Attachment 8) He stated that based on his past experience in visiting all the mental health institutions in the state he observed that the mentally ill individuals who are in the custody of either SRS or Secretary of Corrections are not just suffering from personal social adjustment problems but are suffering from, and are victims of, organic disease manifested in behavior that can result in harm to themselves or others and that is why they have to have special accommodations in order to prevent harm from occurring. Mr. Wheelen pointed out that there is a distinct difference between the physicians who are employed by the Department of Corrections and the physicians employed by the Department of SRS. DOC has entered into a contract for medical care so those physicians are not constrained to any kind of a state system. In his judgement it is the working conditions and the salary, far more than the geography of the situation that impact recruitment.

In answer to questions, Mr. Wheelen stated that the availability of good support staff is an important environmental consideration in addition to equipment and facilities.

Documents submitted for the record include: A letter from the City Manager at Pratt (Attachment 9) and a copy of the Pratt, Kansas Correctional Facility Site Proposal (Attachment 10); A packet of letters and articles from El Dorado area residents opposing a prison location in El Dorado (Attachment 11); and, a letter dated April 18, 1989 to Senator Wint Winter from Senator Burke with an attached letter of opposition signed by several citizens in El Dorado (Attachment 11a). The Acting Chairman acknowledged citizens from El Dorado who were attending the meeting. Also submitted was a copy of a telegram received via a FAX from the Mayor, City Attorney, the City Counsel members and the Public Building Commission supporting prison facilities in the Washington, Kansas area. (Attachment 12) The Acting Chairman asked if there were any attending the meeting who were opposed to a prison facility in the Washington area. There was no response. Rebecca Rice representing Horton, Inc. and others from Horton was recognized along with Representative Artie Lucas. People attending the meeting from Hutchinson, Kansas and supporting a prison facility in that area were recognized. A copy of a Proposal to the Department of Corrections, State of Kansas, To Consider Hutchinson, Kansas as a Site for a 1,200 Bed Correctional Facility as Prepared and Presented by the Reno County Economic Development Council, dated September 20, 1988, was submitted for the record. (Attachment 13) The

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Acting Chairman acknowledged Gene Dykeman from Larned, Kansas who is supportive of facilities in the Larned area. When the question was asked if there were any people in attendance who opposed facilities in the Larned area, there was no response. The Acting Chairman acknowledged people attending the meeting in support of a prison facility at El Dorado, Concordia and Russell.

The Chairman called attention to copies of a letter he had distributed from Senator Bird, Chairman of the Joint Budget Committee for the Colorado General Assembly. (Attachment 14)

The Committee discussed items they would like to have provided by staff for Monday's meeting. Secretary Endell stated that he would not be able to take a proposed plan to Judge Rogers on June 1 until he knows that the legislature is going to confirm the plan or any plan. He stated that a short term plan would place the mentally ill prisoners at Ellsworth beginning with this summer until completion of construction of the mental health facility which would be a permanent solution for the mentally ill. The Secretary emphasized the importance of a solution for the issue of high security bed space.

INTRODUCTION OF BILLS

Senator Burke moved, Senator Gaines seconded, to introduce a bill which would allow representation for health care providers who provide professional services at correctional institutions even if they have been sued under civil rights actions. The motion carried.

The meeting was adjourned.

GUEST LIST

COMMITTEE: SENATE WAYS AND MEANS

DATE: _____

| NAME (PLEASE PRINT) | ADDRESS | COMPANY/ORGANIZATION |
|---------------------|-----------------|--------------------------|
| NANCY G HOLLAND | RUSSELL, KS | Prison Task Force |
| Carol J Bennett | Russell, Ks | Prison Task Force |
| Blenda Fink | Russell, KS | Prison Task Force |
| Richard Y. Wentz | Lincoln, Ks. | City Manager |
| DAVID RETTER | " " | City Attorney |
| Paul Dunch | Lincoln | Prison Decision |
| Ken Dill | Lincoln | ESB. |
| Stacy Oaks | Eldorado. | |
| EJ Blake | El Dorado | Mayor |
| HAROLD CROSS | Eldorado Ks. | |
| Amanda D. Barbee | ELDORADO, Ks | Prison opposition |
| Robert L Barbee | El Dorado | opposition |
| Mary D. McCoy | Eldorado | Prison Opposition |
| Kenneth S. Long | El Dorado | Prison Opposition |
| JOHN R. WILLIAMS | TOPEKA, Ks. | DIU ARCH SERVICES |
| Jerry Carter | Topeka | DIU ARCH SERV |
| ED DE VILBISS | TOPEKA | DIU ARCH SERV |
| BILL LIVINGSTON | WICHITA | EIA ARCHITECTS |
| KEVIN SPECTERSON | TOPEKA | RUSSELL CHAMBER |
| Bob Starnes | Hutchinson | DOC |
| Von Hoon | Von Hoon | DOC |
| JEFF TETEL | HORTON | HORTON KANSAS INC |
| Rep Arnie Lucas | Hopkinton | legislator |
| Steve James | Lawrence, KS | KSP/KDOC |
| John James | Topeka | KDOC |
| Kirby L. Stegman | Mayetta | DoB |
| Kathy Vonachen | Topeka | Div. of Budget |
| Charles Benson | Springfield, MO | Consultant |
| James B. Henderson | Lawrence, KS | Consultant |
| Chip Wheeler | Topeka | Ks. Psychiatric Soc |
| Alan Stepp | Topeka | Pete McGill & Associates |
| Walter Walker | Topeka | Walker |
| Neil Woerman | Topeka | AK |

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| NAME (PLEASE PRINT) | ADDRESS | COMPANY/ORGANIZATION |
|---------------------|---------------------------|-----------------------------------|
| Cap R. Bonbrake | | AG |
| Mary Hensch | | AG |
| Prin. O'Connor | | KC Star |
| Kathleen Schelies | | Lewis |
| Gregg Hahn | | WIRW |
| Tom Stutterheim | | WFBW |
| Allison J. Rubin | | Engle Beason |
| Ed Reilly | | Senate |
| Govt McFarrell | | UPI |
| Cheryl Cunningham | | UTRA |
| Rep. Christen | | |
| SPETERSON | | Governor's Office |
| B. Stephan | | AG |
| C. P. Lawrence | | REA |
| J. Rauch | | ACA |
| Bill Muskell | | KDOC |
| J. E. Bruce | | KDOC |
| Stan Stewart | El Dorado City Manager | City of El Dorado |
| WAGNER KWIANECKI | 2909 Glass et. | AFSCME Council |
| Mary Wagner | | Sen. 1st - Inten |
| Connie Parish | | Dean Jones |
| Therese Barzert | Topeka | KCCD |
| L. Dale Stinson | Hutchinson | RENO COUNTY ECON Devel Council |
| JAMES W. FEE | HUTCHINSON, KS | CITY COMMISSIONER |
| ROBERT W. ARBUCKLE | HUTCHINSON, KS. | DRUMC ARCHITECTS |
| ROBERT D. HANNIGAN | Hutchinson, KS | KSIR |
| Royce Workoff | Topeka | KDOC |
| Stuart Davis | Lansing KS | KSP - KDOC |
| JOHN W. ENICKINGER | Topeka KS | WASHBURN U. CRIMINAL JUSTICE |
| Ken Baker | Topeka | Paterson's Area |
| Rep. Clyde Graeber | Newenworth | House of Rep. |
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SUMMARY OF PROCEEDINGS ON APRIL 13, 1989

Arney, et al v. Hayden, et al., Case No. 77-3045

This memorandum provides a summary of the hearing held before Judge Rogers on April 13, 1989, regarding the conditions of confinement for mentally-ill inmates, and inmates in protective custody or administrative segregation.

Preliminary Comments by the court

The court stated a permanent order was signed and filed with the clerk on April 13, 1989.

The purpose of this hearing was to take evidence and hear argument on the plans submitted by defendants regarding conditions of confinement of mentally-ill, protective custody, and administrative segregation inmates. The court summarized the defendants' plan, as well as plaintiffs' response. (P. 6-8.)

The court stated, "unfortunately I assumed that what we do here is going to have to be tentative and temporary. I'm afraid that we are not going to be able to make. . . any orders that will mean much because no priority has apparently been given to this situation by the legislature, and I understand that they expect to work on this matter when they return after their recess. . . I would assume that the defendants. . . are not going to be able to speak very authoritatively about what's going to happen. . . but I'm hoping that the legislature will take this matter by the horns, and will reach some conclusions here shortly.

"In observing the legislature for many years, and being in the legislature for 11 years, I can say that many times I used to look at something and say well, will they ever resolve it? And actually when the legislature wants to move decisively and forcibly, they can do it in a very short time. And I'm hoping that they will take that action in this case so that new problems will not arise in the

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orders that we have issued in the past. . . . [T]he State of Kansas in past years has been a compassionate state, have met their obligations. They have avoided to a large extent, any conflict with the federal government in past years, and I hope they will continue to be compassionate, and will move in humanitarian ways in the future. So I am hoping for some action before the end of this legislative session.

"I would be anxious if we do not have some action, that my deadlines will go for not, because I cannot see how they can be met unless there is some action by the Kansas legislature this term. I think that coupled with the fact that increases continue to occur in the Kansas penal system - I think the last evidence I heard was we took in 242 more in three months than Kansas had let out." (pp. 7-9.)

Additionally, the court noted that legislative branches are not well suited for broad, long-range planning and are not skilled in the operation of penal institutions. "[T]hat is an executive branch job, and that is where the expertise lies. . . . So I am hoping that the legislature will rely upon the executive branch, and upon experts in the field. We have had a great amount of testimony in this case by experts, and the unusual thing is that all of the experts I've heard, whether they are furnished by one side or the other, seem to speak uniformly about the problem that we have." (p. 10.)

Plaintiffs' Statement To The Court

Bill Rich:

Rich advised the court that in addition to addressing the overcrowding problem, the particular conditions affecting the mentally-ill, the protective custody inmates, and the administrative segregation inmates need to be addressed. Rich stated that the "design of the 19th century facilities"

contribute to the difficulty figuring out a way to manage this particular group of inmates. Rich advised the court that he did not believe there was disagreement as to what the needs were, or how best to resolve these problems in the long term; however, major disagreements do exist as to how quickly these issues should be resolved and what can be done in the short term. (p. 14.)

Rich described the general protective custody population and noted that many of those individuals spend 21 hours a day locked in their cell. (pp. 15-18.) Additionally, Rich described the inmate's in "lock-down" status which is a group of inmates who are either mentally-ill or difficult to manage for security reasons. This group spends approximately 23 hours per day confined to their cells. (pp. 18-19.) Finally, Rich discussed the population housed in the Adjustment and Treatment (A&T) building. Many of these inmates are mentally ill, they spend between 22 and 23 hours a day locked in their cells. (pp. 19-21.)

Rich advised the court that it was his belief that the Department of Corrections had been focusing on this population for some time "in terms of saying not only to us but also to the legislature that there are problems with existing facilities, and that when one talks about dealing with prison problems in Kansas, one of the greatest difficulties we have is in meeting the needs for this kind of group of inmates given the design of the facilities that we are dealing with." (p. 21.) The court asked Rich if he was suggesting that a 19th century prison cannot adapt to meet the needs of such inmates. Professor Rich replied that he was, and "given the type of facility. . . you have to simply lock them down. . . whenever you move any one of these inmates outside of the building that they are in, the feeling is you have to shut down the entire remainder of the population because its not as if you are able to effectively separate groups of inmates from each other, and still permit them major opportunities for activities, programs, work, and so on. . . ." (p. 22.)

Rich reminded that court that various Kansas statutes and administrative regulations call for employment opportunities, work experiences, educational, and vocational training for all inmates capable of benefiting from such programs as well as employment which includes a 40-hour work week for every inmate who is available, willing and able to participate. (pp. 23-25.)

The court asked Rich if he was suggesting that Kansas is not only in violation on constitutional matter but also of its own statutes, rules, and regulations. Rich replied that was correct. (pp. 25-26.)

Rich requested that measures be taken to provide short term relief between now and July 19, 1991, when the A&T building will no longer be in use pursuant to the Judge's final order. Plaintiff's provided a proposed order that would require the DOC to submit a plan by May 5, 1989 to be implemented by October 1, 1989. Additionally, plaintiffs requested that a long term plan meeting ACA standards be submitted by July 1, 1989, and fully implemented by July 1, 1991. (pp. 27-30.) The court reiterated that it does not want to tell the State of Kansas what to do; however, the court asked, "[d]oes the legislature even know these problems exist? What is the information conveyance system I think is my question?" (pp. 30-31.) The court stated that all it reads about in the paper "are hostile questions rather than inquiring prohibitive questions." (p. 31.) "My question is does any one want to know in this state? Anyone interested?". . . "I am concerned that we have burdensome problems here that no one seems to know about, because you don't get inside of an institution, you do not know what is going on." (p. 32.)

Roger Theis:

Theis specifically discussed plaintiffs' concerns regarding the mentally-ill inmate population. He advised the court that the "needs of the

mentally ill are acute and serious and demand urgent attention. . . ." and requested that the court direct the State to file meaningful plans by the dates previously mentioned. (p. 38.)

Defendants' Statement To The Court

Tim Madden:

Madden advised that court that the Department of Corrections had met all the court's deadlines for population reductions to date and a self-audit was scheduled for the end of April. Further, the defendants have informed the court of their plans regarding the conditions at KSIR, KSP, and KCIL and the court incorporated those plans in its tentative order. (pp. 38-39.)

Madden reminded the court that the mentally-ill, protective custody, and administrative segregation inmates are among the most difficult for the Department of Corrections to manage. Madden read an inmate's letter written to the Governor which discussed the inmate's desire to "help Kansas get the death penalty back." This individual is presently housed in A&T Unit. (pp. 41-44.) The inmate advised the Governor that he intended to be a "model convict" so that security measures would be relaxed and he would have the opportunity to kill "a convict. . . a counselor or a doctor or a priest or a nurse or anyone in this system." (p. 42.)

Madden reviewed the Department of Correction's proposal submitted to the legislature regarding the construction of a 256 bed mental health unit at the Larned State Security Hospital. Madden advised the court that the legislature has a pending proposal to hire a consultant to evaluate mental health care for the department and that 128 mentally ill inmates would be transferred to the new facility at Ellsworth, Kansas, when housing units are completed in September of

1989. (pp. 47-51.) Madden requested that the court "permit the legislature to exercise its legislative function in regard to special management inmates and allow the department to deal with the situation. . . after receiving direction from the legislature." (p. 53.)

The court stated, "you're department has the most difficult job in state government. No question about it. The district judges pour the people in on you, and you have very little authority to let them out. That is on the parole department. The numbers assemble on you. I am amazed that the Department of Corrections has been able to function as efficiently as it has.

"Let me say to you that I'm as concerned about security as you are, and in every order that we have issued from this court. . . that's been our first concern. . . .

"I also sympathize with you, I hope and believe that the lawmakers must not adopt the rule of the ancient kings, and take recourse in attacking or killing the messenger that appears in front of them bearing bad news. I hope that doesn't continue to happen. Because surely all the things I'm hearing today, ought to be in front of the legislature. Because my recollection is that when I was in the legislature, we had the finest legislative research department that I think I had ever seen, and I hope that all the figures that are being furnished here are also being furnished to the legislature so that they are acting on fact and not on passion or emotion, or upon political concerns for particular area, or that they are not being directed by the concerns of a small group of people in a particular area who are saying we do not want community corrections in our area, we do not want these people in this area. We want these matters to be taken care of but not in our areas.

"In other words, small areas of the city should not direct the penal policies of this state. It is a much broader situation than that, and sometimes I wonder that both the legislature and the Department of Corrections are overly sensitive

to complaints of individual citizens in regard to where people should be housed. I recognize your situation. I am sympathetic to you, and for that reason, we've tried to leave these matters in the hands of the properly-appointed authorities in the state. . . I hope that. . . the Governor and the legislature will accept the serious problems that exist, and do not think that they do not exist." (pp. 54-55.)

The court then expressed concern about the department's compliance with the terms of its order as long as the general population keeps increasing. (p. 56.) The court expressed additional concern about what it calls "incarceration in transit" and the department's need to continually move people to maintain population levels at particular institutions. The court noted that this precludes completion of programs that are required for parole. (pp. 56-57.) The court concluded by stating "you are being goaded by the court, of course, to try to reach [solutions]. Not getting great cooperation from any one else, or great help in this matter, and I see your situation. I hope that we can allow the state, as you have suggested, to formulate the plan." (pp. 57-58.)

The court stated that it was "convinced [that] if this case had not been filed in this court or if we hadn't reopened this case, that we would have been 5 years from now still with make-shift partial changes because there is no great group of lobbyists asking that these situations be changed. . . . And unfortunately this is something that falls back on a federal court to try to reach some conclusions. . . without any great support or encouragement from the population of the state. People are concerned, but many people, of course, feel that the inmates got themselves into this place, and let 'em stay there until the ants carry them out the keyhole. That is an expression I [hear]. . . . [t]he constitution doesn't allow that.

"That is the reason the court pressures you and we try to make reasonable orders that will try to move you along. I hope that you are optimistic that the

State can formulate a plan. I am not suggesting that the Department of Corrections doesn't want to cure these things. I think you desperately want to cure these problems. . . I'm not sure whether you have the tools to do the work." (pp. 58-59.)

Madden advised the court that the Attorney General had spoken to members of the legislature who had a clear understanding of the court's constitutional duty and authority. (p. 59.) Madden further stated that defendants were not seeking an indefinite delay but simply that the court permit the legislature to take final action. (pp. 60-61.)

Conclusion

The court then discussed plaintiff's proposed order with Professor Rich who requested that the court not wait for legislative action but move forward with the time frame suggested in the proposed order. (pp. 61-63.) Steve Kessler made brief comments on behalf of the KCIL plaintiffs. (p. 66.) Professor David Gotlieb made comments on behalf of plaintiffs in a related action. (pp. 67-72.) The court announced that it would take the matter under advisement, study plaintiffs' proposed order, and then issue an order. The court stated it "may possibly delay [an order] until we see what the legislature does. We may have a duty in spite of what the legislature does, but it might give us some guidance if we know what the legislature is planning on doing." (p. 72.)

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
TOPEKA, KANSAS

RECEIVED
APR 17 1989
DOC LEGAL

JOUETT E. ARNEY, et al,)
)
-----Plaintiffs,)
)
vs.)
)
GOVERNOR MIKE HAYDEN, et al,)
)
-----Defendants.)

Case No. 77-3045

TRANSCRIPT OF PROCEEDINGS
BEFORE
HONORABLE RICHARD D. ROGERS

on
APRIL 13, 1989

APPEARANCES:

For the Plaintiffs: MR. BILL RICH
MS. LISA NATHANSON
Washburn Law School
Topeka, KS 66614
and
MR. STEPHEN KESSLER
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Topeka, KS 66603
and
MR. ROGER THEIS
P.O. Box 47370
Wichita, KS 67201

(Continued)

ATTACHMENT 2
SWAM 4-21-89

1 APPEARANCES CONTINUED:

2 For the Defendants: MR. TIM MADDEN
MS. CAROL BONEBRAKE
3 MR. STEVE BRUMGARD
4 For the Department of Corrections
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Topeka, KS 66612

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7 Court Reporter: Ms. Debra L. Scott, C.S.R.
Federal Building #410
8 Topeka, KS 66683
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P R O C E E D I N G S

THE COURT: I believe we are ready to proceed with further hearings in regard to the prison situation. For the record we might have the attorneys announce your appearances, then we will proceed.

MR. RICH: On behalf of Kansas State Penitentiary inmates, I am William Rich. Here with me is Lisa Nathanson and Sandra Jocquill (sp), who is an intern at the Washburn Law Clinic. Also introduce two inmates from KSP, Jouett Arney and Mr. Thomas Porter.

THE COURT: All right.

MR. THEIS: On behalf of the inmate class at KSIR, Roger Theis.

MR. KESSLER: Stephen W. Kessler appears on behalf of the inmates of KCIL, Your Honor.

GOTTLIEB: David Gottlieb, I represent Arron Roy Suits, Bradley Kvale, Charles Edward Jones, who are inmates, were inmates of C cell house in a class action which was transferred to Your Honor, and I am here at the invitation of the attorneys for the plaintiffs in these related cases.

MR. MADDEN: Your Honor, my name is Tim Madden. I am legal counsel with the Department of Corrections. Appearing with me also today is Miss Carol Bonebrake, who is assistant attorney general, and Mr. Steve

1 Brumgard, who is also legal counsel for the Department
 2 of Corrections. Mr. Steve Davis, director at the
 3 Kansas State Penitentiary, is here with me today also.

4 THE COURT: I have now signed the permanent order
 5 which was presented to me. We asked that that be drawn
 6 up. I have now signed that permanent order. And this
 7 will start the appeal time officially I think for
 8 anything except the matters that we are concerned with
 9 today. So if people have been talking about appeals,
 10 why, your time I think would start as of the signing of
 11 this order today.

12 Now we are directing our attention to a new
 13 subject, which has been incidentally excluded from this
 14 order, not really new, but we want to take it up at
 15 this time, and that's we are interested in evidence and
 16 arguments regarding conditions of confinement for
 17 mentally ill inmates, inmates in protective custody or
 18 administrative segregation. I think that's what we are
 19 interested in today. I will give a little resume of
 20 what's happened down to the present time on this
 21 subject.

22 Earlier I directed the defendants to submit plans
 23 regarding confinement conditions of mentally ill,
 24 protective custody, and administrative segregation
 25 inmates. Now I understand the distinction between the

1 last two there would be we have certain inmates that
2 are placed in administrative segregation for perhaps
3 violation of rules and regulations, and then we have
4 inmates who want to be put away for protective custody
5 on their own initiative, and I think that is what we
6 are dealing with there. After 30 day extension was
7 granted on this, the defendants filed plans on March
8 31, 1989. Plaintiffs filed a response. At the last
9 status conference we set the time today for further
10 evidence and argument.

11 Now as I have summarized and gone through some of
12 the responses that I have now received, first on
13 mentally ill, regarding these inmates, we stated our
14 concern in previous orders that there were insufficient
15 resources to provide care for mentally ill inmates.
16 Sometimes inmates were inappropriately placed with
17 other inmates, and conversely that sometimes such
18 inmates were kept in total isolation, that this at
19 times encouraged suicide attempts. Criticism of such
20 isolation was uniform among the experts who testified
21 in this case.

22 We might mention that we feel there is an
23 increasing problem in prisons because persons who used
24 to be committed or received structured care are now
25 homeless and vagrant under our new plans I'm afraid,

1 and they eventually commit crimes, or sometimes commit
 2 crimes while placed in prison. These people in earlier
 3 times were receiving some sort of structured care which
 4 are not receiving now under the desire to place
 5 everyone on the streets that can possibly be placed on
 6 the streets.

7 The defendants indicate they have a plan to
 8 transfer 128 inmates from KSP and KSIR to Ellsworth
 9 around September 1, 1989. They also plan to hire a
 10 consultant to evaluate the mental health program. They
 11 have proposed to the legislature that a 256 bed
 12 hospital be built at Larned. Now the plaintiffs
 13 applaud the hiring of a consultant but plaintiffs are
 14 critical of simply transferring mentally ill inmates to
 15 Ellsworth. They are also critical of the standards
 16 suggested for the new hospital at Larned. In fact they
 17 suggest we are calling it something else than a
 18 hospital to avoid the requirements that are necessary
 19 for a hospital. That's at least in one of the replies
 20 of the plaintiffs to this suggestion. Plaintiffs also
 21 contend that the scope of the problem is larger than
 22 the defendants' plans will accommodate. The plaintiffs
 23 estimate one thousand mentally ill inmates in the state
 24 institutions.

25 Let's go to protective custody. Defendants

1 contend that these inmates are getting sufficient
2 exercise; that lower inmate to staff ratios should
3 improve conditions for these inmates; and that the
4 numbers of protective custody inmates have been made
5 lower, and are dropping. The plaintiffs are very
6 critical of the absence of work and program
7 opportunities for protective custody inmates. They
8 contend that this is required by the consent decree and
9 by Kansas regulations. They also note that exercise,
10 it may just be pacing the corridor, and that that is
11 being termed as exercise. Plaintiffs also assert that
12 the numbers of protective custody inmates are cruelly
13 lowered by forcing such inmates to give up the
14 protections of protective custody so that they can get
15 the programs that are required for parole. In other
16 words, you must give up your protective custody and in
17 your mind take a chance of being killed if you are
18 going to get the programs that seem to be absolutely
19 necessary today by the parole board before you can get
20 a parole.

21 Now let's look at administrative segregation. The
22 arguments on the two sides regarding administrative
23 segregation are basically the same as those made with
24 regard to protective custody. Plaintiffs do not
25 emphasize the consent decree, however, in making their

1 argument here. Perhaps we are looking at new territory
2 as we are going into this. Maybe it was also in the
3 consent decree. But plaintiffs do not emphasize that.

4 Now unfortunately I assume that what we do here is
5 going to have to be tentative and temporary. I'm
6 afraid that we are not going to be able to make at this
7 time any orders that will mean much because no priority
8 has apparently been given to this situation by the
9 legislature, and I understand that they expect to work
10 on this matter when they return after their recess. So
11 of course I would assume that the defendants sitting
12 over on this side are not going to be able to speak
13 very authoritatively about what's going to happen.
14 Perhaps you can let me know about this, Mr. Madden.
15 But I'm afraid you are not going to be able to speak
16 very authoritatively, and we are going to have to talk
17 on what might be, and what might be done, and that the
18 plans as yet have not been formulated so that we can
19 come to any very rational conclusions here today. But
20 I'm hoping that the legislature will take this matter
21 by the horns, and will reach some conclusions here
22 shortly.

23 In observing the legislature for many years, and
24 being in the legislature for 11 years, I can say that
25 many times I used to look at something and say well,

1 will they ever resolve it? And actually when the
 2 legislature wants to move decisively and forcibly, they
 3 can do it in a very short time. And I'm hoping that
 4 they will take that action in this case so that new
 5 problems will not arise in the orders that we have
 6 issued in the past. The problems that the court does
 7 not want to deal with, and problems that I think should
 8 be taken care of by -- the State of Kansas in past
 9 years has been a compassionate state, have met their
 10 obligations. They have avoided to a large extent any
 11 conflict with the Federal government in past years, and
 12 I hope they will continue to be compassionate, and will
 13 move in humanitarian ways in the future. So I am
 14 hoping for some action before the end of this
 15 legislative session.

16 I would be anxious if we do not have some action,
 17 that my deadlines will go for naught, because I cannot
 18 see how they can be met unless there is some action by
 19 the Kansas legislature this term. I think that coupled
 20 with the fact that increases continue to occur in the
 21 Kansas penal system -- I think the last evidence I
 22 heard was we took in 242 more in three months than
 23 Kansas had let out.

24 Now I think, Mr. Rich, you suggested to me there
 25 may be some other helpful things that the legislature

1 has already done that has not been brought to bear yet
2 that may help in a diminution of the prison population
3 down to the present time. But I think it is going to
4 take every measure plus decisive action to meet this
5 problem. I'm hopeful of course that the legislature
6 will take the necessary action, and that the executive
7 branch will give the direction that needs to be done.

8 Generally legislative branches are not suited for
9 planning broad long range plans and are not skilled in
10 the operation of penal institutions. That is an
11 executive branch job, and that is where the expertise
12 lies, would be over in the executive branch. So I am
13 hoping that the legislature will rely upon the
14 executive branch, and upon experts in the field. We
15 have had a great amount of testimony in this case by
16 experts, and the unusual thing is that all of the
17 experts I've heard, whether they are furnished by one
18 side or the other, seem to speak uniformly about the
19 problem that we have.

20 Generally my experts, we have people on one side
21 saying this is the true facts, and the other one saying
22 this is the true facts. That is not the situation in
23 the prison cases. All the experts point to great
24 problems that exist in the prison system. Of course a
25 court can only act on what I hear from experts and

1 people who are skilled in the field.

2 All right, with that resume, Mr. Rich, would you
3 like to tell me where you think further we should go in
4 this hearing, and what we might do here.

5 MR. RICH: I would, Your Honor.

6 THE COURT: Then I will call upon Mr. Madden.

7 MR. RICH: Okay. Just in terms of a couple of
8 preliminary matters, the way in which we have sorted
9 things out among ourselves, I would like to present and
10 discuss somewhat problems relating in particular to the
11 administrative segregation and protective custody
12 inmates, and Mr. Theis is prepared to address issues
13 related to the mentally ill inmates.

14 I did ask that an inmate who was currently in,
15 currently in the adjustment and treatment center has
16 been in protective custody come to the hearing this
17 afternoon. Unfortunately we got the wrong Thomas
18 Porter. We had the same problem when I was there
19 visiting the prison just a week and two days ago. And
20 so Mr. Porter, who is here, explained to the people at
21 the penitentiary that he was not the right person;
22 nevertheless, his protestations were for naught.

23 THE COURT: We are happy to have him here.

24 MR. RICH: Let me start by saying that, in terms
25 of how we intend to present these matters, that we have

1 in fact reduced to written form a proffer of evidence.
2 The information contained in this proffer has been
3 worked out over a period of time both through
4 consultation with the other Mr. Porter and also of
5 course through consultations with the Department of
6 Corrections, so that I have tried in this context to
7 present an overall review of the current status of
8 these groups of inmates in particular.

9 I should point out that the reason in part at
10 least for presenting this to you as a proffer is that
11 we are not suggesting that this is new or substantially
12 different evidence relating to the violations that we
13 are dealing with. It is provided instead simply to
14 give you a kind of capsulized picture, information of
15 the current situation, so that you would have that
16 before you. We certainly are prepared to present any
17 of it in terms of formal testimonial evidence if the
18 court would prefer for us to proceed in that manner, or
19 if it seems appropriate.

20 We have been over these facts with defense
21 counsel, and it is our understanding that there are no
22 substance arguments regarding the --

23 THE COURT: I would just as soon do it this way.
24 It looks like we are talking about numbers. There
25 seems to be no great dispute over the numbers.

1 MR. RICH: That is what we thought, it would be
2 easier to have it in writing.

3 THE COURT: That's fine.

4 MR. RICH: This afternoon what we are focusing on
5 are problems relating to groups of inmates at KSIR and
6 KSP who have proven to be particularly difficult for us
7 to deal with in terms of making the kind of plans that
8 all of us have been trying to formulate over a period
9 of time. The reason why it has been so much more
10 difficult to address the problems of these inmates is
11 that we are really not just talking about numbers of
12 beds. We are not talking about the pure need for space
13 as such or to relieve overcrowding per se. But rather
14 talking about particular conditions affecting these
15 groups of inmates.

16 It is a difference that I think is really
17 important because in some ways, in my mind at least it
18 explains a problem or a gap that seems to have been
19 there between our understanding and the understanding
20 that has come from all of the experts appearing before
21 the court, and on the other side the reactions we have
22 heard from legislative circles and so forth as to what
23 needs to be done in Kansas. The message is that we
24 have a problem of overcrowding, and there have to be as
25 a result more beds available if we are going to retain

1 that many inmates, I think has been heard.

2 The aspect that has not been heard that was
3 deferred back in February because of the difficulty in
4 coming to any kind of an agreement, and that is now
5 again before the court, has to do with problems that
6 are particularly difficult to solve with the facilities
7 as they currently exist. And it is the design of the
8 19th Century facilities that contributes to the
9 difficulty in figuring out how you manage these various
10 groups of inmates.

11 Our hope at this stage after there has been a long
12 period of focus on the issue of how many people and how
13 many beds, it is now appropriate to shift the focus to
14 meeting some particular functional needs that have not
15 yet been resolved. I don't think that there is basic
16 disagreement as to what these needs are, or how best
17 even in the long-term to resolve these problems. There
18 are major disagreements as to how quickly these issues
19 should be resolved, what can be done in the short-term,
20 or should be done in the short-term, and what should be
21 done in the long-term, and of course we are also
22 concerned that the message be sent clearly to those who
23 need to make the legislative decisions that this is an
24 additional part of the entire package we are facing.

25 Let me quickly describe to you our understanding

1 the problem is right now and the kind of response we
2 have in mind with respect to that problem. The
3 defendants as you noted were asked to file their plan
4 as of March 31. Our feeling is that it didn't really
5 give us anything to respond to at all. That even those
6 parts to which you have referred, the transfer of 128
7 inmates to Ellsworth for instance were put on hold by
8 the Department of Corrections. I understand the
9 problems they face, the frustrations in dealing without
10 legislative support particularly as to the kind of
11 issues we are focusing on right now. At the same time
12 the fact is, while having been repeatedly ordered to
13 prepare plans, we still don't have any plan that is
14 substantial enough for us to respond to in any detailed
15 sense.

16 The problem that we have with the protective
17 custody inmates, and for these purposes there is a
18 light change from your description I would just like to
19 call attention to, protective custody inmates as you
20 know are a form of administrative segregation inmates.
21 There are disciplinary segregation inmates, which are
22 another form. That is just really a very small group.
23 There is another relatively large group that is
24 administrative segregation; but they are
25 administratively segregated, not because they are being

1 disciplined, but because there have been a variety of
2 behavioral or security problems related to them. Those
3 inmates are all together currently housed as I
4 understand it. And believe me, trying to figure out
5 exactly where everybody is, and what the facts are in
6 this regard has been a trial for I think all of us in
7 this context. They are either housed at C cell house
8 or adjustment and treatment building.

9 In the C cell house there are currently a total of
10 199 inmates. Twenty-right of those as of the last
11 figures we were able to get are what is called a
12 holdover status. They are waiting to be transferred to
13 the State Reception and Diagnostic Center. We are not
14 raising specific complaints relating to that group; we
15 are acting with the assumption they are there only for
16 a brief period of time, really just as a mechanism for
17 filling the spots and making the transfers work.

18 It is the other 171 in the C cell house that we
19 are most concerned about. Those are all individuals
20 who would be categorized in one way or another as
21 protective custody inmates. And I would suggest that
22 for our purposes at least we could think of them in
23 terms of four different groups. One hundred of those
24 are in what I would, for our purposes would at least
25 categorize as a PC general population; that is, these

1 are people without really special features, and they
2 have a series of freedoms and constraints which are
3 identified in the proffered evidence that I have
4 submitted. This group is permitted to leave their
5 cells for their food. They are permitted a period of
6 time each day for a combination of exercise in the
7 outside yard and showers. They have limited library,
8 commissary service, and so forth. Allowed to go to
9 the, a portion of them, up to 20 at one time can go to
10 the library on two different occasions during the week
11 for a total one hour period from the time they are
12 released from their cell to the time they return.
13 Seven out of that one hundred are participants in a
14 group therapy program that meets once per week for two
15 hours.

16 There is as I understand it essentially no other
17 therapy, counseling, sex offender, recreation,
18 vocational training program or anything of that sort.
19 There is a, for this group of one hundred, a college
20 level course that is being offered, series of four
21 courses that as I understand that meet once a week each
22 for three hours in the evening. There are a total of
23 12 out of the one hundred inmates who are currently
24 participating in one or more those college classes. So
25 that's the characteristic of that group of one hundred.

1 On the average they spend about 21 hours per day in
2 their cells, and a large majority of that group are
3 still double-celled as of this date.

4 The next group which is, these next two are
5 relatively small, are also PC general. There are a
6 total of 13 inmates who are participating in either a
7 pre-GED or a GED program, and that group is allowed out
8 of their cell for a additional three hours per day five
9 days out of the week. So an additional 15 hours per
10 week which means that that group of 13 spends about 19
11 hours per day confined to their cell.

12 There is still another group of 16 inmates who are
13 also part of the PC general population, and who are
14 assigned to work as orderlies in the building. As I
15 understand it, they are outside of their cells about
16 ten hours per day. Those 16 slots are scheduled to
17 turnover every four months, so that other inmates could
18 after a four month period, another 16 could conceivably
19 move into one of those PC orderly positions.

20 That is the total -- I have now covered 129 who
21 are all in some way or another PC general inmates.

22 In addition in C cell house, there are 42 inmates
23 who are on what is referred to as a PC lockdown status.
24 This is a group that includes some people who are
25 mentally ill, some people for other reasons, I presume

1 security related reasons, who are difficult to manage
2 in one way or another. These are the people who are
3 for their exercise only permitted to walk back and
4 forth along the corridor outside of their cells. They
5 eat all their meals inside their cells, which in turn I
6 assume contributes to the problems of roaches and
7 everything else that the court has heard prior evidence
8 about with respect to these cells. This group spends a
9 total of approximately 23 hours per day -- 22 to 23
10 hours daily confined to their cells. Currently this
11 group of 42 is permitted one hour per week, that is
12 some group of them can go for one hour per week to
13 library services. I assume they are permitted 45
14 minutes of commissary time as well. They are generally
15 not allowed to participate in any other out-of-cell
16 programs or activities.

17 The other inmates that we are particularly
18 concerned about are the ones in the adjustment and
19 treatment building. There again it may be helpful to
20 divide those inmates two different categories of the
21 total of 93 inmates now in the A and T building. As of
22 the last report 23 of those are in what would be called
23 a disciplinary segregation position. They have been
24 found to have violated a rule, and they are now being
25 disciplined by being held in the adjustment and

1 treatment building. Ten inmates are protective custody
2 inmates. Two of those ten are considered so dangerous
3 to others that it is not safe to house them in the C
4 cell house. The other eight are on a variety of
5 administrative -- there are a variety of administrative
6 reasons for having them in the adjustment and treatment
7 building instead of in C cell house.

8 Then there is another group of 60 inmates who are
9 what we would call in broader terms the other
10 administrative segregation inmates. They are being
11 held there for a variety of reasons, either consistent
12 bad behavior in the past, or pending investigation,
13 many of those inmates are also mentally ill. Those
14 inmates are permitted a total of ten hours per week of
15 exercise time. We have had some dispute as to whether
16 it is appropriate to call the little yard that they can
17 go up and down a dog run or not; that is the term it is
18 generally known as within the institution, so that what
19 they are allowed is for two hours five days a week to
20 go into this run where there is a basketball goal, and
21 that's about it. I do think they are given a
22 basketball as well. There is apparently a small room
23 to which they can be taken in cases of especially bad
24 weather.

25 Other than those ten hours per week, though, these

1 inmates are essentially confined to their cells. They
2 have -- they eat all of their meals in their cells.
3 They are not even allowed to go to the library when
4 they want to read a particular case in order to work on
5 any legal proceedings, they have to be able to identify
6 the case. They can't get the text. A copy of the case
7 would be made in the library, and brought to them in
8 their cells.

9 That in general terms is the group then of inmates
10 whose attention we are focusing on. They are the
11 inmates who I think the Department of Corrections has
12 also been focusing on quite consistently for some
13 period of time in terms of saying not only to us but
14 also to the legislature that there are problems with
15 existing facilities, and that when one talks about
16 dealing with prison problems in Kansas, one of the
17 greatest difficulties we have is in meeting the needs
18 for this kind of group of inmates given the design of
19 the facilities that we are dealing with. And we
20 certainly don't mean to in any way minimize the nature
21 of that problem. We do believe, however, that there
22 are quite a number of things that could be done, that
23 there is a real distinction of what can be done in the
24 short-term and in the long-term to meet the needs of
25 these inmates.

1 THE COURT: Did you suggest that a 19th Century
2 prison cannot adapt to meet the needs of such inmates?
3 Did I hear you say that?

4 MR. RICH: I think I did suggest that. If I
5 didn't, I want to make that suggestion, that the
6 response for this group of inmates given the type of
7 facility is that you have to simply lock them down. At
8 least that's the way I understand the response. Part
9 of it. It is not all because these are such dangerous
10 inmates. They are inmates who have to for one reason
11 or another be segregated. And the way in which -- and
12 you may remember Ted Heim addressing these issues when
13 he was here, the way in which KSP for instance is
14 designed. Whenever you move anyone of these inmates
15 outside of the building that they are in, the feeling
16 is you have to shut down the entire remainder of the
17 population because it's not as if you are able to
18 effectively separate groups of inmates for each other,
19 and still permit them major opportunities for
20 activities, programs, work, and so on, so forth.

21 We do think in fact there are alternatives, that
22 the penitentiary need not be as draconian as they have
23 been. The problem these inmates are in right now is I
24 think quite clearly included in your introductory
25 reference that you have got inmates who have now

1 entered into agreements that have to be met in order
2 for them to be found eligible for parole. Yet they are
3 told that they are not allowed to participate in
4 programs while they are in this status. And they can
5 be held in either administrative segregation generally
6 or protective custody form of it for a period of years.
7 So that, you know, that's the incredible crunch, what
8 some inmates have referred to as the "Catch 22" that
9 they are facing at this time.

10 With that kind of statement to the problem, we
11 also think there is a very clear legal obligation to
12 meet the needs of these groups of inmates. That that
13 obligation comes from a whole variety of sources, some
14 of which were certainly recorded in the response we
15 hastily filed with the court a little over a week ago.

16 Let me also call to the court's attention K.S.A.
17 Section 75-5211, the secretary shall provide employment
18 opportunities, work experiences, educational,
19 vocational training for all inmates capable of
20 benefiting therefrom. Furthermore, the secretary shall
21 to the extent possible approximate normal conditions of
22 employment which includes a 40-hour work week for every
23 inmate who is available, willing and able to
24 participate.

25 K.S.A. Section 75-5210 A is the one that includes

1 the program agreement that was developed by the
2 legislature just a year ago. It specifies that the
3 secretary shall enter into a written agreement with the
4 inmate specifying those educational, vocational, mental
5 health, or other programs which the secretary
6 determines the inmate must satisfactorily complete in
7 order to be prepared for release on parole. So that's
8 the statute creating that particular element of the
9 bind that these inmates face, and we would say
10 contributes to the legal basis for saying that relief
11 needs to be afforded.

12 Furthermore, there is obvious the consent decree
13 to which you have made reference. That consent decree
14 paralleled the language in the statute, and created as
15 of 1980 a binding kind of an agreement that we thought
16 was understood that all inmates were provided with the
17 40 hour program week alternative. And at the time when
18 the Department of Corrections itself created a plan to
19 meet the terms of the consent decree, they specifically
20 included protective custody inmates as being covered by
21 the plan that they themselves had developed. That all
22 happened within the year following the April 1980
23 consent decree. Furthermore, there are a variety of
24 Kansas administrative regulations which underscore the
25 legal point we are trying to make, and do so in the

1 context not just of protective custody but really 'all
2 the administrative segregation inmates.

3 What we find -- and a number of these references
4 are also made in the context of our response, but there
5 is for instance K.A.R. Section 44-14-101 paragraph P,
6 all of the administrative segregation inmates, quote,
7 shall have reasonable access to programs and services.
8 And goes on.

9 Section Q, these inmates shall have daily visits
10 from qualified health officers.

11 At K.A.R. 44-14-306, inmates in administrative
12 segregation shall be treated as nearly as possible like
13 any other inmate.

14 So what we find is that series of related legal
15 obligations that are essentially independent of the
16 constitutional claim. We also then find the conclusion
17 that was included in and not objected to at the time it
18 was rendered in this court's tentative order, and now
19 final order of this court, which there is substantial
20 evidence that all of these inmates need to have
21 additional substantial relief.

22 THE COURT: You are suggesting that Kansas is not
23 only in violation on constitutional matters, but they
24 are also, the state is also in violation of its own
25 statutes and rules and regulations, is that what you

1 are telling me?

2 MR. RICH: That's right. We are not asking this
3 court to be the enforcer of those state statutes, or
4 those state rules. But we are certainly asking that
5 you take recognition of that series of statutes and
6 rules in construing what would be appropriate relief
7 for these inmates. It is really a situation comparable
8 to the one that was faced by the court in the case of
9 LANE V. WILLIAMS, which I also identify in the context
10 of our response. There is a difference between LANE V.
11 WILLIAMS and our litigation in that was a case focusing
12 specifically on the protective custody inmates, and
13 making equal protection arguments comparing that group
14 of inmates to the others. Historically we have not
15 done that because we represent the entire class of
16 inmates who were there. A remedy however which
17 provided relief, as that included in the final issue of
18 this court, somehow allowed the state to continue to
19 treat the protective custody and administrative
20 segregation inmates in the different fashion that they
21 are currently being treated, would violate the equal
22 protection clause and due process clause just as the
23 State of Illinois had on its own without that context
24 in the case of LANE V. WILLIAMS. So that really
25 represents the package of legal claims to which we

1 think these groups of inmates are entitled to relief.

2 The relief we suggest, and let me at this time
3 submit to the court what we have fashioned as a
4 proposed order from the plaintiffs. I did give a copy
5 of this proposed order to the defendants just
6 immediately prior to the hearing this afternoon.

7 THE COURT: All right.

8 MR. RICH: The relief that we are recommending
9 really, and both the proffered evidence in this
10 proposed order include all the inmates I have been
11 talking about, and also those that Mr. Theis will talk
12 about in a little bit. We are concerned about both
13 short-term and long-term. It's our position that in
14 the short-term there are in fact feasible plans for
15 providing out-of-cell time for these inmates. That
16 there are in fact ways that facilities can be
17 renovated, that additional staff can be made, that
18 recreational equipment can be brought to the inmates,
19 and so on, so forth, so in fact make the conditions of
20 their confinement substantially better than they are
21 now prior to the date when you have to finally stop
22 using A and T altogether. That you can reduce the
23 number of -- we are going to have the A cell house for
24 instance, which is currently unoccupied coming on line
25 after a period of time. There are ways in which those

1 facilities can in fact be used that would, as we
2 understand it with the additional funds, make at least
3 some short-term relief possible for these inmates. And
4 that short-term relief would meet the various immediate
5 most pressing objectivity that we are concerned about.
6 It would not, however, meet the kind of permanent
7 standards for relief that we are also concerned about.

8 I think this is one of the issues that has been of
9 greatest concern to the defendants, that we not fashion
10 short-term relief where money is spent; for instance
11 renovating some facilities at the state penitentiary,
12 and then create an impression that nothing more than
13 that is necessary. What we find both in terms of the
14 legal basis, the legal arguments that I have described,
15 and some others that already identify the kind of
16 standards that ought to be provided for inmates who are
17 going to be locked down more than ten hours a day, a
18 fairly clear basis for measuring what the long-term
19 relief as well ought to be. For instance, the American
20 Correctional Association standards as I think the courts
21 identified them just over a week ago say if you are
22 going to lock somebody down more than ten hours per
23 day, then they should have 80 square feet. What we
24 find within the Kansas Administrative Regulations is
25 that for segregation inmates, the cells should be at

1 least a large as other cells in the institution. And
2 we know that there are in fact 80 square foot cells at
3 KSP; that all new cells being developed, whether at
4 Ellsworth or at, in the proposed new facilities, so
5 forth, are going to be meeting what is that standard,
6 so that inmates can in fact, consistent with ACA
7 standards, be housed in those cells for a period of
8 more than ten hours per day, where that is appropriate
9 with the particular group of inmates.

10 It is also interesting to note that the Kansas
11 Administrative Regulations, and the two I'm currently
12 citing, the one I just cited, and again the one I'm
13 about to are at 44-14-101 B, specifies that for
14 segregation inmates their cell should be at normal room
15 temperature for comfortable living. Goes on, normal
16 room temperature for comfortable living shall be
17 maintained. That is our current state regulation, and
18 the expectation that that will be part of a long-term
19 resolution of issues related to these inmates who are
20 going to be confined for long periods of time we think
21 is entirely realistic.

22 We are asking for relief to be ordered in a
23 relatively quick time frame. We are asking that a
24 short-term plan be filed to the court by the fifth of
25 May which permits the legislature to meet, and also

1 then a little bit of time -- these dates were among
2 others coordinated with the person who I think has been
3 contacted by the legislature as a possible consultant.
4 We would ask for that short-term plan to be developed
5 to the court by May 5, fully implemented by October 1.
6 We would ask for a long-term plan meeting the ACA
7 standards for segregated inmates, so forth, to be
8 proposed to the court by the first of July, and fully
9 implemented by July 1 of 1991.

10 We make these requests not with the idea that we
11 are now wanting the court to become involved in telling
12 the legislature exactly what to do. What we are trying
13 to do again is to simply lay out the broad standards
14 and the parameters in much the same way that the
15 original tentative order did for all other inmates.
16 We simply left these inmates out of that process
17 because it was more difficult to come up with
18 appropriate parameters.

19 THE COURT: Let me ask you here, maybe eventually
20 I will need to ask Mr. Madden this. But I agree with
21 you, I don't want the court telling someone what they
22 need to do. How does this information reach the
23 legislature in your observation -- I have had some
24 great mass of material that's been given to me,
25 testimony of experts, all the other things that have

1 been brought into this court setting up great problems.
2 Does the legislature even know these problems exist?
3 What is the information conveyance system I think is my
4 question?

5 MR. RICH: I can assure you almost none of them
6 have asked me. And that that is a problem at some
7 level. Certainly I don't see it as my part to become
8 involved in the legislative process.

9 THE COURT: I agree with you on that.

10 MR. RICH: I have also on a variety of occasions
11 been asked many questions by reporters from both the
12 press and television, and what I find is the one
13 sentence dealing with not planning to appeal appearing
14 on the first page, when in fact these are the issues
15 that we think haven't been resolved, and would in fact
16 need to be addressed to effectively -- this is where we
17 have tried, and what I have been trying to do in the
18 course of the last several weeks is to, whenever asked,
19 place the focus on these functions. What tends to have
20 come across so loudly and clearly is the numbers, and
21 we've got to build more beds so we can add a dormitory
22 on to the outside of the walls at KSP.

23 THE COURT: All I read about in the paper are
24 hostile questions rather than inquiring probative
25 questions.

1 MR. RICH: Mr. Madden I'm sure can speak to that
2 much more --

3 THE COURT: My question is does anyone want to
4 know in the state? Anyone interested?

5 MR. RICH: I do think that we are now to the point
6 where during this period they are ready to focus -- at
7 least that is my hope, and we've come I think fairly
8 methodically to this point.

9 If you have further questions as to these groups
10 of inmates, I would be happy to respond. Otherwise I
11 will turn it over.

12 THE COURT: I am concerned that we have burdensome
13 problems here that no one seems to know about, because
14 you don't get inside of an institution, you do not know
15 what is going on.

16 MR. RICH: That is right. That is precisely why
17 we wanted to seek this hearing this afternoon.

18 THE COURT: Thank you. Mr. Madden, do you want to
19 say something now, or take these up individually?

20 MR. MADDEN: I would like to wait for Mr. Theis.

21 THE COURT: Mr. Theis, would you like to take over
22 now please.

23 MR. THEIS: Your Honor, since nothing in the
24 proffer of evidence that has been submitted to the
25 court affects the mentally ill, I will be substantially

1 briefer than Mr. Rich was, since he had to discuss some
2 new items before the court.

3 As the court has recapitulated to start with in
4 its order of December 23, '88, the court peculiarized
5 the problems of the mentally ill as those needing
6 immediate attention. In that order the court indicated
7 that by March 1, '89 that the state was directed to
8 file a report regarding its short-term plans for
9 improvement and also discuss long-term plans to remedy
10 the situation. It was largely on the assumption that
11 such a plan would be forthcoming, that the plaintiffs
12 did not object to the 30 day extension which the court
13 alluded to, believing that a plan would be forthcoming
14 that would itemize remedies for those problems.

15 As Mr. Rich has indicated, we believe that the
16 document filed by the state cannot be called a plan in
17 any meaningful sense. It contains nothing at all on
18 the short-term regarding the mentally ill, and there
19 certainly are no long-term or hard core plans for
20 remedying the long-term problem.

21 Your Honor, as the court is aware, the evidence
22 produced in October is, and at the prior hearings
23 regarding KSP show that there were gross deficiencies
24 in the mental health care treatment in the state
25 penitentiary system. A lot of that admittedly is not

1 the fault of the Department of Corrections, and we are
2 not, it is not our point to assign blame, but to bring
3 the facts before the court and to ask the court to
4 define a remedy or at least to direct the state to
5 propose meaningful remedies that will correct these
6 problems.

7 Among the most critical of the problems regarding
8 the mentally ill, Your Honor, is the isolation on a
9 long-term basis in both KSIR and KSP. Dr. Rundell
10 testified that such isolation actually worsened the
11 condition of many, and had in fact contributed to
12 suicides. Inmates confined in segregation or the
13 inmates who are mentally ill inmates are confined in
14 segregation with inmates who are rule violators or
15 custody problems, and are on a day-to-day and hourly
16 basis in the custody of security officers rather than
17 licensed and trained mental health care personnel. We
18 believe it's clear that such confinement is a violation
19 of the Eighth and Fourteenth Amendment, and must be
20 remedied as soon as possible.

21 Now some four months have passed, and we still are
22 without any type of plan which the court has identified
23 as being necessary to start us on the road to remedying
24 these problems. Even the so-called interim plan which
25 the state identified in its report about a week ago,

1 which has been withdrawn, said nothing regarding
2 staffing or conditions of care, or the type of
3 facilities that the mentally ill would be transferred
4 to. Mr. Rich in his discussion of the protective
5 custody and administrative segregation inmates has
6 indicated that our purpose is setting parameters. That
7 is similarly true regarding the mentally ill.

8 Under RAMOS V. LAMB, which the court is familiar
9 with, the court indicated that inmates are
10 constitutionally entitled to a system of health care
11 personally designed to meet the -- reasonably designed
12 to meet the medical and mental health care needs of
13 inmates. Now in order to do that, Your Honor, we think
14 it is critically important that the state must develop
15 both short and long-term plans regarding confinement of
16 the mentally ill and providing adequate treatment for
17 their needs. To be meaningful, and to be a meaningful
18 plan we think it's mandatory that any plan developed
19 conform to accepted standards in the community
20 regarding the treatment of mentally ill patients.

21 The ACA standards, of which the court is familiar,
22 indicate that treatment of inmates should be comparable
23 to that provided in the community for those with mental
24 health care problems. Hospitals in the community are
25 clearly required to meet mental health care standards

1 because such standards have been found to ensure the
2 delivery of adequate mental health care to patients.

3 Already at Larned State Hospital where the state
4 directs a number of the critically mentally ill, there
5 are standards in effect, both the JCAH and the, also
6 standards imposed by the Kansas Department of Health
7 and Environment. So standards are nothing new for
8 treatment of the mentally ill. The state is already
9 doing it. We think that it's mandatory that in any
10 future plan that is submitted by the state to the
11 court, that any future construction must similarly
12 conform to the standards, at a minimum to the standards
13 that are already in place. And to certainly, similarly
14 to KDHE or JCAH standards. We do not think that the
15 state should be permitted to lessen the standards of
16 care below those that are already in effect.

17 We think also any plan that is filed by the state
18 should get specific regarding staffing facilities and
19 treatment programs. Again for a plan to be meaningful,
20 it must identify standards and also indicate how those
21 standards will be implemented. We therefore are asking
22 the, excuse me, asking the court to direct that the
23 state file a meaningful mental health care plan in the
24 long-term by July 1, 1989. And we submit that such a
25 plan should conform to the parameters which are set out

1 in the brief that was filed approximately a week ago
2 and along with our suggestions made here today in
3 court.

4 Regarding the short-term, the court -- we believe
5 the court should direct that a plan be filed which
6 identifies and corrects prolonged isolation of the
7 mentally ill. The evidence showed that prolonged
8 isolation worsened the condition of many inmates on a
9 daily basis. We believe the state in the short-term in
10 filing any plans should direct, should describe or set
11 forth plans that show, or provide for more out-of-cell
12 time for mentally ill inmates. In other words, that go
13 to the core of relieving the prolonged isolative
14 confinement which the experts have identified as the
15 most dangerous and serious of factors.

16 We would request as outlined in the brief and the
17 proposed order that any -- that the state's plan for
18 correction of the short-term problems of the mentally
19 ill be submitted or filed by May 5, 1989.

20 In suggesting these things, Your Honor, we realize
21 that the shortcomings are not necessarily those of the
22 Department of Corrections which has been having to act
23 with limited resources. However, the problems are the
24 responsibility of the State of Kansas, and these
25 problems have been neglected for a long period of time.

1 The needs of the mentally ill are acute and serious and
2 demand urgent attention, and therefore, we would
3 request that the court direct the state to file
4 meaningful plans by the dates indicated.

5 Thank you.

6 THE COURT: Thank you.

7 Mr. Madden, would you like to face your accusers?

8 MR. MADDEN: Thank you, Your Honor. To date the
9 Department of Corrections has met all the court's
10 deadlines for population reductions. This is in spite
11 of disturbance and work stoppage in late March at the
12 new facility in the department, the Hutchinson
13 Correctional Work Facility. Is this instance that
14 necessitated the emergency transfer of over 70 inmates
15 to KSIR the week before the April 18 deadline. However
16 the department was able to respond to this situation,
17 still reduced the KSIR population to below 1303 by
18 April 1, even though the tentative order issued
19 February 15 has not yet been made final until today.
20 The department has also scheduled the self audit of
21 KSIR for April 12 through the 14th, and Kansas State
22 Penitentiary for the April 19 through the 20th. This
23 self audit is being conducted by ACA representatives,
24 even though it could have been performed by the
25 department's own staff to ensure that problem areas are

1 readily identified for the earliest and final
 2 accreditation. By terms of the tentative order, the
 3 self audit would not have been required until 45 days
 4 after the order became final.

5 The defendants have informed the court of its
 6 plans in regard to addressing conditions at KSIR and
 7 KSP and KCIL, and the court has issued its tentative
 8 order. The court's order and the department's response
 9 cannot be characterized as insubstantial or a cruel
 10 hoax as alleged by the plaintiffs in their motion.
 11 Approximately 1100 inmates have been removed from KSP,
 12 KSIR and KCIL to date. The department has implemented
 13 a totally new medical services contract. Deadlines for
 14 achieving accreditation status in the medical and
 15 mental health areas as well as for each institution as
 16 a whole have been established. These deadlines are
 17 recognition that a reasonable period of time is
 18 necessary in order for the Department of Corrections to
 19 come into compliance with those standards.

20 As I speak, as I mentioned before, KSIR is
 21 undergoing its self audit for accreditation purposes,
 22 and by the time the court's order is fully implemented,
 23 four of the housing units at KSP and KCIL will have
 24 ceased to be used by inmates, including the A and T
 25 building. Over two thousand inmates will have been

1 removed from KSP, KSIR and KCIL. These are not
2 subterfuges taken lightly by the state. These are far
3 reaching, expensive measures that will benefit the
4 entire inmate population with increased space, services
5 and staff. Plaintiffs, however, have alleged in their
6 motion bad faith, talk of a sanction for contempt, and
7 possibility of a master.

8 The court in its order, unlike the plaintiffs,
9 understands the extreme difficulties accompanying its
10 order. The court in its order stated that it
11 recognized these orders place a burden upon the
12 defendants in that the inmates who will be affected are
13 among the most difficult for the Department of
14 Corrections to manage. The need for a secure setting
15 for segregated inmates for the protection of staff,
16 general population inmates and the segregated inmates
17 themselves cannot be underestimated. As Mr. Rich
18 pointed out, this is not merely a question of bed
19 space.

20 The plaintiffs have attached two letters
21 complaining of the lack of programs to those in
22 segregation. The department has also received letters.
23 I would like to share with the court one of them that I
24 feel represents the problems that the Department of
25 Corrections has to deal with. Addressed to the

1 governor of the State of Kansas.

2 "Murder trial of Steven Larkin ended by me
3 pleading guilty to everything. I'm sure you have seen
4 something of it on TV. I've told the judge through the
5 district attorney and the district attorney has what
6 comes next, knows what comes next. The doctors say I
7 am a psychopath. Ha-ha. Who knows? Who cares? I
8 don't. They know I made a mistake. I found out Kansas
9 has no death penalty. That is too bad for somebody
10 now. Maybe several people. When I found out, when I
11 found that out, I informed them that I would just have
12 to help you all in getting the death penalty reinstated
13 by killing more people every chance I get. And that I
14 consider good enough. Security is such in this jail,
15 county jail..." where he authored this letter,
16 "...around me, I could not do nothing if I wanted to,
17 plus I pretty well given my word I would start no..."
18 expletive here. "I don't know why I did that, but I
19 did for some reason, and I don't break my word. It is
20 hard to get my, hard to get my word, but I really do
21 not break it. I've waited -- I am waiting until they
22 get me where I'm going. Then I'm going to where I know
23 what goes on all the time and can set up whatever I
24 want. They may keep me locked down for a while, or
25 whatever. That won't last long. They will fuck up

1 sooner or later, then it may be a guard that dies with
2 my knife in his throat. I always go for the throat.
3 It may be a convict that appears to look crosseyed at
4 me. It may be a counselor or doctor or priest or nurse
5 or anyone in the system. After a while, even if they
6 lock me down a while, all I've got to do is be Mr.
7 Model Convict long enough, and I will end up in a
8 position to help Kansas get the death penalty back.
9 Hey, I have stabbed people through bars with broom
10 sticks, the old harpoon. They will fuck up. After I
11 have killed the first person, no matter who it is, they
12 will beat me up a few times which is nothing new, and I
13 will agree that I fell down. Then they will lock me
14 down again, and hey, it may be even for months and
15 months, but they will fuck up again, and guess what? I
16 will kill another one. And so after this dude I've
17 killed in Jefferson County and a few more because of my
18 mistake, then maybe you can get your state people to
19 vote it back in just for little ol' me. If not, too
20 bad. I'll keep killing people every chance I get until
21 it either happens or I get killed myself which would
22 serve my purposes anyway. Oh yeah, I'll be sure that
23 most of the people I get too are not convicts, simply
24 that it makes people madder, and I don't just kinda
25 state quiet behind walls if you know what I mean,

1 because don't worry, I won't be prejudiced, I will kill
2 a few of them too or get killed. See, with cons I
3 would at least wait until one of them made me feel like
4 they were, they was bothering me, or something like
5 something first. The K.B.I. right now is in contact
6 with California where I've killed some grease ball in
7 '82. Arizona says they can't find no body, but that's
8 cool. The one in California, the only reason I could
9 give them pretty good details was because of the way it
10 happened, but I have also told them of people I've
11 killed, and I think they are inclined to believe what I
12 have told them. I know for a fact I have killed at
13 least 12 people. You can be sure that a few of them, a
14 few more just to help the governor who I know is for
15 the death penalty will be no problem. But all the
16 same, shit, it will actually give me something to plot
17 and plan for a while. So you think about what I'm
18 getting at. I will help the governor get the death
19 penalty back unless I'm wasted, and get set up for a
20 hit myself. That's no problem to me, if they don't do
21 it, I will be dead, end of story. Need references?
22 Washington State Penitentiary, San Quinton, and
23 Arizona, Florence. In between these places over the
24 years I have killed people. My trip to Kansas it was a
25 time for me to die. I'm tired but I will make you

1 people do it to me one way or another. I don't care
2 which."

3 That is the type of individual that the Department
4 of Corrections has to deal with on occasion.

5 THE COURT: Well, we are always happy to hear from
6 concerned citizens.

7 I know no one will think that the death penalty
8 will have anything to do with the overcrowding in the
9 Kansas Penetentiary. Some people think there will be a
10 mass slaughter that will take care of the problem, but
11 that is ridiculous. We might be talking about one or
12 two people, three at the most.

13 MR. MADDEN: I shared that with the court for
14 showing to the court that this man is not in
15 disciplinary segregation. He has committed no offense
16 while in the Kansas State Penitentiary. However, this
17 person is in the most secure facility that we have
18 available. He is in administrative segregation because
19 this man does pose a believable threat.

20 THE COURT: Well, we are all aware those people
21 exist both in state and Federal penitentiaries we have
22 them here in court every once in a while.

23 MR. MADDEN: That is one problem with the proposed
24 order that the plaintiffs have submitted. It talks
25 about administrative segregation, and that those people

1 all be given 40 hour work weeks. The court recognized
2 the problem presented by individuals; the court is
3 familiar with the present system. That is why the
4 court has given the state until July 1 of 1991 to
5 develop a replacement housing unit for A and T. Even
6 with five hours per week of recreation for those
7 serving disciplinary segregation punishment and only
8 three showers a week with meals eaten in the cell,
9 security problems persist in dealing with this segment
10 of the population and security considerations must be
11 taken into account in every action that is taken with
12 respect to these inmates. These restrictions comply
13 with ACA standards.

14 At one time typewriters were permitted in A and T
15 to aid inmates in petitioning the court. These were
16 cannibalized and an inmate was stabbed with the paper
17 hold-down bar. Leon Stanley, one of the class
18 representatives was stabbed in 1984, and since has been
19 involved in battery upon another inmate. It happened
20 in the recreation yard of the A and T unit. Yet now
21 plaintiffs' counsel argues to the court that these
22 inmates such as this should have jobs for 40 hours a
23 week.

24 THE COURT: Let me suggest to you, every prison
25 has its Thomas Silverstein, head of the White Aryan

1 Brotherhood, who now not even a guard approaches. He's
2 now killed six people in the Federal penitentiary.
3 When the Cubans took over the Atlanta penitentiary,
4 they let him out without realizing who he was, and they
5 grabbed him and pushed him on out the door to the
6 guards because they didn't want him loose in there.

7 And I can't believe that the plaintiffs are
8 telling me that there cannot be, that we are going to
9 have such liberality that we are not going to be able
10 to take care of the Thomas Silversteins. I am sure we
11 are but I am not going to sign any order that's going
12 to say that a man who is going to kill somebody cannot
13 be confined. We are talking on a far broader scale I
14 think on maximum security people, and on protective
15 custody people than that. I will make that suggestion.

16 MR. MADDEN: That is a concern reading paragraph
17 three of their proposed order.

18 THE COURT: Well, you suggest an amendment, and
19 let's not worry about that. I am not sure Mr. Rich
20 reads paragraph three the same way.

21 MR. RICH: No.

22 MR. MADDEN: The recent case involving Marion,
23 Illinois out of the Seventh Circuit, which was decided
24 July 22 of 1988, Seventh Circuit authorized a lockdown
25 situation at that facility that has occurred over a

1 period of years. The administrative segregation
2 inmates do have extremely restricted activities. They
3 do spend an extraordinary amount of time in their
4 cells. But it is not like the lockdown at United
5 States penitentiary at Marion. The department in 1980
6 in implementing the consent decree tried to place
7 protective custody inmates on work details. Protective
8 custody inmates were not specifically mentioned in the
9 consent decree, and just as Your Honor just pointed
10 out, I think that the best interpretation of that
11 consent decree is if administrative segregation inmates
12 are not specifically mentioned, you cannot assume that
13 they are going to be treated just like every other
14 general population inmate for the very reason the
15 court's well aware of. The Department of Corrections
16 went beyond those requirements and tried to include
17 protective custody inmates in work. That program was
18 curtailed. In 1982 Mr. Henderson, whose report was
19 admitted into evidence found, quote, a number of
20 inmates in protective custody unit are assigned to jobs
21 in the laundry and furniture refinishing departments.
22 During all movements of PC inmates, those in general
23 population are secured. It is commendable that a
24 limited work program and outside cell time is available
25 to this group. However, it is questionable whether

1 this type of program should be operated at the expense
2 of a much larger general population group.

3 Plaintiffs' own expert, Ted Heim, stated "The
4 antiquated designs of a facility like KSP causes
5 immense problems, major security risks are created
6 whenever inmates are moved from one cell house to
7 another. This is one of the reasons why protective
8 custody inmates have to be locked down to such a great
9 extent. There has been no evidence that the
10 identification of and placement of inmates in
11 segregation is improper.

12 In 1980 the population of KSP was single-celled.
13 That is obviously not the case today.

14 Your Honor, we cannot turn a sow's ear into a silk
15 purse. To ignore the current situation at KSP and the
16 need for segregation places staff and inmate lives in
17 jeopardy. The population at KSP will not be at
18 operating capacity until 1991. The Court in its order
19 recognizes that some inmates will not be able to
20 participate in programs geared for parole, and directs
21 that if an inmate is unable to participate in the
22 programs contracted for with the department, they shall
23 be certified as having successfully completed the
24 program if it is available in a parole plan.

25 The parole decisions that I have seen issued by

1 the court and admit to the court most of the files that
2 I read are not the more model inmates, they are usually
3 denied parole for a multitude of reasons, the type of
4 crime committed, the length of the sentence that they
5 have served so far, their behavior while in the
6 institution, and there is usually a recommendation that
7 they complete a program, or participate in a program.
8 I do not think however that participation in those
9 programs are going to convince the parole board to
10 ignore the other three reasons they found this person
11 is not suitable for parole.

12 The plans of the Secretary of Corrections and the
13 court's order do not merely encompass population
14 reductions. The A and T unit will no longer be used.
15 In its place the secretary has proposed to the
16 legislature a multi-security level facility be built.
17 As proposed, this facility would house the special
18 management inmates that necessitates the lockdown
19 status described by Mr. Heim at the antiquated
20 penitentiary. We have already experienced a
21 significant decrease in the number of PC inmates with
22 the population reductions implemented. Further
23 population reduction and the removal of special
24 management inmates in 1991 will work to further
25 decrease the numbers of PC inmates at KSP and

1 facilitate better supervision and activities of those
2 inmates placed in the proposed facility. The
3 legislature's action with respect to this proposal is
4 uncertain at this time.

5 In the interim before 1991 the department had
6 developed plans to transfer 128 mentally ill inmates to
7 the new facility at Ellsworth, Kansas when housing
8 units are completed in September of 1989. Under this
9 proposal the department would continue to utilize the
10 Larned State Security Hospital for 75 psychiatric
11 hospital placements. This proposal would accomodate
12 both psychiatric hospitalization needs and the interim
13 care needs that the court heard about.

14 The experts that have testified in this case do
15 not believe that every mentally ill inmate in the
16 Department of Corrections needs to be hospitalized.
17 They spoke in terms of getting them out of the
18 facilities that were described at the KSP and KSIR.
19 Place where the environment it is causes
20 decompensation.

21 The plaintiffs in their proposed order are unclear
22 as to whether they propose that such an interim
23 facility, facility that is not a psychiatric hospital,
24 be required to be certified and accredited as if it
25 were a psychiatric hospital.

1 The department has submitted a long-term proposal
2 to the legislature for construction of a 256 bed mental
3 health unit at the Larned State Security Hospital. The
4 legislature has pending a proposal to hire a consultant
5 to evaluate mental health care for the department, and
6 these recommendations and subsequent legislative
7 actions may alter the department's plans. In recognition
8 of the possibility of a consultant to study mental
9 health needs, the department stated in the plan filed
10 March 31 that it put its Ellsworth plan on hold. It
11 did so not with the intent to delay but rather to gain
12 the benefit of the consultant's advice, if received.

13 The legislative proposal called for receipt of the
14 consultant's report by June 30. Department of
15 Corrections had informed plaintiffs' counsel that it
16 would be mid to late summer before the Ellsworth plan
17 could be implemented. That plan, or one recommended by
18 the consultant, could still be implemented in the mid
19 to late summer timeframe. Plaintiffs' concern that
20 defendants now intend no interim action for mentally
21 ill offenders is unfounded and is a misreading of our
22 report. Interim action will be taken with respect to
23 these mentally ill inmates. The objection by
24 plaintiffs to the possibility of a consultant reviewing
25 this area without a long delay in implementing the

1 interim plans seems shortsighted to us. But even
2 without further legislative action, these inmates that
3 are ill but do not require hospitalization will be
4 removed from the isolation conditions found at KSP and
5 KSIR that were found to cause decompensation.

6 Plaintiffs argue that WILLIAMS VERSUS LANE
7 supports a finding of contempt against the defendants.
8 They make this allegation while the legislature is
9 still in session, and has pending before it significant
10 bills for the construction of a multi-level security
11 facility and a medium (sic) mental health unit. The
12 defendants in this case represent just one branch of
13 the state government which cannot supercede the
14 legislature. As the court in WILLIAMS pointed out
15 under the constitution, the first question to be
16 answered is not whose plan is best, but is what branch
17 of the government is lodged with the authority to
18 initially devise the plan.

19 To hold these defendants who are members of the
20 state's executive branch in contempt or even to deprive
21 the state's legislature the opportunity to adopt its
22 own plan in the waning days of its current session
23 ignores this important constitutional principal.

24 It is respectfully prayed that the court accept
25 the plans submitted by the department in its March 31

1 proposal and permit the legislature to exercise its
2 legislative function in regard to special management
3 inmates and allow the department to deal with the
4 situation with this problem after receiving direction
5 from the legislature.

6 Ask the court to let the state formulate its
7 plans, and I hope the court realizes that the
8 department without, or the department must rely on the
9 guidance of the legislature, and the session of course
10 is in its waning days, and we will receive direction
11 from the legislature, and we will report the action to
12 the court in a timely manner.

13 Thank you very much, Your Honor.

14 THE COURT: Don't leave.

15 MR. MADDEN: I have population levels for you, if
16 you would like.

17 THE COURT: Let me ask you a few questions here
18 first. Let me say first do not conclude that I am
19 critical of the Department of Corrections. Your
20 department has the most difficult job in state
21 government. No question about it. The district judges
22 pour the people in on you, and you have very little
23 authority to let them out. That is on the parole
24 department. The numbers assemble on you. I am amazed
25 that the Department of Corrections has been able to

1 function as efficiently as it has.

2 But let me say as a Federal court having the most
3 dangerous criminals in America stand where you are
4 standing right now, or sitting over here to my right
5 with only Ms. Scott here as my protection, you
6 understand, coming up to me. Let me say to you that
7 I'm as concerned about security as you are, and in
8 every order that we have issued from this court we have
9 been, that's been our first concern is security.

10 I also sympathize with you, I hope and believe
11 that the lawmakers must not adopt the rule of the ancient
12 kings, and take recourse in attacking or killing the
13 messenger that appears in front of them bearing bad
14 news. I hope that doesn't continue to happen. Because
15 surely all the things I'm hearing here today ought to
16 be in front of the legislature. Because my
17 recollection is that when I was in the legislature, we
18 had the finest legislative research department that I
19 think I had ever seen, and I hope that all the figures
20 that are being furnished here are also being furnished
21 to the legislature so that they are acting on fact, and
22 not on passion or emotion, or upon political concerns
23 of a particular area, or that they are not being
24 directed by the concerns of a small group of people in
25 a particular area who are saying we do not want

1 community corrections in our area, we do not want these
2 people in this area. We want these matters to be taken
3 care of but not in our areas.

4 In other words, small areas of a city should not
5 direct the penal policies of this state. It is a much
6 broader situation than that, and sometimes I wonder
7 that both the legislature and the Department of
8 Corrections are overly sensitive to complaints of
9 individual citizens in regard to where people should be
10 housed. I recognize your situation. I am sympathetic
11 to you, and for that reason, we've tried to leave these
12 matters in the hands of the properly appointed
13 authorities in the state. Tried to call the attention
14 to the state the problems that exist, and I hope that
15 they will accept -- the governor and the legislature
16 will accept the serious problems that exist, and do not
17 think they do not exist.

18 Now one little problem I have with your answer is
19 that sometimes some of the things you have said are not
20 really based upon the situation at the present time
21 unless the actions are going to be taken, you
22 understand, that you have suggested and recommended to
23 the legislature. You say they believe single celling,
24 greater access to medical and mental health care, and
25 other essential services will provide an environment

1 that does not endanger the life, health and safety of
2 protective custody inmates or of mentally ill people.
3 Those are fine, but those inmate populations are not
4 going to be lower. Single celling is not going to take
5 place. Greater access for medical and mental health
6 care will not provide an environment unless steps are
7 taken to build new and proper facilities, unless other
8 steps are taken that reduce the inmate population.

9 Now if people keep pouring in on you, I see it
10 is not only difficult, it is impossible for you to turn
11 to the matters we are concerned with here in our new
12 order. I am not sure, I think the plaintiffs believe
13 that you can take some additional steps to relieve the
14 protective custody situation. But I'm not sure how you
15 can do it as long as the general population keeps
16 swelling.

17 Now I'm still receiving a great number of letters.
18 As you know, many of letters I read I inquire about
19 them, find out that I do not have the full facts,
20 rarely ever get them. There is a disciplinary problem
21 which stopped a parole, or all the other things that
22 that. I understand that fully.

23 Biggest concern right now -- it is too bad the
24 great movement that you are having to make between
25 incarceration in transit is what you are having now,

1 and you are moving people constantly , it brings a
2 great amount of mail to me. Person gets started in a
3 program, and they are moved. There is a change.
4 Sometimes it reminds me of the United States Army that
5 used to set up programs.

6 The great mass of letters we are getting is from
7 sex offenders who are apparently in certain programs
8 that they think are good programs, and they are now
9 being moved from Topeka to Lansing or somewhere else.
10 Great number of letters about this from mothers and
11 fathers and people who are now being moved.

12 Getting a number of letters again from different
13 areas, particularly the temporary places you are
14 setting up of course quite often have far less
15 recreational and other convenience than the maximum
16 security penitentiaries, and I'm hearing about that.
17 The medical care, once or twice, they, I have had
18 numerous letters saying medical care has to be by
19 appointment over a period of time.

20 I am not critical of this, because you are under
21 great stress. Department of Corrections is trying to
22 accomplish what you are trying to do. You are being
23 goaded by the court of course to try to reach these
24 conclusions. Not getting great cooperation from anyone
25 else, or great help in this matter, and I see your

1 situation. I hope that we can allow the state as you
2 have suggested to formulate the plan.

3 I am convinced if this case had not been filed in
4 this court or if we hadn't reopened this case, that we
5 would have been five years from now still with
6 make-shift partial changes because there is no great
7 group of lobbyists asking that these situations be
8 changed, as you find that the universities or the
9 mental health or the other institutions in the state.
10 And unfortunately this is something that falls back on
11 a Federal court to try to reach some conclusions about
12 this matter without any great support or encouragement
13 from the population of the state. People are
14 concerned, but many people of course feel the inmates
15 got themselves into this place, and let 'em stay there
16 until the ants carry them out the keyhole. That is an
17 expression I get in certain places that I go.
18 Unfortunately the constitution doesn't allow that.

19 That is the reason the court pressures you and we
20 try to make reasonable orders that will try to move you
21 along. I hope that you are optimistic that the state
22 can formulate a plan. I am not suggesting that the
23 Department of Corrections doesn't want to cure these
24 things. I think you desperately want to cure these
25 problems. But whether you have the resources and tools

1 available to do this -- if there is some drastic
2 dramatic action on the part of the state, I'm not sure
3 whether you have the tools to do the work.

4 Now when you said let the state formulate a plan,
5 what did you have specifically in mind on that?

6 MR. MADDEN: First of all the attorney general has
7 spoken to a few of the members of the legislature, and
8 no one here has any doubt as to your constitutional
9 duty and your authority. We appreciate your concern
10 about security. That security is not just the lock 'em
11 up, throw the key away type of mentality. It is
12 recognition that security is both for the public at
13 large and also for the inmates within the institution
14 itself.

15 Not every inmate that is within the Department of
16 Corrections custody is by any means like Mr. Larkin.
17 Those people need protection. They need protection for
18 medical reasons like that. The department realizes
19 your duty and your authority, and I think the
20 legislature is becoming more and more aware of your
21 duty and authority, and I feel that it had discretion.
22 And the court's analysis of what needs to be done as
23 evidenced through its order is very judicial in that it
24 helps plans be formulated that protect the interest of
25 everyone. Rather than to have the court try to

1 undertake this program on its own, I realize if the
2 state will not do it, you have the authority to.

3 As far as the programs and the plans that the
4 department has, we really are caught in a bind. We
5 have yet to know what the legislature is going to
6 authorize. And they are the people that we look to for
7 the resources. I remember that the court has the
8 authority to supercede the state in the event the state
9 attempts to house people and treat inmates in an
10 unconstitutional manner. The court can take that
11 authority away from the state. Until that is done, we
12 have to look to the legislature for our resources, and
13 when the legislature enacts its plans, hopefully they
14 will follow the Department of Corrections' opinions.
15 We feel we do have the expertise in the area. We will
16 have to work with those plans, and I hope that the
17 legislature acts in a responsible manner so that those
18 plans are acceptable and meet your constitutional
19 duties to ensure that the people in the Department of
20 Corrections custody are not unconstitutionally treated.
21 But we need to look and see what those plans are.

22 We are not asking for an indefinite delay in that.
23 It is my understanding that the legislature will be
24 meeting next week. I think they are only scheduled for
25 possibly a week or so session after the adjournment.

1 So we are looking at knowing what the state resources
2 are going to be within an extremely short period of
3 time. The department will use those resources to the
4 best of its ability. And I hope that that is
5 acceptable to the court, but we must look to see what
6 guidance we get from the legislature

7 THE COURT: All right. Thank you. I don't
8 believe I have any more questions. Mr. Rich, in regard
9 to your proposed order here and proffer of evidence,
10 there has been some comment that your proposed order
11 might go too far, which would be my proposed order,
12 which I adopted your order. Might go too far, and
13 might need more flexibility in handling certain
14 dangerous inmates. And the court has no disagreement
15 with that. I'm sure you do not either.

16 But looking into the future and for the court to
17 adopt an order, do you know I have now heard from each
18 side about everything if I take your proffer of
19 evidence? Do you think I have heard about everything
20 I'm going to hear in regard to our latest problem that
21 has not been taken care of by my permanent order which
22 has just been signed?

23 MR. RICH: I think so. If we got into a context
24 where plans had been developed, then we might have a
25 whole new set of evidentiary issues, and need for

1 expert testimony, so forth, in regard to the adequacy
2 of those plans. But at this stage we think evidence of
3 the violations was pretty well brought to your
4 attention at a previous date, and referred to in
5 stipulations before this court.

6 I certainly have no intent that the, the two
7 inmates taken out of C cell house, put in A and T
8 because they are too dangerous for C cell house, I
9 wouldn't want them put in a context where they are
10 harming either staff or other inmates.

11 One of the things that, in many ways turned me
12 around in terms of what needed to happen in Kansas was
13 a particularly vicious murder that occurred last summer
14 within the confines of the Kansas State penitentiary.

15 I should point out that the paragraph three which
16 Mr. Madden referred to simply asked that they plan to
17 implement their, quote, inmate 40 hour a week program
18 which they had published in 1980. We are clearly
19 willing to work with the defendants if there is a
20 feeling that there is more flexibility in some respect
21 that ought to be brought in. But I think that a
22 specific message from the court more that lays down
23 parameters for these issues, much as the February order
24 did with respect to the issues we had been prepared to
25 present.

1 THE COURT: Are we somewhat precluded from moving
2 ahead on this second order until we find out what the
3 legislature is going to do? Or is it your thought that
4 regardless of what happens, we would go ahead with
5 something like your plaintiffs' proposed order?

6 MR. RICH: My thought is that we would go ahead
7 with something. We would be asking for essentially
8 this regardless, that if we ended up with the
9 legislature not doing something that was in some way
10 comparable -- I have heard no objections to the overall
11 time frame or standards that we are referring to. If
12 the legislature did not have this, and if what they
13 decided was, well, they just need to build another dorm
14 or two, we would then be into the kind of impossible
15 conflict where we would at that stage I presume be
16 asking that they be held in contempt. We are not
17 asking that now. We would be forced into conflict
18 where the argument would be they did what they thought
19 was right, and our argument would be on the other hand
20 they did not do what obviously needed to be done, but
21 their defense would be that they did not have a clearer
22 message about what needed to be done. And that is why
23 that is the message.

24 If there are ways we can work with the defendants
25 to accommodate the particular kind of concerns Mr.

1 Madden is calling attention to, we are happy to do so.

2 THE COURT: Mr. Madden, any comments on any of
3 this?

4 MR. MADDEN: The state statutes that, and the
5 administrative regulations that Mr. Rich has referred
6 to, they have to be read in conjunction with the
7 funding that the legislature has provided in
8 implementing those statutes. And as the PENNHURST
9 VERSUS HALDERMAN case pointed out, Federal court's role
10 is not to enforce State law. The issue before the
11 court is the constitution or any consent decree that
12 was entered into.

13 Without getting a specific plan from the
14 legislature in an area as complicated as the handling
15 of administrative segregation inmates, it is difficult
16 to weigh the different factors. You may have a factor
17 with an administrative segregation inmate where an
18 inmate that has a large cell area, is able to
19 participate in group activities, particularly mentally
20 ill being able to associate and socialize with staff on
21 a direct level. What type of care is being provided?

22 Those things must be weighed along with say
23 working. Having a make-work program would not be a
24 good idea if it cut in substantially to other more
25 constructive programs. So you need to look at the

1 totality of the things that are going on with a
2 particular person in segregation.

3 What type of facilities are available? One thing
4 that is interesting is that KSIR only has 12 protective
5 custody inmates. The way they are able to do that is
6 Kansas State Penitentiary has a lot of PC inmates. I
7 think in the examination of the evidence, KSP has
8 monumental problems in handling special management
9 inmates. If a new facility is built, authorized by the
10 legislature as the Secretary of Corrections recommends,
11 and if it is state of the art, not only will that
12 release the pressures at KSP but will be an improvement
13 of anyone that is a special management inmate because
14 they are going to be in better facilities, they are
15 going to be more secure, more monitoring supervision.
16 And the programs available to them will be improved.

17 The court has heard enough I think in regard to
18 forming an opinion that the state needs to do something
19 with the segregation inmates. However, I feel it would
20 be better for the court to look and see what exact plan
21 the legislature comes up with, so that all these
22 factors can be analyzed, given the proper weight
23 amongst themselves, so that the court can determine
24 whether or not a particular plan is acceptable.

25 THE COURT: All right. Any other, Mr. Kessler,

1 you or any of the other attorneys want to say anything?

2 MR. KESSLER: Your Honor, this obviously isn't the
3 problem at KCIL as it is at the other institutions
4 because of the number and type of inmates there. There
5 may be some of them at least transferred to the other
6 institutions.

7 I hope the legislature does something. I just
8 think hope is not enough. I think you need some
9 directive from the court telling the department to come
10 up with these plans, and they have not said they can't
11 do something in the short-term. I think they can
12 regardless of what the legislature does. So I second
13 Mr. Rich's proposed order.

14 THE COURT: It strikes the court that in the long
15 run if everything depends on funding, and if funding is
16 a defense, the state has the ability to frustrate
17 every order made by this court, and that would be the
18 problem. All right, well, maybe.

19 Mr. Rich?

20 MR. RICH: Your Honor, just one point with respect
21 to whether the PC inmates really were protected by the
22 original consent decree. I ask Mr. Gottlieb in his
23 unofficial capacity to briefly shed a little bit of
24 light on that.

25 THE COURT: Let's take about ten minutes at this

1 time. Then come back.

2 (Recess.)

3 THE COURT: I believe we are ready to reopen the
4 proceedings here.

5 MR. GOTTLIEB: Thank you. My name is David
6 Gottlieb, and I would simply like to offer a brief
7 explanation of my presence, and just a couple of
8 observations. I was assigned by the United States
9 Court of Appeals for the Tenth Circuit in the case of
10 ARRON ROY SUITS VERSUS MICHAEL BARBARA. The original
11 District Court Number was 84-3181, number for the Tenth
12 Circuit was 85-2190. It was an action filed by three
13 inmates. They requested class certification. They
14 were all inmates in C cell house. Their allegations
15 included complaints of confinement in their cells for
16 22 hours a day, that they were being denied the
17 opportunity to work, to take vocational training and
18 rehabilitative services, that they were confined in the
19 building which is being renovated, that the cells were
20 infested with cockroaches. In other words,
21 overcrowding and lack of programs on the part of
22 protective custody inmates.

23 Judge Saffels denied class certification,
24 essentially decided against the inmates in summary
25 judgment. The case went to the Tenth Circuit when I

1 was appointed. It was reversed, and was remanded to
2 the District Court on both the issues of class
3 certification and on the question of whether there were
4 material issues of fact that were remained to be
5 decided.

6 In the course of that litigation, the state in its
7 brief to the Tenth Circuit stated that they suggested
8 that the plaintiffs' interests, and I will try to quote
9 it, leave the citations out, presently being adequately
10 related in the case cited, and quoted at length in
11 plaintiffs brief ARNEY V. HAYDEN. That case has been
12 certified as a class action on behalf of all KSP
13 inmates, the class is being represented by legal
14 counsel, and the issues involved in that case encompass
15 an examination of conditions in C cell house where
16 nearly all protective custody inmates are housed.

17 Recently the court in Arney granted Plaintiff's
18 motion for preliminary relief, and the court is
19 presently monitoring defendants' compliance with its
20 order, consequently certifying this case as a class
21 action. Appointed counsel would only repeat that which
22 has already been accomplished in Arney, would subject
23 defendants to the possibility of conflicting findings
24 of orders by the court, even if the court reverses the
25 district court's ruling granting summary judgment to

1 defendants, the court should remand the case with an
2 order that the case be staid pending a final judgment
3 in Arney.

4 The court remanded, basically giving the District
5 Court the option of determining what it wanted to do in
6 this related action. As you know Judge Saffels
7 determined that it was appropriate to bring this action
8 before Your Honor. Within the last couple of weeks now
9 that the issue of protective custody has been severed
10 from the main action, it is clear in my mind that there
11 is at least the possibility that these issues can be
12 dealt with in a comprehensive way in that main class
13 action. I am of the, at least of the personal belief
14 that if a job can be done well once, that is the
15 preferred way to go.

16 I am in contact with the named plaintiffs, and I
17 hope within the very near future to present to Your
18 Honor some sort of a formal request for an action in
19 that case that will sort of resolve it so that it is
20 very clear where we stand on that case. It is not just
21 sort of hanging out there, and what precisely that
22 action will be frankly depends on what the named
23 plaintiffs of the case respond. One of them is no
24 longer incarcerated in the state, so communications are
25 somewhat difficult.

1 I did feel that it was appropriate for me to just
 2 state that the counsel for the plaintiffs have been
 3 kind enough to allow me to at least observe what is
 4 happening here, again on the theory if this can be done
 5 well once, that is in everybody's interests.

6 I have but two observations that I would like to
 7 make from this. First of all, the claim which seems to
 8 be implicit that the issue of protective custody was
 9 somehow not bound up in the original action, and I
 10 don't know, I think Mr. Madden implied that, at least
 11 in my mind is inconsistent with the representation that
 12 the state made on appeal on the case that was brought
 13 by Mr. Suits where the court, where the state clearly
 14 indicated that the request of protective custody
 15 inmates were and could be adequately dealt with in the
 16 Arney case. And as I said, one of those allegations in
 17 that original lawsuit was the denial of work,
 18 vocational training, and rehabilitative services.

19 The only other observation that I would make is
 20 that the, in light of the allegation in that complaint,
 21 it is at least my view that the response of the
 22 defendants in this case that they plan no actions in
 23 the short-term specifically addressed to PC inmates
 24 other than the desire to reduce the numbers is
 25 troublesome.

1 That is what I had. I appreciate your patience.

2 THE COURT: Do we need to do anything else to
3 make sure you are fully a part of this case? And is
4 there anything inconsistent in the fact that you
5 represent individuals? And you are still asking, I
6 assume, although you are waiting to see what happens in
7 this case to see if it cures your problem, the court
8 has no objection, as long as the other plaintiffs do
9 not, to have you fully a member of the family here.

10 MR. GOTTLIEB: Well, I think I would prefer
11 waiting to hear directly from my clients before I make
12 any formal motion. One of the things I am here to do
13 is to tell you that I have finally decided that it is
14 in everybody's interest for that to get squared away.
15 And as soon as I hear from them, I will ask whether
16 that, whether that involves a request to stay or
17 whether consolidation or something like that, it's --

18 THE COURT: It may be that you will feel that you
19 need to proceed, that if we are not going to take care
20 of your problem, that you may feel that you need to
21 proceed individually and independently, or if there is
22 any way that you could be made, could be fully brought
23 into this, and we could take care of your problem at
24 the same time, it might be -- well, you just decide
25 after talking to your clients what you decide, and then

1 we will see whether it can be done.

2 MR. GOTTLIEB: Okay. I thank you.

3 THE COURT: All right. Now, does that pretty well
4 take care of everything that we can do at this time?

5 MR. MADDEN: I believe so, Your Honor.

6 THE COURT: All right. Well, I think what I will
7 do now is take this matter under advisement. I will
8 study your tentative order here, Mr. Rich, and Mr.
9 Theis, and Mr. Kessler, and we will decide. If there
10 is nothing else we are going to hear, we will
11 eventually be putting out some sort of an order that
12 will further give some direction and guidance in regard
13 to the problem that we are looking at here. We may
14 possibly delay that until we see what the legislature
15 does. We may have a duty in spite of what the
16 legislature does, but it might give us some guidance if
17 we know what the legislature is planning on doing.

18 All right. Well maybe that is all we can do at
19 this time. We will -- now we will probably be in touch
20 with you, and see if we need to schedule any further
21 meetings of this group to try to, to bring this matter
22 to a head.

23 Let's recess the court.

24 (WHEREUPON, Court was adjourned.)

25 * * * *

PRESENTATION

by

HARDY RAUCH, DIRECTOR

STANDARDS AND ACCREDITATION DIVISION

AMERICAN CORRECTIONAL ASSOCIATION

before the

SENATE WAYS AND MEANS COMMITTEE

SENATOR WINTON WINTER, VICE CHAIRPERSON

April 21, 1989

Topeka, Kansas

ATTACHMENT 3
SWAM 4-21-89

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Thank you for the opportunity to appear before the Committee and to present information about the National Standards and Accreditation Program. To fully explain the development of correctional standards, it is necessary to describe briefly the American Correctional Association.

The Association was founded in 1870 for the purpose of improving correctional programs and operations throughout the United States. The Association's first president was Rutherford B. Hayes, then Governor of Ohio, who, subsequently, was elected President of the Nation, and later returned to serve again as President of ACA from 1883 to 1892. In his inauguration remarks of 1870, Mr. Hayes dedicated the Association to the golden rule: "As ye would that men should do to you, do ye also to them likewise!" During that first Congress of Corrections, the participants established a set of general rules relating to prison discipline and prisoner rehabilitation. This practice of issuing annual guidelines, or position papers, on a variety of prison issues was followed by the group for another 75 years.

By the 1940's, the leaders of the Association recognized the need for developing and producing a more comprehensive set of national standards that would address the philosophical and operational problems of prison management. To meet this need, they appointed a series of subcommittees to assemble and publish the first manuals of standards. This process served the nation's

prisons well during the 1940's and 50's. But this system had one major weakness: it did not contain a method for verification of compliance. While many correctional practitioners followed the national standards and provided regular reports to their governing bodies, others preferred to operate without a system of specific goals and standards. It was recognized that some prison systems were able to operate correctional facilities that were safe, humane, efficient, and effective, while others were seriously lacking. It was during this period that the courts began to take an increased interest in prison conditions and abandoned the "hands-off" doctrine by considering the constitutionality of a wide variety of prison practices. The provision of prison programs that met the demands of both legislation and constitutional requirements was not only a good idea; it was being increasingly mandated by the courts during the late 1950's and the decade of the 60's.

This occurrence did not go unnoticed by the Association or by the prison administrators who were being ordered by the courts to improve prison practices and procedures through court orders which were inconsistent and expensive. Even though judges frequently expressed their reluctance to intervene in prison management issues because of their belief that prison operations were more appropriately the province of the executive branch, the judicial intervention often continued when the court was convinced that a system violated basic constitutional rights.

In 1969, the American Correctional Association was awarded a grant from the Ford Foundation to conduct a study of the desirability and feasibility of establishing national correctional standards that would take into consideration the interests of prison administrators, the public, prisoners, legislators, and the courts. Acting upon that premise, the Association, with assistance from the Federal Department of Justice and 18 major corporations, began development of the national correctional standards that exist today. During the developmental stages of the standards, it was recognized that if a correctional system hoped to convince its critics that it was functioning in accordance with high professional and constitutional standards, it would be necessary to develop a system that could review, evaluate, and measure the level of compliance with those standards.

Throughout the century of standards evolvment and development, the Association has sought to involve a broad spectrum of the criminal justice field. A listing of the members of the Committees on Standards, the Commission on Accreditation, officers of the Association, and other organizations involved is attached as an appendix to these printed comments.

The committee memberships include representatives from every segment of the correctional scene, representing every state of the Union and Canada. Members of the various committees who have served the standards development process form a veritable "who's

who" of corrections, and illustrate the widespread interest and high level of support for the concept.

I referred earlier to the need to develop a system for review and evaluation of the levels of compliance with national standards. To achieve this goal, in 1974 the Association established the Commission on Accreditation for Corrections as a separate, independent, nonprofit corporation committed to the achievement of four major goals:

- o To formalize a system for the development and revision of standards in conjunction with the American Correctional Association in order to maintain their relevance and usefulness;
- o To improve the administration and operation of correctional agencies through the implementation of a national standards and accreditation program;
- o To establish and maintain a system to review and monitor correctional agencies seeking national accreditation; and
- o To award certificates of accreditation to correctional agencies that are found to be in compliance with national correctional standards.

The Commission is comprised of a Board of Commissioners that represent the full spectrum of adult and juvenile correctional agencies, the judiciary, and other law enforcement groups. The ACA nominates and elects 15 of the Commissioners; others are appointed by professional organizations with interest in the corrections systems. This group includes representatives from the American Bar Association, the American Institute of Architects, the National Sheriffs' Association, and the National Association of Counties.

Since 1977, 15 manuals of standards have been published to embrace the diversity of correctional agencies. These manuals are:

Standards for Adult Correctional Institutions

Standards for Adult Community Residential Services

Standards for Adult Local Detention Facilities

Standards for Adult Probation and Parole Field Services

Standards for Adult Parole Authorities

Standards for Juvenile Training Schools

Standards for Juvenile Detention Facilities

Standards for Juvenile Community Facilities

Standards for Juvenile Probation and Aftercare Services

Standards for the Administration of Correctional Agencies

The standards are the foundation of the accreditation process. In measurable terms, they define the policies and

procedures that are necessary for the operation of correctional programs that safeguard the life, health, and safety of offenders and personnel. Moreover, they define the policies and procedures required for providing essential programs that consider the interests of the executive, legislative, and judicial branches of the government. Two examples of the 451 Standards for adult facilities are:

2-4401 The system for classifying inmates specifies the level of custodial control required and requires a regular review of each classification. (Essential)

DISCUSSION: A correctional system should provide for at least three degrees of custodial control for inmates. All inmates should be assigned the least restrictive custodial level necessary.

2-4275 An adequately equipped medical facility, which meets the legal requirements for a licensed general hospital with respect to the services it offers, is available to all inmates. (Mandatory)

DISCUSSION: If an institution does not have the resources to meet these standards in-house, it should provide infirmary care inside the institution and hospital care through contractual arrangements outside the institution.

Like hospital and educational accreditation programs, correctional accreditation is a system designed for improvement and change. Primarily a management tool, accreditation provides the organization and structure by which administrators can upgrade the quality of correctional services and programs. These standards are increasingly recognized and accepted by judges, legislators, and corrections professionals as representing the best correctional practices, and are used by correctional facilities and programs around the country as a benchmark of quality.

BENEFITS OF ACCREDITATION

Agency involvement in accreditation represents a commitment to excellence and professionalism. Through accreditation, agencies can achieve the following:

- o To assure that their system is being operated in compliance with standards that are developed, reviewed, and updated constantly by correctional professionals throughout the United States.
- o To protect the life, safety, and health of staff and offenders, whether adult or juvenile, adjudicated or not adjudicated, who are in custody or under correctional supervision.
- o To assess the strengths of a correctional unit and identify methods to maximize resources and implement change.
- o To minimize the potential for costly, time-consuming litigation by careful attention to detail and the maintenance of accurate records.
- o To enhance credibility with the courts and the public.

- o To provide professional and public recognition for the high level of correctional programming.
- o To improve staff and offender morale.
- o To provide a system to reduce allegations of arbitrary and capricious actions by prison administrators.

THE ACCREDITATION PROCESS

The Commission on Accreditation for Corrections has invited all correctional agencies to apply for accreditation. To participate, an agency contracts with the Commission and agrees to complete the requirements necessary for accreditation.

The accreditation process usually takes 12 to 18 months to complete and consists of these 6 major components:

- o Contract Agreement
- o Self-Evaluation
- o Association/Commission Staff Review
- o Compliance Audit Review by ACA Auditors
- o Accreditation Decision
- o Annual Review by ACA Staff (Record Review or Site Visit)

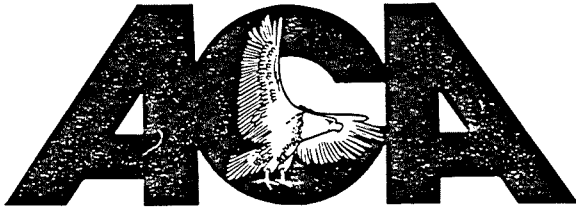
When a facility achieves 100-percent compliance with all mandatory standards and at least 90-percent compliance with other standards, accreditation is granted for a three-year period. During that time, the agency must maintain its standards compliance levels and implement plans of action for those standards with which it did not comply at the time of the audit. Infrequently, and under special circumstances, the Commission may grant a waiver of a plan of action. The Commission monitors each accredited agency through periodic visits and the submission of annual reports detailing agency progress toward full standards compliance. If compliance levels are not maintained, an agency's accreditation may be revoked.

ACCREDITATION ACCEPTANCE

Today, 804 correctional organizations in the United States are either accredited or in the process of accreditation. Those facilities provide service to or incarcerate over 750,000 persons annually. The Association and the Commission has made concerted efforts to involve those systems and facilities housing the larger numbers of prisoners on the theory of providing service to the "greater need." We are now placing emphasis on the small jails in America, of which there are more than 2,000 units, each housing less than 50 persons.

IN CONCLUSION, I remind you that the operation of an accredited facility is not easy. It requires the provision of adequate medical care for inmates and residents, adequate fire protection for the staff and those offenders in their custody, regular fiscal audits to ensure that funds are adequately controlled, adequate security to ensure protection of the public; and a commitment from the executive and legislative branches to provide the staff and facilities necessary for carrying out correctional supervision under conditions that are constitutionally required. To do less is to fail our duty. To paraphrase the words of the first president of the Association, "Society has a right and a duty to punish criminals for their behavior, but it has a corresponding responsibility to punish them in facilities that are humane and constitutional."

I would be happy to respond to any questions.



APPENDIX A

AMERICAN CORRECTIONAL ASSOCIATION

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AND

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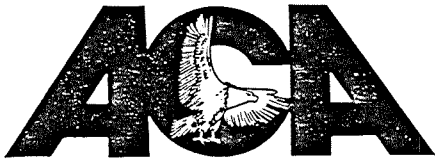
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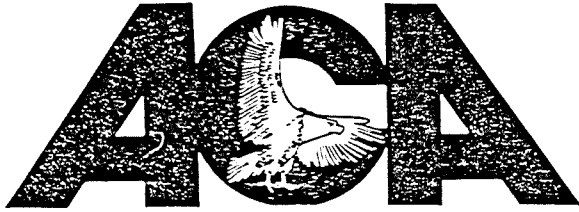
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Testimony of Michael A. Barbara Before the Senate Ways and Means Committee - April 21, 1989

I am honored to appear before this committee and present my views on the prison problems facing the state.

The first problem I wish to address is the dire need for a treatment facility for the mentally ill inmates. In reviewing my files and particularly my position papers presented to the legislative committees during my service as Secretary of Corrections, I find that on December 10, 1984, I outlined the need of the Department of Corrections to construct a facility to care for and treat approximately 700 inmates suffering from mental illness, including 231 chronically ill, 168 severely ill and 218 needing periodic treatment. This did not include almost 200 physically disabled or developmentally disabled. The Department recommended 368 beds in conjunction with the 132 diagnostic beds at SRDC for a 500 bed facility.

I have received from the Department of Corrections an updated analysis, January 22, 1989, from the Director of Mental Health Services of CMS/Kansas, private medical contractor, confirming the present need for similar facility (minimum of 200 beds).

Judge Rogers in his Tentative Order of February 15, 1989 recognized that...."the existing accommodations for the long-term confinement of mentally ill....inmates are not appropriate," and required the state to present a plan for improving conditions of mentally ill protective custody and high security) inmates by March 1, 1989. To my knowledge no plan has been presented to the court. Thus, I need not stress that time is of the utmost for the state to demonstrate its good faith in complying with the order, if more dire sanctions are not to be imposed.

The record is clear that we have had more than ample notice of a situation which smacks of unconstitutionality and more than ample opportunity to act.

I believe it is time for the state to "bite the bullet" and construct a facility in accordance with the needs of the Department of Corrections. Not only is it mandated that some relief be accomplished for the mentally ill inmates, but as a matter of the public safety, we must be preparing these inmates for their release into the community in a more productive and less traumatic condition and better mental state. The rate of recidivism today is appalling particularly among these disturbed inmates.

I would suggest that if the present SRDC site is not suitable, that consideration be given to a Sedgwick County location. With the availability of the Kansas University Medical Center, a facility in that location would be ideal. An appropriation could

be funded to the Social Rehabilitative Services for construction with a lease to the Department of Corrections for operation of the facility. I went to Galveston, Texas, in 1984 to visit a similar plan in operation. The present use of Larned State Hospital would remain and work in conjunction with the new facility.

The second problem to address is the question of additional bed space. Obviously a 300-400 mental health facility would provide sorely needed beds, particularly if in the building plan, some holding facilities would be constructed to house out-patient inmates and also permanent party inmates who can do the maintenance of the facility. A ward-type or dormitory type area would suffice.

But there is no doubt that there is a need for additional beds. There are several bills before the legislature which will have a direct and positive impact on the future population of the prisons. SB 49, expansion of Community Corrections Act and increasing good time will aid in affecting the numbers coming into the system and the numbers leaving the system, two definite ways of controlling population. I notice that the Governor signed the bill creating a sentencing guidelines commission. This will also positively impact on population growth and will allow for more control over future populations. If immediate funding is allotted for construction of the mental health facility, the availability of treatment program for sex molesters, drug and alcohol abusers and others in need of treatment will become a reality and no doubt the Parole Board would be more disposed to release inmates not now released because of lack of treatment.

Before any long-range building program can be reasonably planned and implemented, the direct impact of the matters discussed herein must be analyzed and evaluated. Certainly, these will all favorably impact on the numbers of inmates coming in and going out.

I would recommend that these pending bills be enacted into law and immediate steps taken to secure impact figures from the Department of Corrections or other experts in the field. It is axiomatic that no long-range planning can be done without these answers.

However, I am aware that Judge Rogers has ordered that a reduction in population be accomplished by October 1, 1989 and a further reduction by July 1, 1991, and that the influx of inmates is still greater than releases. In addition, new construction will have to be built within ACA standards and that existing facilities will have to meet these standards. Without new construction, it is most doubtful that existing facilities can meet ACA standards without very substantial changes.

Therefore, I would recommend that consideration be given to the construction of a new facility, within ACA standards, the size to be determined after the projection of incoming population is

made taking into consideration the new legislation and their impact. However, to satisfy the federal court order, an appropriation of planning funds be made before adjournment this session and allow the Department of Corrections, working with the appropriate committee or Finance Council, to determine the size and nature of the facility with immediate construction.

Not only must the state comply with the orders of the court for immediate relief of overcrowding, but the state must consider long-range plans for a permanent resolution of this problem. Inadequate bed space is only a part of the problem. The quality of the environment and the selectivity of the kinds of beds are also to be resolved. A piece-meal building program only providing for additional beds will merely defer the problem for the next legislative session to face and expose the state to further court sanctions.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

FILED
U.S. DISTRICT COURT
DISTRICT OF KANSAS

APR 21 10 01 AM '89

RALPH J. BELDACH,
CLERK

BY _____ DEPUTY
AT TOPEKA, KS.

JOUETTE E. ARNEY, et al.,
Plaintiffs,
vs.
MIKE HAYDEN, et al.,
Defendants.

Case No. 77-3045

MEMORANDUM AND ORDER

On February 15, 1989, this court ordered the defendants to develop and present a plan for improving conditions of confinement of mentally ill, protective custody and other administrative segregation inmates by March 1, 1989. Defendants were subsequently given a thirty-day extension within which to present their plan. The court reserved judgment with respect to conditions of confinement of these inmates until the defendants presented their plan.

In spite of this direction from the court and the self-acknowledged prison crisis in this state, defendants have been unable to satisfy the court's order for definite plans addressing the conditions affecting inmates who are mentally ill, in protective custody, or in administrative segregation. On March 31, 1989, defendants submitted a report suggesting that a reduction in the numbers of all inmates has improved conditions for inmates in segregation. However, the report does not provide a definite plan to address critical aspects of the conditions of confinement for

ATTACHMENT 5
SWAM 4-21-89

inmates in segregation. Defendants' report was indefinite because no final legislative action has been taken on defendants' proposals to address these issues, and defendants obviously cannot guarantee that their proposals will be enacted.

On the basis of evidence presented to this court at previous hearings, the proffer of evidence made at the April 13, 1989 hearing, and previous findings of the court, we now make the finding that current conditions of confinement for mentally ill inmates, inmates in protective custody, and inmates in administrative segregation violate the terms of the consent decree filed in this case on May 2, 1980, and also violate constitutional standards which protect against cruel and unusual punishment.

Relief must be provided for these conditions. The court hereby mandates relief both on a short-term and a long-term basis.

The court continues to recognize that methods of relieving unconstitutional conditions of confinement should in the first instance be developed by responsible state officials. The court's role is to identify goals and standards which will be helpful in guiding those efforts. The state must now develop both immediate and long-term plans to relieve conditions of confinement for mentally ill, protective custody and other administrative segregation inmates which meet the minimum requirements described below.

1. An immediate plan which provides substantial out-of-cell time and appropriate treatment alternatives for mentally ill inmates should be filed with the court no later than June 1, 1989, and shall be fully implemented no later than November 1, 1989. An end to prolonged isolation of mentally ill inmates should be a primary

objective of the plan. A long-term plan which includes an assessment of the current inmate population and also provides for appropriate facilities, staff and treatment programs shall be filed with the court no later than September 1, 1989, and shall be fully implemented no later than July 1, 1991. Standards which should apply to facilities, staff and programs may be discussed after the plans are filed. Generally, health care services should be comparable in quality to those available to the general citizenry. ACA Standards §2-4329.

2. Defendants are directed to develop a plan to increase the out-of-cell time and the work, program, and counseling opportunities for protective custody inmates. Reasonable access to educational services, commissary services, library services, social services, counseling services, religious guidance, and recreational programs shall be addressed in the plan. The plan shall be submitted to the court by July 1, 1989.

3. Inmates who have entered agreements with the Department of Corrections concerning those programs needed in preparation for parole shall not be denied certification of compliance if their parole plans provide for completion of programs which were unavailable to inmates because of their protective custody status.

4. A long-term plan which meets minimum standards for housing segregation inmates, as defined by the American Correctional Association and by Kansas Administrative Regulations, shall be filed no later than July 1, 1989, and shall be fully implemented no later than July 1, 1991.

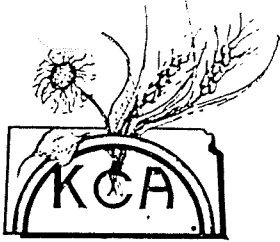
5. Consideration of plaintiffs' requests for an order to show cause, monetary damages, and appointment of a special master shall

be deferred until after defendants have had an opportunity to comply with this order.

IT IS SO ORDERED.

Dated this 21st day of April, 1989 at Topeka, Kansas.


United States District Judge



KANSAS CORRECTIONAL ASSOCIATION

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TO: Senate Ways and Means Committee

FROM: Kansas Correctional Association, Presented by
Larry Vardaman, President

The Kansas Correctional Association (KCA) is the State affiliate of the American Correctional Association (ACA), which you have heard about today. I am representing over 700 correctional professionals who are members of ACA and KCA. Like most state affiliates, KCA is a "blue collar" association, in that we do not have paid staff. Therefore, we are not able to advise you with numbers and statistics. But we can let you know the viewpoint of perhaps the forgotten person, the correctional officer.

We hope everybody remembers that correctional officers, not just inmates, will be inside the walls that we are considering today. Unlike inmates, correctional workers will have the task of carrying out the demand of providing public safety. We are hopeful the workplace you provide is one where we will be able to ensure there is control and security. We do not want the public to be dissatisfied with our work. You will find no harder working people than those in corrections. But we are not just dedicated workers, we also know what it takes to do our job. In our business, hard work alone does not necessarily result in public safety. We must also have appropriate structures.

We also hope, of course, that you ensure our future workplace provides the correctional officer with as much safety as possible. These desires lead us to serious concerns about adding space to existing prisons. We believe it is possible to have proper control and security in larger institutions and we understand that fiscal concerns have resulted in some larger prisons since they are somewhat cheaper to construct and operate. However, we must remember that our present Kansas prisons are far from ideal and an attempt to renovate and expand them is risky. We, therefore, urge your consideration in providing a new free standing prison that will allow us to provide appropriate safety to inmates, correctional officers, and ultimately the public.

ATTACHMENT 6
SWAM 4-21-89



Background Statement of
M. Kay Harris, Associate Professor
Department of Criminal Justice, Temple University

For the Senate Ways and Means Committee
of the Kansas Legislature
Hearing of April 21, 1989

My name is Kay Harris. I am an Associate Professor in the Department of Criminal Justice at Temple University in Philadelphia, Pennsylvania. I very much appreciate being invited to testify before this committee and hope that I can be of assistance in the resolution of the important correctional policy issues with which you are dealing. Given the complexity of these issues and the broad range of topics that well could be examined today, this statement is offered simply to outline aspects of my background, experience, and interests that relate to the questions under consideration by this committee. I hope this information will allow you to direct the discussion toward subjects on which you think I might be able to be most helpful.

First, I have had the opportunity over the last three years to direct a Temple University project to evaluate the Kansas Community Corrections Act. Our study focused on the Act's effects on commitments to state prisons, public safety, and correctional costs, as well as a number of other issues concerning its operations, structure, and results. The field research and data analysis for each of the major components of this comprehensive evaluation have been completed. However, our interest in capturing as much of the Kansas community corrections story as possible has led to extension of the project so that we can describe changes made in the program in the last several years. Thus, my appearance here is intended as a means of sharing findings on experience to date with community corrections in Kansas pending publication of our final report, which we have agreed to finalize with inclusion of developments through this session of the legislature.

Second, my specialization within the field of criminal justice has been in the area of corrections, with emphasis on issues related to sentencing, alternatives to incarceration, and reducing prison and jail crowding. As you are aware, there has been considerable interest in these areas in recent years and I have had opportunities to work on these issues with policymakers and practitioners from across the country. Thus, although I do not plan to offer here a comprehensive account of what other states have done with

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respect to sentencing reform, community corrections legislation, or efforts to get their prison and jail populations under control, I would be happy to try to respond to any particular questions you might have in those areas.

Third, I have had a long-standing interest in judicial intervention in corrections. In the mid-1970s, when I was working for the American Bar Association, I served as the Principal Investigator for a federally-funded followup study on four class action prison and jail cases. We examined not only what actually happened after the courts handed-down decrees, but also the process of trying to bring about compliance with what was ordered. Our findings were published in After Decision: Implementation of Judicial Decrees in Correctional Settings (by M. Kay Harris and Dudley P. Spiller, Jr., National Institute of Law Enforcement and Criminal Justice, the Law Enforcement Assistance Administration, U. S. Department of Justice, [Government Printing Office] 1977).

Fourth, I want to mention that the private foundation that has funded the Temple University community corrections evaluation might offer a source of resources to help in your efforts to take a comprehensive look at sentencing and correctional policies. The Edna McConnell Clark Foundation, which has funded our research, is one of the few major national foundations that continues to provide significant support for justice programs. Recently the Foundation decided to concentrate its grants and activities related to corrections in a small number of states in hopes of producing a greater impact than a more scattered approach would yield. The Foundation intends to assist states that are motivated to gain control of their growing prison populations. Typically these will be states where there is active litigation, awareness of limited resources, and strong political and professional leadership committed to undertaking a systematic approach to reform.

Two states, Alabama and Delaware, already are working with the Foundation under this initiative. In Alabama, in cooperation with state policymakers, the Clark Foundation has supported two different types of analysis of the state's prison population, a survey of public opinions related to corrections, a University of Alabama-sponsored media contest on coverage of criminal justice issues, a probation and parole caseload management project, a legislative conference, a judicial conference, and other work with prosecutors, defense attorneys, and judges. In Delaware, activities supported by the Clark Foundation have included a sentencing practices survey, work with the parole board to develop new programs, a study of the characteristics of the women in prison, a staff development project within the department of corrections, and several projects related to case processing through the court system.

I have been impressed by recent steps you have taken, such as enactment of legislation expanding community

corrections and establishing a sentencing guidelines commission, and have suggested to Foundation officials that Kansas is ripe for a broad-based series of policy and program reform efforts. I believe others have been making similar arguments and I know there is receptivity at the Foundation. Although I understand that there may be some sensitivity associated with the fact that the Clark Foundation has also provided financial support for the prison conditions litigation here, I think it could be worthwhile to explore the Foundation's interests in broader sentencing and correctional policy reform. I think you would find that they do not have a hidden agenda. They are committed to helping achieve correctional reform and believe that litigation is often a necessary part of the reform process. However, they are well aware that litigation is not sufficient to attain that end.

The fifth and last aspect of my background and interests in the matters before you that I want to mention is that I was born and raised in Kansas. Most of my family still lives in Kansas. And although it is true that I have not lived in Kansas since I graduated from the University of Kansas, I agree with the former U. S. Senator from Kansas, John J. Ingalls, who said that so potent is the spell with which Kansas binds her children, that though they might wander, or might roam, or might live in other lands, they could never be other than Kansans.¹

In making the case to officials of the Edna McConnell Clark Foundation of New York that funding the Temple University evaluation of the Kansas Community Corrections Act would be a sound investment, I argued that Kansas represents "the heart of America" in more ways than just geographically. As a Kansan, I am deeply concerned with how Kansas chooses to deal with its toughest challenges, prominent among which are those inherent in setting forth policies and programs for dealing with criminal offenders. But I also believe that what Kansas does is important because, as William Allen White put it, "Kansas is a spiritual tuning fork."²

I hope I may be of assistance to you in the important work in which you are involved today and in the future.

1. See, Return to Kansas, with text by Sharon Hamil and watercolors by J. R. Hamil, 1984, Southwind Press, Lawrence, KS, at 30.

2. Id. at 99.



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M. Kay Harris is an Associate Professor in the Department of Criminal Justice at Temple University. Prior to joining the Temple faculty in 1981, Professor Harris served as Director of the Washington Office of the National Council on Crime and Delinquency. She previously held positions with the American Bar Association, the Unitarian Universalist Service Committee, and, within the U. S. Department of Justice, the Office of the Attorney General, the National Institute of Law Enforcement and Criminal Justice, and the Bureau of Prisons. In 1972, she served as Assistant Director of the National Advisory Commission on Criminal Justice Standards and Goals.

Professor Harris holds a master of arts degree from the University of Chicago (1971) and a bachelor of arts degree from the University of Kansas (1969). She currently is directing a project funded by the Edna McConnell Clark Foundation to evaluate the Kansas Community Corrections Act. She frequently serves as a speaker, adviser, and facilitator, working with policymakers, citizen groups, and practitioners on sentencing policies, reducing prison and jail populations, developing alternatives to incarceration, and planning for the future. Her work in these areas has led to publication of a number of journal articles, monographs, and reports.

JAMES D. HENDERSON

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EDUCATION

Attended the University of Kansas
Attended Kemper Military School, Boonville, MO

MILITARY

U. S. Army Active Duty - July 1948 - July 1949
U. S. Army Reserve Duty - 1949 - 1961
Honorably Discharged - Chief Warrant Officer-3

FEDERAL PRISON SYSTEM ASSIGNMENTS

1952-56 Correctional Officer/Senior Correctional Officer, United States Penitentiary, Leavenworth, KS
1956-58 Correctional Institution Specialist, Central Office, Washington, DC
1958-60 Correctional Supervisor, Federal Reformatory, Petersburg, VA
1960-64 Assistant Correctional Services Administrator, Central Office, Washington, DC
1964-65 Correctional Services Administrator (Chief of Security), Central Office, Washington, DC
1965-67 Associate Warden, Federal Youth Center, Ashland, KY
1967-69 Associate Warden-Custody, United States Penitentiary, Terre Haute, IN
1969-70 Correctional Services Administrator (Chief of Security), Central Office, Washington, DC
1970-71 Warden, Federal Correctional Institution, Milan, MI
1971-74 Warden, United States Penitentiary, Atlanta, GA
1974-81 Regional Director, North Central Region, Kansas City, MO

CONSULTATION EXPERIENCE

- * 1981-Present Private Criminal Justice Consultant
Affiliated-Voinovich Architectural firm
Senior Correctional Advisor - PRICOR
- * Consultant to Victoria, Australia on prison management, security and operations
- * Reviewed operations at Maximum Security Facility in Auckland, New Zealand
- * Consultant to Canada on prison operations, security, unit management, and staffing
- * Consulted on prison operations, management, security, and security staffing in the following correctional systems:

| | | | | |
|-------------------|---------------|----------|------------|---------------|
| Michigan | Iowa | Texas | Georgia | Virginia |
| South Carolina | Alaska | Nevada | Colorado | New York City |
| Kansas | Nebraska | Ohio | New Mexico | Los Angeles |
| Tennessee | New Hampshire | Missouri | Arizona | Puerto Rico |
| Dist. of Columbia | | | | |
- * Reviewed staffing requirements at the New York City Department of Corrections
- * Served as security consultant on a task force reviewing operations at the Lorton Complex of the District of Columbia Department of Corrections
- * Consulted with Los Angeles Sheriff's Department on jail operations
- * Served as Court Evaluator in Texas, Georgia, Tennessee, and Puerto Rico
- * Served as Expert Witness in several court cases

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- * Conducted "Back to Basics" training for all supervisory personnel in Tennessee Department of Correction
- * National Academy of Corrections instructor on "Controlling the Violent Offender"
- * Selected by National Institute of Corrections to develop training program for security operations for use at the National Academy of Corrections in Boulder, CO
- * Served on an ACA Task Force to develop a manual on Protective Custody Inmates
- * Co-authored the ACA "Guidelines for the Development of a Security Program"

TRAINING

| | |
|----------------------------|--|
| Bureau of Prisons | Basic, Advanced, Emergency, Supervisor and Executive Management Training, Inmate Discipline and other in-service training. |
| Other Government | Admin. of Public Policy, Quality Assurance Manager Seminar, Union Management Training, Management/Employee Group Relations, Power Negotiations |
| Warden's Conferences | 1970-1981 |
| ACA Conferences | 1970-Present |
| ACA Accreditation Training | 1988 |

SPECIAL ASSIGNMENTS

| | |
|------|---|
| 1981 | Conferred with New Mexico State officials and Legal Counsel on New Mexico State Prison riot legal proceedings |
| 1981 | Provided assistance at Iowa State Prison to evaluate prison operations (protection cases and procedures) |
| 1981 | Designated by Director of Bureau of Prisons to participate in Turkish/American Prisoner Exchange |
| 1980 | Served on ACA panel to revise and update booklet on Riots and Disturbances |
| 1980 | Designated by Director of Bureau of Prisons to process and designate prisoners to the Federal Bureau of Prisons following riot at Idaho State Prison |
| 1980 | Designated by Director of Bureau of Prisons to process/designate 400 inmates to the Federal Prison System following riot at Santa Fe, New Mexico prison |
| 1978 | Expert Witness in state court case in Jefferson City, MO regarding prison conditions at Missouri State Prison |
| 1978 | Designated by Director of Bureau of Prisons to organize and participate in Canadian/American prisoner exchange |
| 1976 | Requested by Missouri Department of Corrections to evaluate conditions of overcrowding at the Missouri State Penitentiary, Jefferson City, MO |
| 1976 | Designated by Director of Bureau of Prisons to respond to hostage emergency at FCI, Englewood, CO |
| 1970 | Served on ACA panel to develop a booklet on Riots and Disturbances |
| 1968 | Served on U. S. Attorney's Task Force reviewing operations of the D. C. Dept. of Corrections; assigned to the Lorton Complex Penitentiary and Reformatory which had experienced numerous disturbances |
| 1967 | Appointed by Director of the Bureau of Prisons to serve as Consultant to Indiana Department of Corrections on manpower utilization and security problems |
| 1963 | Developed and directed initial security operations for the evacuation of Alcatraz prisoners to other federal facilities |
| 1962 | Consultant to Panama Canal Zone Government on prison problems |
| 1962 | Established security, protection procedures and escort for Organized Crime informant Joseph Valachi while confined in a D. C. jail |

AWARDS

- Received numerous performance and Special Act commendations, including Attorney General's Performance cash bonus in 1980
- Recipient of the 1988 E.R. Cass Correctional Achievement Award from the American Correctional Association

TECHNICAL ASSISTANCE VISIT
KANSAS DEPARTMENT OF CORRECTIONS
KANSAS STATE PENITENTIARY, LANSING, KANSAS
J. D. HENDERSON, NIC, CONSULTANT

JANUARY 7, 198~~1~~₂

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TECHNICAL ASSISTANCE VISIT
KANSAS DEPARTMENT OF CORRECTIONS
KANSAS STATE PENITENTIARY, LANSING, KANSAS
J. D. HENDERSON, NIC, CONSULTANT

INTRODUCTION

The following report is a summary of observations and recommendations relating to a technical assistance visit conducted by J. D. Henderson, NIC Consultant, at the Kansas State Penitentiary in Lansing, Kansas. This assistance was provided from the period of December 7-15, 1981, in concert with Mr. Tom Lovelace, Chief of Security, Oklahoma Department of Corrections. Mr. Lovelace's report and his observations and findings will be submitted under separate cover.

CIRCUMSTANCES LEADING TO REQUEST FOR TECHNICAL ASSISTANCE

The Kansas State Penitentiary in Lansing, Kansas has experienced a series of security problems over the past few years. This sequence of incidents climaxed in September 1981 with two particularly serious incidents. The first occurred on September 6, 1981, when a group of seven inmates defected and escaped from the institution by deception and violence. These inmates obtained a correctional officer uniform, and used an institution telephone to call a tower officer advising him that he was to be relieved from duty because of a family emergency. One of the inmates disguised in the uniform, was permitted entry to the tower. He subsequently overpowered the officer, obtained weapons, and operated a gate to release six other dangerous prisoners. While in escape status, they shot a police officer, took numerous hostages, and were only captured after a massive man hunt in Kansas and Missouri. This incident resulted in a great deal of publicity and accompanying public reaction. Several days after the escape, a correctional supervisor was stabbed to death as he was writing an incident report on the inmate who was subsequently accused of the murder. This latter incident resulted in a complete deadlock of the institution. Further, an informal organization of employees made a series of demands to Kansas Governor Carlin and Secretary of Corrections Patrick McManus.

Because of scarce state resources for technical assistance, and in order to preempt further management problems in the institution, technical assistance was requested from the National Institute of Corrections.

INITIAL CONTACTS WITH CONSULTANTS

Mr. Ken Oliver, Assistant Secretary of Corrections, initially contacted J. D. Henderson, to inquire regarding the submission of his name as a possible consultant to review security operations at the Kansas State Penitentiary. Subsequent to that contact, Ms. Mary Lou Commiso, Technical

Assistance Manager, NIC, contacted Mr. Henderson to confirm his availability, and also to advise that Mr. Tom Lovelace, Chief of Security, Oklahoma Department of Corrections would also be assigned to the project. The assistance specifically involved security operations and procedures, physical security within the institution, as well as correctional officer management and organization, to which Mr. Henderson directed his particular attention.

INITIAL IMPRESSION OF OVERAL PROBLEM

The Kansas State Penitentiary presents a broad range of complex correctional management problems at this time. Kansas authorities correctly identified a number of these areas in their request for assistance to the National Institute of Corrections. The institution is dangerously overcrowded, ineffective work programs result in extensive idleness in the inmate population, staff turnover is high, there is a lack of communication at all levels, there are significant problems in consistently applying policies and procedures, and basic security procedures are either undeveloped or unenforced. The initial impression was that of an institution requiring a comprehensive evaluation in the context of developing a basic action plan for future administrators.

DESCRIPTION OF ASSISTANCE

Prior to Mr. Henderson's on-site consultation, Kansas Secretary of Corrections McManus requested his attendance at the Kansas State Penitentiary on Friday, December 4, 1981. That meeting was to brief State Legislators on the Ways and Means Committee regarding proposed physical changes to the penitentiary and a facility to be constructed adjacent to the penitentiary. This meeting also included a brief tour of the institution.

During the period of December 7-11, 1981, and December 13-15, 1981, Mr. Henderson made a thorough evaluation of the physical plant, as well as contemporary operations and procedures. Mr. Lovelace and he visited all areas of the institution, observing operations on all shifts, including the evening and morning watch. A complete security audit was conducted, and will be summarized with relevant recommendations.

The following documents were reviewed during the course of the week:

1. Policy and Procedure Manual of the Kansas State Department of Corrections.
2. Regulations of the Secretary of Corrections.
3. Post Orders.
4. Inmate Rule Book.
5. Basic Annual Training Courses.

6. State of Kansas Employee Handbook.
7. Organization Charts.
8. Ombudsman Reports.
9. Daily and Master Rosters.
10. Emergency Plans.

The initial meeting on Monday, December 7, 1981, was with Mr. Kenneth Oliver, Acting Director. The consultants were introduced to top administrative staff, and the administrative captain was assigned to coordinate and assist in conducting the audit. They met and discussed shift operations with individual shift captains. The consultants were also available throughout the institution and met with officers on posts as well as conducting numerous "coat-tail" interviews with inmates. Mr. Henderson also attended portions of a training program for a class of new employees and reviewed hiring procedures for new employees with the Personnel Officer.

GENERAL COMMENTS AND OBSERVATIONS

The Kansas State Penitentiary is an aging facility that displays the symptoms of an extremely troubled institution with a continuing potential for significant management problems and disruptive inmate activities. Construction on the institution began in 1864, and despite modernization efforts in the intervening years, a number of fundamental problems remain because of the design of the physical plant. The present design capacity, including housing areas outside the secure perimeter is 1,067. The population at the time of this review was trending upward from 1,300, and a significant number of inmates were double celled in quarters designed for single occupancy. Management of the institution reflects a high level of turnover of top administrators, as well as line staff. Basic security and custody procedures in evidence at the time of this assistance visit appear to be inadequate and poorly implemented.

1. PERSONNEL

There have been repeated changes in the leadership at KSP in recent years. At the time of the visit, there was an Acting Director, Acting Director of Operations (Security), Acting Major (Security), and the Director's position has had 7 incumbents in the past 10 years. A number of these acting positions have been vacant for some time, and the need for filling these vacancies with permanent personnel cannot be over-emphasized. Sustained leadership by qualified correctional professionals will provide the aggressive and decisive direction so necessary to initiate a program of high expectations and high standards for both staff and inmates. It is only natural for personnel in acting positions to maintain the status quo rather than develop innovative programs which may be drastically curtailed once a permanent selection is made.

High turnover among the line correctional staff is a serious problem. At the time this project commenced, there were 22 vacancies on the correctional force. As a result, a number of posts are being vacated, and many responsible posts are being manned by inexperienced personnel who are not sufficiently experienced to function effectively on those assignments. It was evident that a number of employees did not have the confidence in their own ability, by virtue of their inexperience, and a number of them admit this was the case. In addition, there are a number of employees who are working at the institution for temporary or secondary jobs or because they are unable to find employment elsewhere. A number of staff are working at the institution as second careers, after retirement from the military or other fields. Many of this latter group are solid employees and make a positive contribution to the institution.

The Kansas Civil Service Commission should pursue the upgrading of standards and criteria for employment in the correctional system. At the present time, very limited qualifications are necessary to gain employment. Pay comparability at the entrance level is unfavorable with respect to local law enforcement or security guards, and pay and benefit comparisons with the United States Penitentiary nearby are quite unfavorable. By reviewing the qualification standards and upgrading hiring criteria, a strong justification can be made for improved pay and benefits. These benefits should ideally include hazardous duty retirement, Sunday pay differential, and an improved career ladder. At the present time there is such a minimal increase in pay from a correctional officer to correctional supervisory positions, that many qualified employees do not apply. For that reason, there is insufficient incentive or motivation for employees to develop their careers beyond the line level. This lack of motivation is then reflected in staff morale and deficient operations throughout the institution. A thorough comparison with the pay, qualification, and benefits offered by other states and the Federal government is recommended.

In reviewing the organizational charts, for the Department of Corrections, it was noted that there is a staff position at the Central Office level responsible for custody and security operations in all State correctional facilities. This position has never been structured to develop standards, policies, security procedures, or audit capability in order to evaluate the security operations. A highly qualified individual should be recruited, preferably from the Kansas System to fill this critical position and perform these important functions.

2. SECURITY OPERATIONS

Specific recommendations will be made regarding a number of security problems within the institution throughout this report, but it is important to note initially that a great many custody and security practices are either non-existent or ineffective at the present time. Tool control, key control, pass systems, security and sanitation inspections, accountability, count procedures, segregation operations, protective custody, lock shop, mail room (incoming packages), disciplinary process, emergency and fire plans, emergency equipment, electronic metal detectors/transfriskers, alarm systems, telephone, radio, and intercommunications systems, are just a few

of the areas that need to be strengthened in order to improve overall operations. Perimeter security and lighting, however, appear to be adequate.

3. OVERCROWDING AND IDLENESS

The institution is presently operating under double bunking conditions for a significant number of inmates. The comparison of 1,300 inmates for 1,067 single cells does not reflect the true state of affairs however. Renovations are proceeding in B-Cellhouse in order to improve living conditions in that unit. The consequence of this however, has been to close one half of this inside cellblock and to reassign inmates from that unit to other units within the institution. Even without this necessary renovation, the institution is overcrowded, and as this construction project progresses, the inherent overcrowding exacerbated. These conditions and the accompanying idleness caused by the lack of a constructive work program are critical issues. Less than one half of the inmate population have work assignments and many of these are minimal tasks that keep the inmates occupied for only a brief period during the day. Even on the work sites, there was significant inactivity by the inmates assigned. A high priority consideration should be the expansion of industrial programs, as well as additional exploration of vocational and apprenticeship training programs. These latter programs funded by other agency sources are restricted to inmates during the final months of their sentences. If they could be expanded to a broader range of participants, and if industrial operations and existing educational programs could be enhanced, then a great deal of in-cell idleness could be reduced. To the extent that the boredom and the tedious routine of institutional life can be varied through programming, a great many of the effects of overcrowding can be moderated.

4. COMMUNICATION, ACCESSIBILITY, AND VISIBILITY OF STAFF

One of the most striking observations made during the week and one half that the consultants spent in the institution, was the lack of visibility by supervisory and administrative staff. It was evident that middle and upper level managers are not visiting most areas of the institution very often, and no administrative or supervisory personnel were ever observed touring the facility, or being accessible to line staff and inmates. Even in the most critical areas, such as the segregation unit, reviews of logs indicated that visits by supervisory staff were infrequent.

The fact that administrators do not communicate effectively with line staff and inmates is also translated into action at the line level. During the on-site evaluation there were no instances where quarters officers or unit team members were engaged in meaningful dialogue with the inmate population. Officers were not routinely patrolling their areas, and there was not a single impromptu search of a prisoner or cell observed by the consultant. If top administrators are not communicating with inmates in an effective manner, it is doubtful that line staff will be motivated and confident in so doing. Similarly, if top staff are not touring the institution, and showing an interest in every aspect of its operation, line

staff may also respond to that cue by not making their presence known in an effective manner.

Mr. Oliver has initiated a program of periodic meetings of the staff at the training center. He has utilized this as a vehicle to communicate changes in policy, and to solicit feedback to employees. Attendance is apparently marginal at these meetings, but employees present feel free to offer their opinion on a variety of subjects. While this is not a substitute for visiting all areas of the institution, it is a constructive first step in this effort.

One noticeable aspect that should improve if top staff begin visiting the various areas of the institution would be sanitation and housekeeping. An adequate number of inmates are assigned to housekeeping duties, but the lack of supervision and apparent low priority for this activity has resulted in serious sanitation problems. In all quarters inmates routinely threw debris from their cells on the range without any apparent corrective action. These unsanitary conditions have created a near uncontrollable insect problem. In addition, there is considerable evidence of birds in the cellhouses, through their droppings. This situation worsens the already serious health hazard with garbage and debris in the open areas of the housing units.

Institution sanitation is an important indicator of the sensitivity of top administrators and mid-level managers to their responsibility to inmate welfare. By tolerating a disorderly and unsanitary institution, the tone is set for other aspects of other institutional operations. To the extent that an institution is clean and well maintained, staff and inmate morale can be significantly impacted. These are important, but subtle considerations which must be taken into account in addition to the obvious responsibilities that administrators have to ensure safe and sanitary housing conditions for the population.

5. UNIT TEAMS

The concept of unit management in a correctional facility involves establishing relatively small multi-disciplinary staff groups in close proximity to a specific group of inmates, usually a particular housing unit, and then delegating a significant amount of decision-making authority to the unit manager and his staff. As observed by the consultants, the effectiveness of the unit teams at KSP, as they are now functioning, is questionable. Very few of the unit staff were observed out of their office, and most of their duties apparently involved property management and other routine tasks. There appears to be a lack of cooperation among unit and correctional staff, and there was no evidence of the type of cohesiveness you usually find among correctional workers. Unit teams are all scheduled on the day watch, with very little evening and weekend duty. The effective utilization of unit management should increase staff and inmate contacts, resulting in improved communication and more individualized classification and programming. Further, if unit staff are working evening and weekend hours, correctional officers will begin to perceive them as making a more valuable contribution to the actual operation of the unit, and additional avenues of communication will be opened.

It is important to note that in a fully functioning unit management setting, correctional officers are an integral part of the team's decision making function. This is a hard ideal to achieve, but as line staff begin to see channels for upward communication opening, and opportunities for significant input into the decision making regarding inmates being made available to them, staff morale should be further enhanced.

Unit staff are presently involved in a nominal admission and orientation program for new inmates. New commitments are housed in C-Cellhouse with protective custody cases until bed space is available for them in a regular unit. Strong consideration should be given to establishing a formal admission and orientation program at the time the new inmate classification structure is put into effect. A formal program of intake screening, interviewing, and evaluation, coupled with a systematic classification structure, should enable staff to reduce the number of internal management problems resulting from the present lack of such a program. Further, from the extent that staff provide a structured and formalized orientation to the institution, new inmates are better prepared to function in the institution, and will rely less on informal and often inaccurate channels of communication.

6. PROTECTIVE CUSTODY

An immediate impression from observing the operations at KSP is that general population activities are scheduled around the needs of those in protective custody. C-Cellhouse is the protective custody unit, and over 200 inmates are confined there. The unit does not have sufficient security to protect those housed there, and steps should be taken to design maximum security features into the entrance. This concern was discussed with institution staff during the visit to the institution.

A number of inmates in the protective custody unit are assigned to jobs in the laundry and furniture refinishing department. During all movements of protective custody inmates, those in general population are secured. It is commendable that a limited work program and outside cell time is available to this group. However, it is questionable whether this type of program should be operated at the expense of a much larger general population group. A further example is the 10:30 A.M. count, which has been structured in order to effect the protective custody unit's move to the noon meal each day. This has resulted in additional lock down time for others, and it is suggested that it may be more appropriate that general population inmates be given priority consideration over protective custody cases in this type of situation. However, a work program within the C-Cellhouse perimeter should be considered for protective custody inmates.

7. MANAGEMENT OF THE CORRECTIONAL SERVICE

Of specific interest during the visit were the operations and procedures utilized by the correctional service. These reviews included studies of master, shift, and daily rosters. At the beginning of the visit there were 22 vacancies in the KSP correctional force. Nevertheless, high turnover and constant staff vacancy continue to be a continual feature of correctional management at this facility.

Roster management at KSP is actually divided into three separate components. Shift supervisors (captains) interview prospective employees for only their shift. For example, one captain could interview an applicant, reject the individual, and the same applicant could be hired by another captain at a subsequent interview. Shift captains are frequently involved in new employment interviews, averaging 15 hours a week, according to the Personnel Officer. This amount of involvement in interviewing may be a contributing factor in the lack of supervisory visibility within the institution. It should be noted that some supervisors donate extra time for the interview and hiring process and this demonstrates the additional burden of the time consuming process placed on staff. Because of the many acting positions in the security area, the origin of this three pronged management system was undisclosed. The Major in charge of correctional services exercises centralized control over all three shifts. As a department head, exercising supervisory responsibility for the shift captain, it appears he would be in a much better position to direct the hiring and assignment of personnel.

The present practice is fragmented, and results in a number of inconsistencies. For instance, once an officer is hired for a shift, he remains on that shift unless he requests a change and that change must be approved by other shift supervisors. When approved, the officer frequently must find a replacement for himself who is suitable to the supervisors. Since the development and training of employees, and their effectiveness in various posts, requires an experience on increasingly responsible assignments, this system appears to be dysfunctional. The rotation to a variety of assignments, and the knowledge of operation of other posts increases staff efficiency, promotes well rounded correctional employees, and enhances the flexibility of the supervisory staff in making day-to-day work assignments. Ironically, shift captains do rotate periodically, consequently an employee who a particular captain may have rejected for hiring during the interview process could end up on his shift through the supervisory rotation process.

In looking toward a more effective method for coordinating correctional staffing, it is recommended that the Major in charge of correctional service manage and direct the hiring and assignment of personnel and be ultimately responsible for post coverage, employment, and manpower utilization. Efforts should be directed to make it one service rather than three.

The role of the Investigative Intelligence Section in the institution should be carefully reviewed. This section coordinates securing the security clearance required for employees, investigates all major internal affairs of both staff and inmates, and apparently performs quasi-law enforcement functions in coordination with the Kansas Bureau of Investigation. The security clearance information for personnel generally is teletyped by law enforcement agencies into the control center and then routed to the IIS staff. Pre-employment security clearances are fundamentally personnel functions and strong consideration should be given to reassigning these duties to the administrative service. Further, most investigative sections in major penitentiaries are limited to one or two positions. At the present time, KSP has at least five positions in the section, and consideration should be given to streamlining this operation.

Other potential manpower economies were observed during the assistance visit. One, for example, is the Prerelease Unit. At the time of the visit there were 15 inmates quartered in this unit with 24-hour officer coverage, which equals five correctional officers. Most of the inmates in this unit were awaiting release, and could have been relocated to a less secure area. These positions could then be utilized by a shakedown crew, or for increased supervision in quarters or other activity areas.

Determining other areas of manpower savings will involve some major resources and programming changes, but undoubtedly such a project would be in the best interest of the institution and security. It could further involve different utilization of outside dormitories, and employment in the brick yard. With careful study, and administrative support, there appear to be a number of areas where manpower could be effectively reassigned in order to bring about a more efficient utilization of available positions.

Due to staff shortages, all posts have not been manned, making total allocation of staff positions and posts difficult to determine. Some posts on master rosters are never manned even though they are being shown as being manned on the daily rosters. The daily decisions of vacating posts and reassigning for efficient manpower utilization are certainly best left to supervisory staff responsible for the day-to-day operation of the institution. However, the documentation for such changes needs to be improved. Similarly, documentation for loans to other services should be maintained, in order to further substantiate manpower drains on this department.

As a final note, an efficient system for performance cards should be maintained with the Chief of Security. The present system is ineffective as it contains limited information of value. Personnel evaluations should be specific, point to strengths and weaknesses, job interest, and indicate what training is recommended for the employee.

8. TRAINING

The training schedule and on-the-job training of new employees was reviewed along with attendance at two sessions at the internal 40-hour training program. The subject material for the basic training course is primarily informational, covering Kansas Civil Service Provisions, health plans, grievance procedures, organizational structure, and other items of interest to new employees. Emergency plans are discussed, but philosophy of corrections, and mission of the institution are not in the course material, although they may be covered elsewhere. The training program is not as detailed as it should be, and more hours should be devoted to this introductory training period. There is little emphasis on developing interpersonal skills, despite the fact that there is an increasing awareness of the value of developing these abilities in correctional staff. Also, additional emphasis should be given to training in specific custody and security procedures, inmate control and accountability, and related topics.

There are two employees assigned to the training center. Both seem dedicated, and have developed good relations with staff at the United States

Disciplinary Barracks, Fort Leavenworth, and the United States Penitentiary in Leavenworth. The major recommendation in this area would be to expand the initial training into a two week program, followed by on-the-job training. A more sophisticated training package would include problem solving, role playing, and broader coverage of fundamental procedures as well as supervision technique. By so doing, new employees would have additional confidence and this would hopefully aid in the retention rate. A copy of a proposed outline was made available for consideration.

9. MANAGEMENT/EMPLOYEE RELATIONS

Employees differ as to their attitudes toward management; some are supportive and others are critical of all levels from top to bottom. The consultants were not approached by any member of the new union to voice any complaints. There was a certain apprehension among some supervisory personnel, although this apparently is moderating somewhat. There were comments that if line staff complaints were able to have the Director of the institution and the Chief of Security removed from their jobs, then at the lower level, staff have little job security should further complaints be aired about them. The key to improving management/employee relations is covered elsewhere in this report. Staff at all levels need to work to foster open communications, starting with top management. The Secretary of Corrections, other Central Office staff, and the KSP administration need to be highly visible and accessible to the penitentiary on a regular basis in order to strengthen the relations.

SPECIFIC RECOMMENDATIONS

1. RECOMMENDATION -- EMEGENCY PLANS

Revise and update emergency plans. These plans are confidential and should be stored securely.

DISCUSSION

It has been several years since the revision and updating of both the escape and riot plan. No plans are in evidence for fire, civil disturbance, or natural disaster. These plans should be developed, kept current at all times, and officially reviewed at least once a year. All staff should be required to certify, in writing, that they have read and understand these plans. Further, because of the security implementations and contents of these documents, inmates should never have access to them. They should be stored in a secure area, along with all maps and related information which would have security implications.

2. RECOMMENDATION -- KEY CONTROL

Revise, strengthen, and enforce key control procedures.

DISCUSSION

There is no cross-indexed inventory maintained on keys. Personnel do receipt for keys issued by the Control Center and in other locations where keys are issued, but there is record of number of keys on each ring.

Emergency keys are not properly organized with each key ring tagged to clearly indicate the lock it fits. Emergency keys should be checked frequently and should be rotated if necessary in order to ensure they will continue to work the locks properly.

The lock shop is not properly equipped, and telekey system should be provided for patterned keys. Adequate cross-indexed inventories should be developed.

There were numerous incidents of haphazard key control and handling practices noted throughout the facility. Security keys were laying on desks in cellhouses, in drawers in shops, and thrown from the fourth tier to the flats in another cellhouse while other inmates were in close proximity. These are not only poor key control practices, but dangerous ones. There were also occasions where inmates carried keys to some shops.

3. RECOMMENDATION -- TOOL CONTROL

Strengthen tool control procedures and practices.

DISCUSSION

There is a written tool control procedure but there is no semblance of compliance. The most basic violations of sound tool control were evident throughout the institution.

There are two approved locations where welding cutting tips are issued--the control center and tower #5. Inventories were available in the control center. There was another area discovered where cutting tips were available and that was the inmate-operated tool room and the furniture refinishing department. This discrepancy was corrected during the visit. Hot tools should be stored, issued, and inventoried from one location--preferably the control center. They should be accounted for at issue and again when they are returned.

Grinding wheels are not covered, and inventories of tools on the job were not available. No ongoing inspection or accountability is made of tools. Shadow boards are sparingly used and there is an overall context of non-compliance of policy. For example, a barber in one cellhouse retains his barber tools in his own cell, including the scissors.

Scaffolding in the B-Cellhouse renovation was not secured. When not secured the scaffold components could make excellent ladders when attached together. B-Cellhouse is only a few feet from tower #12 and this tower officer is frequently occupied with monitoring traffic in the brick yard area.

4. RECOMMENDATION -- FIRE PLAN

Develop a fire plan with accompanying charts prominently displayed in all areas involved in the evacuation plan. Institution staff should obtain assistance from the State Fire Marshal's office in order to develop and implement these plans immediately.

DISCUSSION

Physical facilities at this time will not permit a fire plan compatible with ACA standards. There is a need for an interim plan to be developed and posted since a fire in one of the cellhouses at this stage would be disastrous. Fire plans should also include fire safety inspection reports. However, until auxiliary exits can be constructed in the housing units, an approved fire plan is not possible. Development of an interim plan at once should not relieve the pressing need to make the necessary physical plant modifications in order to ensure basic inmate safety in the housing units.

5. RECOMMENDATION -- COUNT PROCEDURE

Develop accurate and efficient count procedures.

DISCUSSION

The count process can be streamlined with very little difficulty, and this should be done immediately. No movements should be authorized during official counts, unless it is an extreme emergency. Outcounts should be conveyed to the responsible count official from an approved location at least one hour in advance of an official count. Inmates will count either in their unit or the outcount location. Several counts were observed during the assistance visit. Almost without exception they were delayed, and some disrupted normal operations for over two hours. Accurate accountability is critical, and it must be an organized and efficient operation. Delaying or otherwise interfering with official counts is a serious infraction, and count delays relating to inmate interference should be dealt with accordingly.

The consultants observed one serious count violation. An employee signed an official 10:30 A.M. count and it was in the possession of an inmate clerk at 8:30 A.M. This was a most dangerous practice and corrective action was taken immediately.

6. RECOMMENDATION -- ACCOUNTABILITY, PASSES, AND CALLOUTS -- INMATE ID

Revise and strengthen procedures for inmate accountability.

DISCUSSION

Each inmate at KSP is issued an identification card, and is supposed to have it with him at all times, according to policy. This policy is not enforced consistently, and as a result it is an ineffective tool for

identification or accountability. This policy should either be enforced or discontinued, as the employees feel they do not receive adequate support from supervisors for enforcing it, and inmates see the inconsistencies of enforcement as harassment.

As a related area of concern, consideration was given to the problem presented recently by the use of an uncontrolled staff uniform to facilitate an escape attempt. While it is certainly of concern that an inmate could obtain a staff uniform as these recent escapees did, it should also be remembered that these men were quite dangerous. If obtaining a staff uniform was the key to their escape attempt and none was available by theft, then they were quite capable of attacking the staff member and obtaining a uniform in that fashion. The important principle here relating both to identification cards and uniforms, is that positive identification from the man, not from the uniform or the identification form document. Over reliance on mechanical procedures or external identifying factors can easily be exploited.

7. RECOMMENDATION -- ADJUSTMENT AND TREATMENT BUILDING (SEGREGATION)

Review operations and documentation to comply with minimal requirements for conditions of confinement in detention/segregation units.

DISCUSSION

The adjustment and treatment building was visited on several occasions during the week. There is an urgent need for immediate attention in this unit. A thorough review of operating procedures and documentation was accomplished. The primary security of this windowless building is good. However, internal security operations need to be strengthened considerably. The double gate entrance into the control cage is not utilized properly, making it vulnerable when inmates are moving within the unit or when protective custody inmates are doing routine cleaning duties. The entrance of the cage was designed to be utilized as a sally port, and present operations make the cage entrance weak. Whoever controls the cage controls the unit, and to that extent that these procedures are ineffective, staff and inmates within the unit are vulnerable. Prompt corrective action was suggested at the time of the visit.

The only natural light in this unit is through skylights in the ceiling of the building. There are light fixtures in the cells, but the amount of light should be measured to make sure that it is adequate. Similarly, because of the lack of windows in the unit, periodic checks of the air handling system should be made in order to ensure an adequate air exchange is taking place throughout.

There are two outside recreation areas for inmates in A&T. There are no facilities for inside recreation. A review of the log indicated that very limited recreation time is scheduled, with some inmates never permitted within the yard. This does not comply with ACA standards of one hour a day five days a week. Additional yard areas would be required to achieve compliance with this standard if the unit's maximum population were reached.

Further review of unit records indicates that two showers a week are authorized for inmates in A&T. ACA standards require three showers each week.

Food service operations reflect the same menu is served in A&T as is presented to the general population. It is delivered to the unit by an unsupervised inmate from the kitchen. Protective custody inmates portion for two of the three wings in the unit, while officers portion and deliver to the segregation wing. The use of inmates to proportion food servings to other inmates is a questionable practice, and should be reviewed. Further, during the observation of several meal servings, no one from the Food Service Department was present for evaluating quality control.

A log is maintained of the shift activities within the unit, as well as individual logs. These records indicate visitors, and other activities within the unit. They do not reflect supervisory or top administrators are visiting this unit very often. These unit visits should include touring individual ranges in order to determine conditions of confinement, as well as being responsive to those being confined there. Medical personnel should also make rounds at least daily, and also on as-needed bases. Current records do not reflect this is being done.

The sanitation and general housekeeping of these three wings varied. Tremendous amounts of litter, unconsumed food, and other materials are thrown from cells and accumulated on the ranges creating a most unsanitary condition. The previous remarks referencing sanitation in the cellhouses are applicable in this case as well. There are legitimate and compelling concerns for safety and sanitation which clearly obligate correctional managers to act affirmatively and bring this type of activity to a halt.

The Mental Health Department is active in both this unit and the protective unit, doing a commendable job of working with these groups. One frequently mentioned concern, by the team and officers working this unit, was that several men confined there belonged in Larned State Hospital. They added that very little space is available at Larned and those transferred frequently return to the prison to make room for other referrals.

It is recommended that a thorough review of A&T operations be conducted in an effort to work toward ACA standards. Compliance may require some physical changes and increases in staffing. For an example, an inmate making a phone call must be removed from his cell in restraints and be escorted to the office where he is supervised during the call. As an alternative, phone jacks could be installed on each range, in order to expedite the process. More calls could be made with less staff involved and with less exposure to risk through the movement of inmates out of the cell areas.

8. RECOMMENDATION -- CLASSIFICATION

Expedite implementation of new classification procedures.

DISCUSSION

A thorough review of the classification process was not made inasmuch as a recently developed classification structure will soon update and improve the current inadequate system. New commitments are presently assigned to units based on space available. There are several inmates at KSP that certainly qualify for a less secure facility, and some who would reasonably be prospects for minimum security assignments. However, there is neither space nor work available at the outside dormitory to accommodate these men. It is unfortunate that those offenders must be confined with the more sophisticated hardened, dangerous prisoners who make up the majority of the population. If those less sophisticated can be relocated, improved supervision and control could be supplied to those needing it the most.

The earlier recommendations regarding an admission and orientation program coupled with a strong intake screening process are particularly applicable here. The new classification structure should be applied at the earliest possible moment in an inmate's incarcerative experience and a well structured admission and orientation program is often the most effective means for gaining an accurate assessment of custody and classification needs which are not always evident from presentence reports and other historical data.

9. RECOMMENDATION -- OUTSIDE DORMITORIES -- BRICK YARD

It is recommended that both dormitories #1 and #2 be minimum security units, and that they provide the inmate manpower for work details in the brick yard.

DISCUSSION

There are several advantages to this proposal:

a. Manpower savings would be accomplished. There are presently two towers manned around the clock for 92 medium security inmates. By establishing a minimum custody in this location, a savings of 10 correctional positions could be achieved for reassignment to critical posts inside the institution. Additionally, there are three towers manned on the day watch when the brick yard is in operation. If minimum security inmates were employed, these towers would not be necessary, reaping a savings of three and one half additional positions.

b. The outside dormitories have a critical need for additional employment of inmates, since idleness there is as prevalent as inside the main institution.

c. Many of the inmates qualifying for reduced custody inside would qualify for a minimum custody assignment in the outside dormitory. Conversely, a number of inmates presently at dormitory #2 might have to be transferred inside the secure perimeter if a minimum security operation were to be fully implemented.

d. Security would be improved by removing the need for processing inmates from inside the walled perimeter in order to work them in a less secure area. The processing procedure at the brick yard gate is very inefficient and needs substantial strengthening, even if these modifications are not adopted. Further recommendations on this aspect of security will be referenced under entrance procedures.

10. RECOMMENDATION -- VISITING

The following are recommendations for inmate visiting..

- a. Increased utilization of black light for identification of visitors.
- b. Interlock sally port from visiting room.
- c. Modify shakedown room utilization.
- d. Consider changing visiting to five days a week from the present schedule.

DISCUSSION

The incoming visitors are identified and processed at an outside visiting lounge. The thoroughness of this operation was impressive. Visitors are stamped for identification into the administration building at the front entrance, and communication between the post and visiting room is efficient. However, the sallyport from the administration building to the visiting room is not interlocked, and should be modified.

At the conclusion of a visit, the inmate is released to the shakedown area before the visitors may leave. The black light is not utilized to check visitors at the completion of the visit and it is recommended that this be done. Also, the only stamp currently utilized for inside visits is a "K" which could be duplicated. A series of symbols used on a non-sequential process should be provided, to avoid attempts of duplication.

The shakedown area to the visiting room is used to process inmates into and out of the visiting room. This room is also utilized as a holding area for inmates from the outside dormitories. This mixture of inmate groups is not a good custodial procedure, and additionally, a strip search of one inmate in the presence of several others is not a good practice. Privacy booths for strip searches should be provided in areas where these searches are required such as the visiting room and receiving and discharge.

The present visiting operation is established on a seven-day week basis, from 8:00 A.M. until 11:00 A.M. and again from 1:00 P.M. to 3:00 P.M. Thus, a total of 42 hours a week visiting is available to inmates. However, this is achieved at a cost of establishing seven-day visiting room coverage, and also requires dual processing of both inmates and visitors into and out of the visiting room for a one-day visit. It is recommended that strong consideration be given to establishing five day a week visiting, with a continuous visiting period from 8:00 A.M. until 3:30 P.M. By providing a lunch relief for the visiting room staff, and by scheduling visiting on weekend days, a minimal loss in visiting time would be incurred, with considerable gains in security and efficiency of the process.

10. RECOMMENDATION -- MAILROOM

Review procedures for authorization of incoming packages, as well as processing of packages.

DISCUSSION

The mailroom is located outside of the secure perimeter of the facility. Incoming packages may be received throughout the year, with a variety of acceptable items including radios, televisions, stereos, typewriters, etc. Unit teams typically process all this property, searching packages prior to sending them into the institution. On observation, the shakedown performed is minimal, because of the tremendous volume. Many of the items are complex, do not lend themselves easily to a thorough search, and are delivered in cartons. Transfriskers (handheld metal detectors) are not utilized in the searches of these packages. Typically, after a brief, noncomprehensive search, the contents are delivered to the inmate in the carton.

Since the assistance visit took place in the month of December, the processing of Christmas packages was also observed. They were simply loaded on a truck, unopened, and delivered to the cellhouse offices, which are not secure. They were processed by unit staff in the cellhouse, and again the boxes or cartons were delivered to the recipient. This is a dangerous procedure, with many security weaknesses. It would be difficult to predict the amount and type of contraband entering the institution through this method, but the potential for introduction of a wide range of contraband is clear.

11. RECOMMENDATION -- SECURITY INSPECTION/SHAKEDOWNS

Procedures and documentation for security inspections and shakedowns should be formalized.

DISCUSSION

Infrequent security inspections are made, and reports are submitted to the appropriate officials. However, there is no master log for the responsible official to determine that all areas are inspected in a timely manner. Staff were furnished a suggested format that could be used as a guide for developing this procedure.

Thorough shakedowns of a number of areas in the institution would be most difficult. With double cell occupancy and the many personal property items authorized, it would be very time consuming to make complete and thorough cell searches. The mechanical shops are cluttered, not well organized, and excessive materials make a reasonable search impossible. The metal detector at the shop area is not effective. Remedial action for this problem should include a careful examination of current policy on inmate personal property, as well as a review of the need for reorganization in shop areas.

12. RECOMMENDATION -- ENTRANCES - FRONT, DOCK, AND BRICK YARD

Review procedures for truck processing at the dock, and completely overhaul the system at the brick yard.

DISCUSSION

The procedures at the front entrance are efficient. Identification is thorough and metal detection is utilized. Inmate traffic and orderlies from outside dormitories are processed through this entrance.

At the dock, new commitments are received and escorted to the receiving area. All truck traffic is also processed through this point. Trash dumpsters are stationed within the sally port, and remain there through counts. Trucks inside are escorted, and loading of trucks is supervised. However, supervisors were observed riding in the cab of the vehicle. Truckloads cannot be effectively supervised from truck cabs, and the responsible employee should always be stationed where he can observe the contents of a vehicle. The dock officer is responsible for vehicle searches.

The procedures for processing inmates through the brick yard gate are inefficient and ineffective, creating the potential for breaches of security. Inmate identification cards have limited information, and are not signed or approved by a ranking official. Inmates linger in the gate house where the identification cards are maintained. Other inmates awaiting processing loiter under tower #12. Partial details are processed through this area with little concern for accountability, and the tower #12 officer is responsible for counting inmates through the gate. During one period of observing this operation the tower officer was totally occupied for 20 minutes with this procedure, and was unable to provide perimeter coverage of his areas of responsibility. This report has already referenced the discontinuation of using inside inmates in the brick yard. Even if that proposal is not adopted, the tower officer should not be responsible for the count at the brick yard gate. The same is true for tower #5, which controls the gate and maintains the count of those outside the perimeter in dormitory #1. If minimum custody inmates need fence and gate control, then the classification process is not operating effectively.

13. RECOMMENDATION -- COMMUNICATION, ALARM, AND DETECTION SYSTEMS

Recommend continued efforts to be made to replace obsolete systems.

DISCUSSION

Kansas Correctional Officials are already in the process of replacing their outdated telephone system and upgrading the internal radio communication. These are certainly necessary, as both systems are inadequate and sufficient equipment is not in use. It was also suggested that the tower intercoms be included in the new system. This would permit one tower officer to alert another instantaneously without dialing, and has proven effective in many other prison systems. The consultants also reviewed the plans for the telephone systems and officials report it contains emergency panels,

no - dial alarms, tamper alarms, and also has right-of-way capability. These features should be a welcome addition, and this sophisticated system is badly needed.

The body alarms for units are tested after officers arrive on their post, according to policy. It was surprising the number of employees who do not have confidence in this personal alarm system. There were a few false alarms during our visit, but the response to those emergencies by staff was most impressive.

As mentioned earlier, the metal detector from the shops area was reported to be ineffective, and should be adjusted or replaced. If traffic continues to pass to the brick yard, a detector should also be placed there.

Handheld transfriskers for individual searches are effective, but KSP does not have any. Procurement of a sufficient number of these devices should be considered. They are easily portable, and useable in a wide range of areas and activities.

14. RECOMMENDATION -- DRUG SURVEILLANCE PROGRAM

Establish a system of urine surveillance in order to randomly test the inmate population for unauthorized drug abuse.

DISCUSSION

Kansas State Penitentiary does not have a program to routinely monitor those inmates who may have obtained and used drugs improperly. While the review team did not actually observe anyone obviously under the influence, it is important to have an effective program for this surveillance.

In a related area, the procedures observed with respect to storage and accountability of controlled medications were basically sound. However, there was some indication that medical staff were not dispensing controlled medication on an individual dosage basis. If this were the case, and inmates were issued a daily supply, then accountability for these controlled substances would be insufficient.

15. RECOMMENDATION -- LAUNDRY OPERATIONS

Improved procedures for distribution of bed linen, mattresses, pillows, and blankets.

DISCUSSION

This is one of the items mentioned in the consent decree presently governing institutional operations. The consultants observed incidents of noncompliance in this area. While the violations were infrequent, there were instances where inmates did not have mattresses, linens, or blankets. In one instance an inmate in C-Cellhouse did not have a bed. It was noted that when linens were returned from the laundry that the inmate orderlies

issued them completely unsupervised. This offers the opportunity for inmates to "deal" with others, and is undesirable. The issue, control and supervision of necessary linens and other personal hygiene items require staff direction and supervision.

16. RECOMMENDATION -- SANITATION

Thorough inspections of all areas of the institution should be conducted by the State Health Department.

DISCUSSION

In the consent decree, it was agreed that the Kansas Department of Health and Environment would inspect the institution semiannually. Such an inspection would be timely at this point. As previously mentioned, sanitation is not acceptable and insect control requires immediate attention. The littering of range areas in cellhouses with debris, garbage and bird droppings is of particular concern.

The air circulation in A-Cellhouse is inadequate, and should be reviewed by appropriate State Officials. There are no vents in any of the cells, and this condition results in little air exchange. The temperature and humidity conditions on upper tiers during the hot summer months could reasonably be expected to be intolerable.

17. RECOMMENDATION -- DISCIPLINARY PROCESS

The present disciplinary process should be revised and streamlined to meet both ACA standards and those enunciated in the Supreme Court Decision in Wolff v. McDonald.

DISCUSSION

The present disciplinary policy, as outlined in Article 13 of the regulations, is cumbersome and inefficient. In some ways it exceeds the requirements of an administrative hearing, and in others it violates the intent of any due process. In particular, the presence of an attorney representing "Legal Services for Prisoners" is a concern. This individual is available to represent inmates on disciplinary matters. However, this type of representation exceeds the type required for any normal administrative hearing, and is not required by any contemporary court decisions, insofar as can be determined.

The disciplinary process was observed at each stage. The disciplinary committee reviewed cases where inmates had already served a substantial amount of time in administrative detention, and had been released from the detention unit by their unit team prior to coming before the committee for disciplinary action. The infractions had occurred weeks before, and the inmates were not in investigative status during the intervening period. While the committee obviously had authority to impose further sanctions, and sometimes did, the primary discipline had already been carried out before the discipline committee officially convened. This apparent conflict in roles between the unit staff responsible for the A&T unit and the institution

discipline committee bears examination and revision. Detention should be used in those cases when they may present a clear threat to themselves, others, or to the security and orderly operation of the institution. That initial determination should be vested in supervisory staff, the decision on release from detention status should reside with the discipline committee once the investigation into the formal charges is completed and it is determined that detention is still required.

One particularly distressing aspect of this procedure is that the employees writing incident reports must be available if requested to provide additional information to the discipline committee during the hearing. This effectively gives the inmate the right of confrontation with the reporting officer. This is unrelated to any policy or legal requirement, and places the reporting officer unnecessarily in a defensive role. If clarifying information is necessary, it should be obtained during the investigation. However, staff should not be required to submit to an examination of their actions in writing incident reports, and the burden for fully developing the information necessary for the committee to consider can properly be handled by the investigator.

The class of offenses is satisfactory, and the sanctions available parallel the offenses, and are proportionate to them.

The institution discipline hearing is an administrative procedure. If an inmate believes the findings are in error, he has the internal grievance procedure available for his appeal rights. It appears that a more efficient and expedient process can be developed which is in compliance with existing court decisions. Understanding that the present procedures may be construed as granting additional liberty interests to the inmates, it is believed that there is a substantial government interest in maintaining the balanced procedures set out in the Wolff decision, and that a carefully reasoned plan can be developed for bringing the present practices into line with contemporary judicial practice. As a further observation, once these proceedings have been streamlined, and if the involvement of a civilian lawyer is terminated, then hearings could easily be held two or three times a week, instead of the present schedule of one hearing day a week.

This would serve to reduce the amount of time an inmate spends in administrative detention before disposition of his case, and make the process a more credible one. This is a critical point, for the discipline process is one of focal importance in an institution. If staff believe that the process is operating well and fairly resolves the inmate conflicts they are reporting, then morale will be improved and they will deal more confidently and fairly with inmates. By the same token, if inmates see a firm, fair, and consistent discipline process operating, one which has a degree of credibility, then inmate management problems will be reduced as well.

This is a particularly important area, one which can be addressed relatively quickly and without the additional resources. It is one of prime importance in the management of a complex facility such as KSP, and prompt consideration of these suggestions is an important facet of any future improvement in the institution's functioning.

18. RECOMMENDATION -- CONTROL CENTER

Prepare card inventories of Class A tools stored there, add three speak-eze gas masks to control center, and modify tool issue slot in order to make the control center more secure.

DISCUSSION

All hot items should be issued from the control center. Inventories should be posted and checked on each shift.

Gas and emergency equipment is stored in the control center. In the event of an emergency where a chemical agent was used, the personnel in the control center would be ineffective. Since this is a nerve and communication center for the entire institution, the staff assigned there could not answer the switchboard, initiate calls, use the intercom or radios, without the proper protective equipment. The control center must be protected at all times.

The tool or package-pass through must be modified in order to prevent breaching the security of the center. An improved method for insuring this was discussed with the administrative captain, and a design was suggested which can be fabricated in the mechanical shop of the institution.

19. RECOMMENDATION -- POST ORDERS

Revise and expand contents of post orders.

DISCUSSION

Post orders are located on each post, but are seldom reviewed. They do not contain specific, chronological directions to the officers assigned to the post. With the high rate of staff turnover, and personnel finding themselves on assignments for the first time with little training, it is important that post instructions be more definitive, and that a structured system be devised for insuring staff and supervisors review them on a regular basis.

20. RECOMMENDATION -- ARMORY

Storage of weapons and emergency equipment should be strengthened.

DISCUSSION

There is limited space in the armory for storage of all emergency equipment. Some articles (gas masks, etc.) are stored in large open cartons. It is difficult to inventory and maintain equipment under such circumstances. Improved design of storage areas would enhance the appearance of the area, expedite inventory, and insure the function and capability of this area.

21. RECOMMENDATION -- EMPLOYEE IDENTIFICATION CARDS

Employee identification cards be processed and filed outside the internal process utilized for inmate identification.

DISCUSSION

Photographs and initial identification cards are processed in the inmate receiving area. Since entrance procedures require identification cards it is imperative that these cards be processed outside the internal operations of the institution to prevent forgery or duplication.

CONCLUSION

In conclusion, current conditions at the Kansas State Penitentiary in Lansing, Kansas reflect a complex combination of problems relating not only to inherent limitations in the physical plant, but basic communication problems, and significant procedural deficiencies. This report reflects significant problem areas uncovered during a relatively brief time frame and is intended as a guide for state authorities in understanding the scope of the task involved in restructuring operations at the facility and restoring administrative effectiveness there.

The cooperation of the staff at the penitentiary, and the Secretary of Corrections, was very much appreciated. The response and attitude of institution staff, by taking immediate corrective action when spot recommendations were made throughout the visit, was particularly encouraging. Despite the preponderantly negative tone of this report, there are hard working, dedicated staff at KSP and in the Department of Corrections who are continuing to deal with difficult issues under circumstances which are far from ideal. To the extent that additional resources and support can be afforded them, and to the degree that the above recommendations can be implemented, there is a reasonable expectation that an effective correctional program can be established at this facility.

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PERSONAL BACKGROUND

Born Minco, OK, August 22, 1931
Married, three children

EDUCATION

| | | |
|------------------------|----------------|---------|
| El Reno Junior College | El Reno, OK | 1949-51 |
| Sam Houston State | Huntsville, TX | 1968-69 |

MILITARY

| | |
|------------------------|----------------------|
| U. S. Army Active Duty | 1952 - 54 |
| Honorably Discharged | Sergeant First Class |

FEDERAL PRISON SYSTEM ASSIGNMENTS

1956-58 Correctional Officer, Federal Reformatory, El Reno, OK
1958-61 Correctional Officer, Federal Prison Camp, Greenville, SC
1961-67 Safety Officer, Federal Correctional Institution, LaTuna, TX
1967-69 Assistant Director, Community Treatment Center, Houston, TX
1969-71 Superintendent, Federal Prison Camp, Safford, AZ
1971-73 Associate Warden, Federal Correctional Institution, Danbury, CT
1973-74 Warden, Federal Correctional Institution, Texarkana, TX
1974-76 Warden, U. S. Penitentiary, Terre Haute, IN
1976-77 Warden, U. S. Penitentiary, Leavenworth, KS
1977-81 Regional Director, South Central Region, Dallas, TX

SPECIAL BUREAU OF PRISONS ASSIGNMENTS

1978 Planned and directed Prisoner Exchange with Mexico
1980 Planned implementation of and participated in Panama Canal Prisoner Exchange Treaty
1980 Designated by Director of Bureau of Prisons to process and designate prisoners to the Federal Bureau of Prisons following riot at New, Mexico State Prison in Santa Fe, NM
1980 Planned and participated in Bolivian/American Prisoner Exchange
1976-81 Served as co-chair of the Bureau of Prisons' Inmate Classification Task Force
1978-81 Member of Bureau of Prisons' Executive Staff Budget Committee

OTHER PROFESSIONAL EXPERIENCE

1981-84 Director, Nebraska Department of Correctional Services

ATTACHMENT 7c
SWAM 4-21-89

CONSULTATION EXPERIENCE

- 1984 - Present Private Criminal Justice Consultant
Correctional Consultant - Canteen Company
Trainer/Consultant for National Institute of Corrections
Private Consultant for American Correctional Association
Federal Court Evaluator, Tennessee conditions of confinement case
- 1984 Reviewed overcrowding conditions in Texas State Prison for Attorney General's office
- 1984 Conducted security review of the Southern Nevada Correctional Center, Jean, NV
- 1984 Conducted security reviews at six correctional facilities in Virginia
- 1984 Conducted security reviews of adult correctional facilities in U.S. Virgin Islands
- 1984 Conducted comprehensive classification review of South Dakota State Penitentiary
- 1984 Served as faculty member and trainer for NIC seminar on Architectural Design Criteria
- 1984 Conducted extensive review of security procedures and policies at Maryland State Penitentiary
- 1985 Trainer at special NIC seminar on Architectural Design Criteria for State of Virginia
- 1985 Conducted extensive security reviews of ten major facilities in State of Tennessee
- 1985 Reviewed training operations at the Tennessee State Corrections Academy
- 1985 Conducted in-depth security review at Missouri State Penitentiary, Jefferson City, MO
- 1985-86 Developed major portions of prototype Security Manual for ACA and NIC
- 1986 Conducted security training at the Ohio State Correctional Training Center
- 1986 Conducted follow-up reviews of security operations at ten Tennessee State correctional facilities
- 1986 Conducted security and staffing review at Georgia industrial Institute, Alto, GA
- 1987 Conducted security and staffing reviews at three additional Georgia correctional facilities
- 1987 Conducted follow-up reviews of adult correctional facilities in U.S. Virgin Islands
- 1987 Reviewed & evaluated overcrowding conditions in 13 institutions of the Oklahoma Dept. of Corrections
- 1987-88 Reviewed living conditions and overcrowding in 36 North Carolina field units

TRAINING

- Bureau of Prisons Basic, Advanced, Emergency, Supervisor and Executive Management Training, Inmate Discipline and other in-service training.
- Warden's Conferences 1973-1981
- ACA Conferences 1970-Present

AWARDS

Received numerous performance and Special Act commendations



**Kansas
Psychiatric
Society**

1259 Pembroke Lane
Topeka, KS 66604
Telephone: (913) 232-5985
or (913) 235-3619

Officers 1988-1990

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929 N. St. Francis
Wichita, KS 67214

Samuel L. Bradshaw, M.D.
President-elect
3910 Parlington Dr.
Topeka, KS 66610

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Secretary
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Lawrence, KS 66044

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Treasurer
R.R. 1, Box 197 A
Newton, KS 67114

Manuel P. Pardo, M.D.
Councillor, 1988-91
UKMC-Psychiatry
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Kansas City, KS 66103

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Shawnee Mission, KS 66204

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Executive Secretary
Telephone: (913) 232-5985

Chip Wheelen
Public Affairs Contact
Telephone: (913) 235-3619

April 20, 1989

The Honorable Paul Burke
President, Kansas Senate
359E, Statehouse
Topeka, Kansas 66612

FYT

Dear Senator Burke:

In response to your inquiry I contacted my federal level counterpart at the American Psychiatric Association. She informed me that the APA has not in the recent past conducted any kind of survey that would compare incomes of psychiatrists among the states.

I do, however, have access to a publication entitled Socioeconomic Characteristics of Medical Practice by the American Medical Association. This document is a retrospective analysis of physician incomes, work hours, charity care and other characteristics, but is not state specific. Because my copy was published in 1988 based on a 1987 survey reflecting 1986 data, I called the AMA for an update on 1987.

Median psychiatric physician incomes (after expenses, before taxes) have been as follows (in thousands):

| <u>1981</u> | <u>1982</u> | <u>1983</u> | <u>1984</u> | <u>1985</u> | <u>1986</u> | <u>1987</u> |
|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| \$64.0 | \$68.0 | \$70.0 | \$80.0 | \$80.0 | \$82.0 | \$90.0 |

Based on the observable trend, the average increase per year for the six-year comparison has been \$4,333 or 6.0% per year. Using the two measurements for purposes of estimating, one could predict that the nationwide median 1989 income for a psychiatrist would be \$98,666 to \$101,124.

I also contacted a resource who is a psychiatrist and administrator, as well as a prominent KPS member. I inquired without indicating any estimate of my own, and he stated that a psychiatrist would probably be guaranteed an income "of about \$100,000" to become a member of the medical staff at a for-profit Kansas hospital. He also commented that a physician who has recently completed residency training in psychiatry and goes to work in a salaried capacity at a private Kansas institution might start at about \$80,000. If, however, that same psychiatrist becomes certified in a subspecialty such as forensics, the physician can expect a better salary.

I hope this is the kind of information you are seeking. If I can be of further assistance in matters pertaining to the practice of psychiatry, please let me know.

Respectfully yours,

Chip
Chip Wheelen
Lobbyist

ATTACHMENT 8
SWAM 4-21-89

CW:lg



CITY OF PRATT

Office Of The City Manager
(316) 672-5571

P.O. Box 807
Pratt, Kansas 67124

APRIL 18, 1989

DEAR SENATOR WINT WINTER:

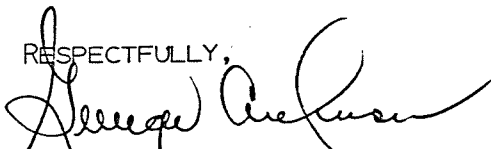
IT IS MY UNDERSTANDING THAT THE SENATE WAYS AND MEANS COMMITTEE WILL BE MEETING IN TOPEKA ON FRIDAY, APRIL 21, 1989 TO CONTINUE THE STUDY ON THE PRISON ISSUE IN OUR STATE. WE ARE HOPEFUL THAT THIS MOST IMPORTANT ISSUE CAN BE WORKED OUT TO THE BENEFIT OF THE INMATES AND THE POPULATION OF KANSAS AS A WHOLE.

WHILE I APPRECIATE THE TASK THAT IS FACING OUR LEGISLATURE IN THE FINAL DAYS OF THIS SESSION, I AM ENCLOSED SOME INFORMATION CONCERNING THE CITY AND COUNTY OF PRATT PROPOSAL ON THE PRISON ISSUE AND HOPE YOU FIND TIME TO REVIEW SOME OF THE INFORMATION THAT WE FEEL IS IMPORTANT TO THE STATE AS YOU MAKE YOUR FINAL DECISION ON THE DIRECTION PRISON REFORM WILL TAKE IN KANSAS.

WHILE WE HAVE BEEN AND CONTINUED TO BE INTERESTED IN BEING CONSIDERED AS A LOCATION FOR A CORRECTIONAL FACILITY, WE ENCOURAGE YOU TO MAKE THE HARD DECISION THAT WILL BEST SERVE OUR STATE.

THANK YOU FOR TAKING THE TIME TO REVIEW THIS INFORMATION AND BEST OF LUCK AS YOU COMPLETE THE CURRENT SESSION.

RESPECTFULLY,


GEORGE ANDERSON, CITY MANAGER
CITY OF PRATT, KANSAS

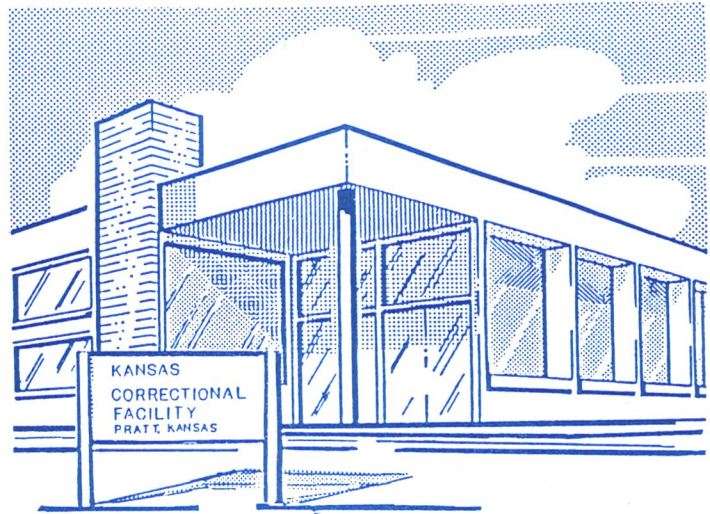
ATTACHMENT 9
SWAM 4-21-89

**It's Even Easier
To Think Prison
... When You Can Save
Nearly \$70 Million
... That's as much as you need
to build another one !**

Just look at these new facts



**NEW
INFORMATION**



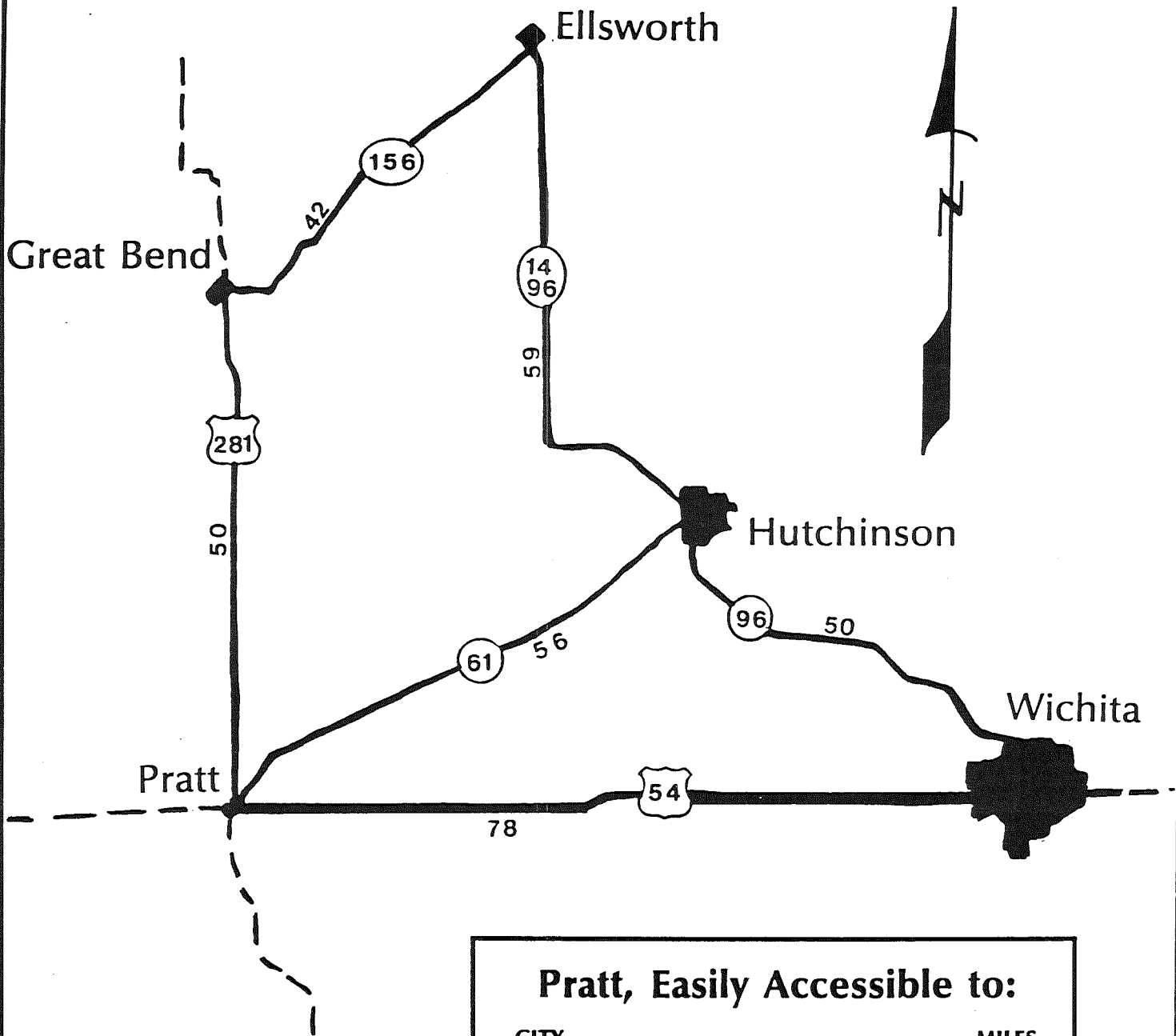
**Pratt, Kansas
Correctional Facility
Site Proposal**

Submitted to: **Department of Corrections
Office of the Secretary
Topeka, Kansas**

Submitted by: **City of Pratt and
County of Pratt
Pratt, Kansas 67124**

ATTACHMENT 10

SWAM 4-21-89



Pratt, Easily Accessible to:

| CITY | MILES |
|------------------|-------|
| Hutchinson | 56 |
| Wichita | 78 |
| Ellsworth | 92 |

The State Of Kansas

In Effect, Would

Be Purchasing

Electricity And

Natural Gas

At Cost!

By building a 1,300 bed Correctional Facility in Pratt, The State of Kansas can save \$467,000 to \$675,000 per year in **Electricity cost and an average of \$723,632.28 a year on Natural Gas cost** over the proposed site in El Dorado, Kansas.

Over the next 50 years it is estimated the savings in electricity would be as high as \$33,000,000 (\$33 Million) and the savings on Natural Gas would be as high as \$36,000,000 (\$36 Million).

The **City of Pratt, Kansas**, proposes a joint ownership in power production facilities to serve the new 1,300 bed prison. The **City of Pratt** will enter into a long-term operating agreement to **manage and Maintain** the State of Kansas's portion of the power production facilities. In addition, the **City of Pratt** would **purchase any excess electricity available** from the facility.

Natural Gas would be provided through **A City of Pratt owned facility with gas provided by Sunrise Energy Company**. The **City of Pratt** would manage and maintain the gas service as the Correctional Facility would be it's only customer.

Look at the figures on the next two pages.....

Let's Look at The Numbers!

Electrical Rates Based on a
\$33 Million projection.

THE STATE OF KANSAS, IN EFFECT, WOULD BE PURCHASING ELECTRICITY AT COST!

| Years | El Dorado Facility | Pratt Facility | Annual Savings |
|--------|-----------------------|-------------------|-------------------|
| 1 | \$ 1,024,901 | \$ 617,458 | \$ 407,443 |
| 2 | \$ 1,068,417 | \$ 617,458 | \$ 450,959 |
| 3 | \$ 1,111,933 | \$ 617,458 | \$ 494,475 |
| 4 | \$ 1,155,449 | \$ 617,458 | \$ 537,991 |
| 5 | \$ 1,198,965 | \$ 617,458 | \$ 581,507 |
| 10 | \$ 1,242,481 | \$ 617,458 | \$ 625,023 |
| 15 | \$ 1,242,481 | \$ 617,458 | \$ 625,023 |
| 20 | \$ 1,242,481 | \$ 523,498 | \$ 718,983 |
| 25 | \$ 1,242,481 | \$ 523,498 | \$ 718,983 |
| 35 | \$ 1,242,481 | \$ 523,498 | \$ 718,983 |
| 40 | \$ 1,242,481 | \$ 523,498 | \$ 718,983 |
| 50 | \$ 1,242,481 | \$ 523,498 | \$ 718,983 |
| | ----- | ----- | ----- |
| Totals | \$61,471,292 | \$27,584,280 | \$33,687,012 |

**Now You Can Save Even
More With A Pratt
Prison Facility!**

Just Look Inside.....



We Concede !!!

That all cities wanting to be chosen as a prison site...

- A. Have good school and beautiful churches.
(Most cities in Kansas do.)
- B. All have strong city and county governments
to handle the facility.
- C. All could use the boost in economics.
(What city couldn't)
- D. All have strong support and some negative support
(Eldorado has more negative than most)
- E. All cities have about the same package.

SO WHAT IS THE DIFFERENCE!

Present day engineering and architectural skills would allow the state to build this facility any where they desire. The price of steel, concrete and labor would be close to the same anywhere.

After the prison is built, it must be operated. Over the life of the building this operating cost would be TEN TIMES the initial cost.

In Pratt the state can SAVE \$33,687,012 in Electric Cost.

In Pratt the state can SAVE \$36,181,614 in Natural Gas Cost.

In Pratt the state can buy FRESH PRODUCE for meals at 50% ($\frac{1}{2}$) of the wholesale cost. This is within 25 miles of the prison site.

Example:

Squash, pumpkin, cucumber and similar vegetables wholesale cost is 20¢ a pound.

1,000 noon meals a day averaging 5 oz. per serving
or 5,000 oz. per day = \$312.5 pounds x 20¢ a pound
= \$62.50 per day.

Feeding this ration 180 days (or every other day)
equals 180 x \$62.50 or \$11,250 a year.
at a 50% saving this equals \$5,625 a year.

10 vegetables at \$5,625 per year = \$56,250.00 annual savings.
Times 50 years = \$2,812,500

PLUS: This producer can use work-release persons in harvesting and planting. This would provide income and good clean outdoor labor for the inmates.

THAT'S THE DIFFERENCE

Savings in operations at least \$72,693,626.

Why not save us taxpayers the money?

And . . . We can do the Same
for the Natural Gas Rates . . . !

Sunrise Energy Company's Estimated Annual Savings Comparison for a Pratt Correctional Facility

PROPOSAL: PROVIDE NATURAL GAS SERVICE TO A FACILITY WITH AN APPROXIMATE 1300 RESIDENTS AND STAFF. SAVINGS ARE CALCULATED ON AN ANNUAL 300,000,000 CUBIC FEET. COMPARISON IS TO KPL GAS SERVICE RATE EL DORADO AREA EFFECTIVE OCTOBER 1, 1988, ON RATE SCHEDULE LIK

| YEAR | ANNUAL | ANNUAL COST | | ANNUAL SAVINGS (\$) |
|--------|-----------------------------|------------------------|--------------------|------------------------|
| | CONSUMPTION (MCF DTherm) | EL DORADO SITE (\$) | PRATT SITE (\$) | |
| 1 | 300,000 | \$ 907,830 | \$ 735,000 | \$ 172,830 |
| 2 | 300,000 | \$ 953,222 | \$ 771,750 | \$ 181,472 |
| 3 | 300,000 | \$ 1,000,883 | \$ 810,338 | \$ 190,545 |
| 4 | 300,000 | \$ 1,050,927 | \$ 850,854 | \$ 200,072 |
| 5 | 300,000 | \$ 1,103,473 | \$ 893,397 | \$ 210,076 |
| 10 | 300,000 | \$ 1,408,342 | \$ 1,140,226 | \$ 268,116 |
| 15 | 300,000 | \$ 1,797,441 | \$ 1,455,250 | \$ 342,192 |
| 20 | 300,000 | \$ 2,294,041 | \$ 1,857,308 | \$ 436,733 |
| 25 | 300,000 | \$ 2,927,842 | \$ 2,370,448 | \$ 557,394 |
| 35 | 300,000 | \$ 4,769,147 | \$ 3,861,211 | \$ 907,936 |
| 40 | 300,000 | \$ 6,086,774 | \$ 4,927,992 | \$ 1,158,782 |
| 50 | 300,000 | \$ 9,914,714 | \$ 8,027,180 | \$ 1,887,534 |
| | ----- | ----- | ----- | ----- |
| TOTALS | \$15,000,000 | \$190,052,391 | \$153,870,777 | \$36,181,614 |

**The Electric Power Facility
Will Be Built When Needed!**

The power production facility can be located either within the prison or at some other location. These facilities would be integrated into the **City Of Pratt's** distribution system providing multiple back-up capability from the City's own power production facilities and with a 115KV interconnection into the Centel's electric company's transmission system.

The **City of Pratt** would issue tax-exempt bonds to purchase and build the power production facility. The State of Kansas would enter into an operating agreement that paid the City for the debt service on the portion of the power production facilities assigned to the prison. The only other cost to the State of Kansas would be the cost of the fuel and operating and maintenance expense of the facility. **In effect, the State of Kansas would be purchasing electricity at cost.**

The Natural Gas facility would be installed by **The City of Pratt** using the same tax-exempt bonds and an agreement with Sunrise Energy Company. The State of Kansas would again enter into an operating agreement that paid the City for the debt service on the amount of natural gas the Correctional Facility uses.

**Now The State of Kansas can receive
Both Major Utilities -- Natural
Gas and Electricity at cost
for a savings of \$69 Million!**

THE STATE OF KANSAS CAN SAVE EVEN MORE WITH OTHER INCENTIVES

The State will need a wastewater treatment facility which the **City of Pratt** is willing to build. Landfill cost, telephone, etc., are the same.

The City of Pratt does have ample water supply and the site has already had a preliminary site investigation by **Louis Berger & Associate, Inc., Washington, D.C.**, for the U.S. Department of Justice and **has already been deemed as acceptable.** Items that were considered were impact, soil, water, environmental sensitivity, energy, telecommunications, waste treatment, refuse and land use.

We urge you to consider **Pratt, Kansas for the Southern Correctional Facility.**

- * **Public Acceptance**
- * **Close to Wichita**
- * **City and County Officials Are In Agreement**
- * **Housing Available**
- * **And..A solid Infrastructure, with well kept, clean, tree-lined main street shopping, as well as other shopping areas.**

For further information contact;

George Anderson, City Manager
CITY OF PRATT
P.O. Box 807
Pratt, Kansas 67124
or call
(316) 672-5571

Went Winters

EL Dorado
PRISON
OPPOSITION



ATTACHMENT 11
SWAM 4-12-89

April 17, 1989

Roberta Gray

Rt. 2 Box 164


ElDorado, KS. 67042

Dear Senators and Representatives:

I am so pleased to hear that our representatives in Topeka are thinking about the tax burden on the tax payer, that I wanted to write to you. I am referring to the decision to expand the current prisons at 1/4% of the cost of a new prison. That is the best news. Expanding the prison to releive the over crowding plus spending less money. This would also put an end to the neighbor against neighbor over the issue of having a prison in Butler County. It is a bitter debate on whether or not a maximum prison would be an asset or liability here in Butler County. I for one would rather see the current facilities expanded.

My taxes are high enough. Please do the most logical. Expand the current prisons. Again: It would stop the over crowding and cost less, than building a new prison.

Sincerely:


Roberta Gray

April 18, 1989

Dear Senators and Representatives:

I am writing to you to let you know not everyone in El Dorado, Kansas is for the proposed prison.

We would have liked to have had the opportunity to vote on this matter instead of feeling like it was being forced on us. We feel the majority should rule and this doesn't seem to be the case on the prison site.

We went into the meeting with open mind to try and make our own decision on what we felt best for us and the community. In considering the meetings, T.V. coverage and newspaper items we read and listened to them all.

We know many were opposed to this issue but the leaders of the community kept saying there wasn't any and this made us wonder if any of the people were being heard in our own home town.

We live several miles east of the site and feel that if the prison was built and if an escape happened, and they give us no guarantee it wouldn't, the leaders of the community live in town and the prisoners would head for the country and highway. We worry about our safety, our children and our grandchildren. We already have enough to worry about with out the prison.

They say it will not raise taxes but you know any time you build anything hidden costs come up. Those of us on fixed incomes can not pay any more.

We realize they need places but when you have towns like Concordia, Mo. who want it, has made plans and money. They should have it.

Thank you for listening. We oppose it.

Dorinda M. Priddy, Harlan
Rt 2 Box 151
El Dorado, KS 67042

To the Representatives and Senator's:

I Mark Sherwood of 411 Simpson Rd. in Eldorado Kansas wish to let you know that I am fully opposed to the construction of a Prison in this town. I'm tired of having our city officials and county officials tell everyone that we the people are all in favor of it. That is not so and the people in this town know it. The business community is pushing it since they have something to gain from it but the majority of the citizen's in the community have nothing to gain and don't want anything to do with it. Officials have suppressed the voice of the community and made sure that when there is something public it is in the favor of the supporters. It is much easier to organize the business community than it is the public and they know it. I really regret that the business community is willing to sell out the fine citizen's of this community to make some bucks. Maybe they feel that if they make enough money that they can move away while we are stuck here. I was born and raised here in Eldorado and I feel that it is a good community to raise my children. I feel that a prison in this community would only serve to deteriorate the life style and community standards that we have now. I don't feel that it would bring in the kind of element that is desired in this community. I suppose that the thing that is bothering me and most people is the way the city and county has tried to push this on us. The under handedness and the lies that have been used to promote this is an insult to the intelligence of the community. The city manager has repeatedly said he fully expects state to pay the going water rate and sewer rate. Well the rates are plenty high in that area and being a taxpayer I would hate to see the prison pay that high of rate and I don't believe that they should get any better rate than I should.

I have talked to many people about this proposed prison and out of every 100 that I talked to there were only 4 or 5 that were in favor of it. I took petition's around and had no trouble finding people to sign it. I feel that if it could go to a vote or get a petition to everyone it would be overwhelmingly against it. I had more trouble selling girl scout cookies than I did getting signature's on the petition's.

As a taxpayer I urge you to find a better way to enlarge the prison system. I'm sure that we need to do something but spending the type of money that this new prison would cost is just too much. I would like to see the enlargement of some of the existing prisons. It appears to me that if that was done on land that is already owned by the state that it would be much cheaper to provide services to it.

My wife agrees with me and I know of many others who do also. I hope we can find a solution to the problem while keeping the cost down and not building a prison in the town of Eldorado.

I hope that you don't listen to the business community that is saying that there isn't hardly anyone around that opposes the prison since that is not true. Ask those that have nothing to gain from it and you will find that the majority are not in favor of it.

One lady at the rezoning meeting mentioned that her mother lives in Canyon City Colorado and they just love their prisons so much that they have seven or eight of them. Well my theory is that once you have one you won't draw anymore decent business to the town. You become the dumping ground for the state and this is not what I want for my family or would wish on anyone elses family.

Please consider this letter and Thank You!

Mark Sherwood

Mark Sherwood
Asiang Sherwood

April 8, 1989

P.R. 1
Lyons, Ks. 67554

Governor Mike Hayden
Second Floor
State Capitol
Topeka, Ks. 66612

RE: Proposed prison site southeast of El Dorado

Dear Governor Hayden,

I am opposed to a new prison being built at the proposed site southeast of El Dorado. As you are probably aware, the previous proposed site south of El Dorado was rejected by Corrections Secretary Endell because of geological problems. The new proposed area is very similar geologically, although the geologic features which caused the first site to be rejected are not as noticeable at the new site. The new proposed prison site includes at least one cave that was explored briefly by myself and others in 1985. I am not an expert on building sites but I have been a caver for five years and I consider myself knowledgeable about caves and cave conservation.

The area around El Dorado is a large limestone karst plain in the Fort Riley Limestone. A karst area is characterized by sinkholes, pits, caves, underground streams, and springs. Although other areas of the state exhibit isolated karst features, this part of Butler County is unique to Kansas because it is one of the few places in the state that is a true limestone karst area. The caves formed in this limestone are significant Kansas caves. The caves in Butler County are the longest known caves in Kansas. One cave in the county is known to be more than a mile long. A cave just across the road from the new proposed prison site has been surveyed to 3,460 feet and it is possible this cave system is connected to the cave on the proposed site. The cave on the site, which is called Stone Cave by organized Kansas cavers, is entered through a pit entrance about thirty feet deep where an underground stream is encountered. The cave has been explored for about fifty feet, though the passage continues beyond the furthest point of exploration. Some of the caves in this area are known to be the most well decorated

caves in the state. Speleothems such as stalactites, stalagmites, helectites, draperies, and rimstones dams decorate the underground passages. Some of the caves in this area have never been fully explored. There are, in fact, places in Butler County "where no man has gone before." Although humans may never reach the far ends of these caves, activities on the surface may have a destructive effect on the fragile environment below. Many caves in Butler County have been destroyed already. When some of the highways in the area were built several cave entrances were filled in and covered by pavement. Some caves that were recorded and briefly explored in the '60's were completely destroyed and will never be studied or explored again. When El Dorado Lake was filled several caves were inundated and will never be accessible again. The oil industry took its toll on caves in this area also. Some of the caves are still polluted from oil waste products and many sinkholes have been filled with oilfield junk. Farming in the area has also affected some caves. Many sinkholes have been filled with trash, rolls of barbed wire, and cement chunks to keep cows from falling in. Other caves have been completely silted in from runoff of cultivated fields.

The wildlife of a karst environment is usually of a specialized nature in that it is confined to a limited biological and geological region. I am of the opinion that the biology of this area has not been studied thoroughly. Some of the known wildlife that inhabits the caves include bats, salamanders, fish, frogs, cave crickets, and isopods. Protection of this wildlife habitat is of utmost importance. A complete biological survey of the caves should be conducted.

The main reason I oppose the prison being built at this location is because of the possible destruction of Stone Cave and other caves nearby that may be part of the same system. Although the caves may never be humanly connectable, they may be connected hydrologically. Some caves in Butler County which are thought to be hydrologically connected comprise a cave complex that stretches for five miles. The destruction of the cave could happen in several ways. The entrance could possibly

be plugged by cement and/or bulldozed shut blocking access to the cave by wildlife and humans. I have been told that much fill dirt is going to be brought in to build up and level the building site. It would be possible for the runoff from this fill dirt to silt the cave passage closed and consequently flood the cave and connected caves, permanently destroying the existing cave environment. It is possible that blocking the cave passage may cause water to back up and fill the system for several miles. Almost all of the natural runoff in this area drains through the sinkholes and pits that cover the landscape. This runoff eventually drains out via springs in the valleys. If the system is plugged natural drainage would be altered. Destruction could occur if a pipeline dissected the cave passage. Speleothems could be destroyed by blasting from construction. Water pollution in the caves is also a real threat. Some people who live in this area use the water that is running in the bottoms of their hand dug wells. If any unnatural substances were inadvertently released into the cave stream, such as raw sewage or herbicides, wildlife and local residents could be affected. Before the site is approved, a complete speleological survey should be undertaken. This should include a survey of all humanly passable cave passage, dye tracing to determine the hydrologic extent of the system, and an overland survey of all exposed karst features.

Another concern is the possibility of the destruction of an archeological and historical site. Some caves in Kansas are known to be archeological sites containing artifacts and petroglyphs and pictographs. Although caves in Butler County are not known to be archeological sites, if the area was fully studied in that respect we may find previously unknown archeological sites in sinkholes and caves. A complete archeological study of the site should be conducted before the site is approved. The site also contains some objects of historical interest. One entrance to Stone Cave is a hand dug well. I would estimate that this well is at least one hundred years old.

Kansas probably had many hand dug wells at one time but they are definitely a thing of the past. Not many hand dug wells are still usable. The well at Stone Cave is usable for watering livestock. At least one building on the site is of historical interest. The building is a spring house which may contain another entrance to the cave. The springhouse is built from native limestone and probably served as a refrigerator for past occupants of the land. A spring house in Kansas is definitely a unique historical item. If the land was to be leveled, both the well and the springhouse could be destroyed. I think the Kansas State Historical Society should study this site before it is approved.

It is possible the cave could also be a paleontological site. I have personally found unidentified fossilized animal bones in a Butler County cave. It is probable that sinkholes and pits of Butler County contain many such fossilized remains. A paleontological study of the area should be conducted.

If I understand correctly, the state is supposed to follow federal guidelines when building a prison. Many other states have enacted cave protection laws to protect these non-renewable resources, but Kansas has not yet acted on this. Since we do not have such a law, I think it would be prudent for the state to follow the guidelines set forth in the newly enacted Federal Cave Protection Act. The Act states; "significant caves are an invaluable and irreplaceable part of the Nation's natural heritage," and in some instances these caves "are threatened due to improper use, urban spread, and a lack of specific statutory protection." The Act further states; "The purposes of this act are to secure, protect, and preserve significant caves for the perpetual use, enjoyment, and benefit of all people." The caves in Butler County fit the proposed criteria for determination of significant caves.

If a prison is built at this site, the cave should be preserved in its natural state. All karst features including sinkholes, pits, and springs should be preserved. All historical features should be saved. Stone Cave and neighboring caves

should be monitored for damage and pollution by a conservation group such as the Kansas Speleological Society or the Nature Conservancy.

In conclusion, this site should be rejected like the previous proposed prison site to avoid possible destruction of the caves, karst features, wildlife, historical items, and possible archeological and paleontological sites. The State of Kansas should avoid destroying any caves merely for economical ventures such as this proposed prison.

Individual members of the Kansas Speleological Society, such as myself, are willing to act as consultants, and conduct cave surveys, dye tracing and hydrological experiments to help determine the extent of this cave system. We will gladly provide any information that will help save this area from further destruction.

Sincerely,

Wayne White

Dear Editor,
 City and County officials, before making a final commitment of our

The El Dorado Times

multiple involved would be the tax base of the unit paying the multiple tax in relation to the tax base of the entire state, minus the tax base of the paying unit.

Tuesday, Dec. 20, 1988

tax dollars in endellible red ink, please tell us:

- (1) What is the best estimate of the total cost of the prison project including financing to be borne by El Dorado residents/ By other Butler County residents?
- (2) Specifically how would the taxes to meet these expenses be levied?
- (3) How would the land be acquired and zoned for this use, and who would acquire and zone it?
- (4) What obligation does a citizen of a county or municipality have, to pay taxes in order for a gift to be made to the state?
- (5) Would a special election to decide these issues be possible and desirable?
- (6) If the State of Kansas isn't willing to meet its own expenses why should any community government and its citizens be willing to pay voluntary double taxation for the acquiring and preparation of a site for a facility to serve the entire state? And, given the fact that Concordia has already expressed such a willingness, why not let Concordia have the privilege of that double taxation?

Tom White
 El Dorado, Ks.
 member,

El Dorado and Butler County Citizens opposed to prisons
 Note to the Editor: "Double taxation" is an euphemism for multiple taxation: The exact factor for the

Dear Editor:
 Is the proposed prison for El Dorado going to be another thing in the long line of "improvements" that El Doradoans don't want, but get anyway--like the road interchange of the turnpike?

We already know how much of the rest of Butler County feels about having a prison in its backyard--that came out at the county zoning board's meeting. So what happens? These clowns who supposedly know what is best for our community turn around and present an application to get the prison at the same site with the same conditions.

I know there were representatives from El Dorado, but at that meeting, but they did not say a word in favor of a prison when the board turned the issue over to the audience for comments. Why not?

What I think is needed is a public meeting on the benefits and pitfalls (advantages and disadvantages if you like) on having a prison in El Dorado. Then maybe we could get the information which we have been promised, but not received, and also see just how many people from El Dorado want another prison in their backyard. Maybe they have noticed that the CRC is for all what it is cracked up to be.

There is nothing that could be wrong with such a meeting. After all, this is supposed to be a free country "of the people, by the people and for the people," and not just for a select few who must stand to make a profit.

Let's find out how many of these hundreds of jobs are going to go to local people. And what will it cost us? And who benefits most?

Maybe our governmental leaders want to shove something down our throats again. But there is an election in April. That's a far away.

Clay Odle
 El Dorado

Letter

(Editor's note: the following is a letter to the Butler County Commission, which next Monday will be considering a recommendation by the County planning board to grant a special use permit for locating a proposed new state prison on some 615 acres of land about 1 mile east of El Dorado on the south side of Highway 54.)

Dear Sirs:

You are about to make a decision which is to have a far-reaching effect in my community.

On my protest petition I found no space for comments or reasons for the filing of the protest. I take this means to do so.

I was in attendance at the public hearing. I found one of the "slickest" presentations I have ever seen very interesting. There was a larger than life map with green overlays (green for go) representing adjacent land-owners and also extending well north past the immediate area. A green overlay was placed along my west property line indicating support but was in reality on prison land. Such slight of hand presentation was impressive but misleading.

Letters from property owners were read indicating support and included businesses who would profit greatly from the change, one from a business owner who resides in Wichita, one from a man whose property is for sale. Other letters were from senior citizens who may not be around by construction time. The content and verbage of the letters were so similar as to cast doubt on their being individually written.

Another bit of showmanship was the show of "Vote Yes For Prosperity" cards by supporting El Dorado citizens. I am sure most of them live further from the site than Prospect residents.

I have lived in the Prospect area long before the Housing Development came into being. I went to Prospect School and formed friendships which have lasted a lifetime. As our community has grown, projects to enhance our living standards were handled in a cooperative way. The first water district formed in the County serves the Prospect area. Sewer service which serves Prospect also drew a grant for El Dorado to update their facility.

Many fine families have moved into our area to enjoy the semi-rural atmosphere.

All their efforts have not been in

vain. We still leave our keys in our cars, trusting our neighbors, while there is a City ordinance in El Dorado against this practice.

I know at least one commissioner remembers with fond memories the Oil Hill group. Our fathers have told us many stories of how it used to be. In their recollections they spoke with pride of their neighbors and community spirit.

We in Prospect have this same pride and "help one another" attitude. But at this time a huge black cloud threatens our future: the Prison.

Yes, I applaud the efforts of my neighbors to keep our community as

it is now. I deplore the actions of those who want to destroy it with a prison. We are told that El Dorado Inc. is leading the way to prosperity, but to what price to us in Prospect?

I am sure you would be concerned if a hazardous waste dump was proposed for your area. When, then, allow a "human waste dump" in our community?

I urge you to consider these points and turn down the special use permit as it is not in keeping with the use of the surrounding area.

Respectfully,
 Clifton R. Patty
 Route 2, Box 168
 El Dorado

(Sixty families live in Prospect area)

ATTACHMENT 11
 SWAM 4-2-89

3) There appears to have been another change to the rules. Three: We have not had much of a chance to indicate our opposition due to a kind of funny thing happening. Do you recall when you were small and you asked your Mom if you could do something and she told you to ask your Dad and he said to ask your Mom? Well, we have the same problem. The city is wanting the prison but they want county land. So, the city won't let county residents speak in opposition. And, the county says this is a city matter. Where do we go to have a forum to present our case?

This site is proposed for Prospect Township approximately 1/2 mile from my property. I do not like this at all. The "movers and shakers" in El Dorado removed between 7 and 8 sections from Prospect Township for the new lake. This lake was touted by the El Dorado Times as being a real boost to the economic development of El Dorado. Then they built a turnpike exit north of town to remove the traffic from the business district. Since the lake has come, the population has gone from approximately 12,000 to 10,500. Of course, some of that can be attributed to the refinery cutback. Now, though, these non-elected officials want to remove another section from Prospect Township. This will be a little more than 10% of the taxable property in Prospect Township. We have been told the lake is bringing in more revenue in taxes than the agricultural land did. That may be why our county taxes keep climbing and El Dorado has one of the highest mil levies in the state.

In my opinion, the economic developers of El Dorado are bent on developing the economics of only a small group. The El Dorado city commission agreed, in October, to begin an educational program on the benefits of this facility with Dr. Tom White giving the opposition. However, a call from a member of El Dorado, Inc stopped that information from being published. It makes me wonder who the voters really put in office.

- Is there a possibility of a county-wide vote on this issue?

I would like to read excerpts from two letters before the next question. (4) (5)
- Why do the city and county commissioners not want to have an open hearing on this issue? I have heard the mayor is in favor of an open hearing but, again, people outside the government have not allowed it.

- Will you, today, make a motion for a county-wide public hearing with a time and place set allowing for the participation of the greatest amount of taxpayers?

- Gentlemen, this is my last question. Statements have been attributed to you that you can shut this situation off at any time or point. Knowing that the Butler County citizens are against it, what will it take for you to shut this whole thing down?

If, as has been stated by some of the men involved, we the common people don't know what is best for us and we make an error, let that error be on the side of caution rather than live with the regret of Mr. Endells' folly sitting in the middle of Butler County.

tor:
found your Feb. 8, 1989 editor-
"Some Thoughts on Rationali-
with its views on rationality,
ationality, cloudy reality and
gement, most disturbing, I sub-
for your consideration my own
ughts on those subjects, and my
ws on how the handling of the
on issue is affecting this
munity.

urely, the author of the editorial
been successful in his efforts to
her the "choosing of sides" in the
on issue "fight." He aptly
cribes the issue as the most
ortant issue in El Dorado and
ler County history. Unfortunately,
is highly subjective and inflamma-
ory editorial typifies the manner
which this important issue has
ome, tragically, the most dev-
issue in our history.

The editorial (factually, I believe)
nowledges that the community is
easingly divided into "sides" of
ponents, Opponents, and Unde-
eds. The editorial's author then
rs from the facts to a philosophi-
discourse on fear, reality, and the
to an implied assignment of
sonality characteristics of the
nbers of the two more vocal
es." The Proponents, according
he editorial, "seem to be" those

trusted, respected, rational leaders
who focus on the economic benefits
of bringing a prison to town. The
Opponents, on the other hand, are
implied to be clever, humorous, lit-
erate, though somewhat impaired
folks whose fears have caused irra-
tionality and clouded their judge-
ment and reality.

While efforts to discredit the
opposition have become popular and
successful political ploys, such
ploys do little to dispel fear, to pro-
mote unity, to promote an atmosphere
in which issues can be addressed rea-
listically and problems can be solved
rationally.

Unlike other communities in the
area who have rejected a prison
proposition and gotten on with other
business, and unlike those commu-
nities who now compete wholehear-
tedly in Topeka for the prison, this
community was not involved, as a
whole, in the preliminary stages
before an El Dorado-Butler County
proposal was submitted. There were
no public meetings to determine
consensus.

This early failure on the part of
City and County officials to publicly
communicate their intent, to impart
information on facts and assump-
tions, to hear the fears and concerns
of residents, to cooperatively

explore ways to meet the needs of all
concerned, including the area's need
for new industry, the correctional
system's need for new prisons, and
the citizens' safety and security
needs, has created an emotionally-
charged community with heightened
anxiety, fear and mistrust, and ques-
tions from all sides regarding the
judgement and behavior currently
manifested in the community.

We now have a community of
"sides", with neighbor opposing
neighbor. We have citizens who pro-
vide "leadership" in countless ways
in this community now "taking
sides." We have a "side" who fears
that hundreds of felons will be incar-
cerated in El Dorado, and a "side"
who fears they will not. We have a
community who apparently felt a
need to post policemen at the
entrance of the building where an
open, public forum was finally held
on Feb. 8, 1989, and where Oppo-
nents, according to the El Dorado
Times, were "allowed" inside, along

with their signs. We have a com-
munity in which death threats repor-
tedly resulted in the disbanding of
any organized opposition to the pris-
on. We have a community whose
newspaper promotes a program on
improving a "Friendly El Dorado"
image on its front page, while
encouraging its readers to "choose
sides" in the "fight" on its editorial
page.

What the community apparently
does NOT have at this time is con-
sensus on the prison issue, a
problem solving attitude, nor a plan
to restore unity whether or not the
prison comes to "Valley View."

In my admittedly biased opinion,
the only "rational" option is to heed
the editorial's suggestion, and to
"choose sides" with the UNDE-
CIDEDS until the above issues are
dealt with and resolved.

Verlee Adam
El Dorado

AUGUSTA DAILY Gazette

Letters to the Editor

Is anyone listening to the public?

To the Editor:

As many of you should know, Sept. 6 the Butler County Planning Board considered the special use of 675 acres 2½ miles south of El Dorado to be used as a 1,200 bed maximum security prison. The Planning Board denied the permit on the grounds that a prison "would not promote the health, safety, morals and general welfare of the residents and general public because it is not compatible with other land uses, it is not desirable to the area affected and it would adversely

affect property values in the area." We feel the Planning Board made a wise and carefully thought out decision. We also would like to thank those who attended the meeting and gave their support for the way of life we now enjoy in Butler County. Public opinion as well as information was considered by the Planning Board.

One very upsetting letter was presented by the City of El Dorado. It was a letter of support for the prison proposal submitted by the City of Augusta, signed by mayor Shryock, giving community support to the prison being located in Butler County. How many Augusta citizens were given an opportunity to have their voices heard?

Sept. 8, El Dorado Inc. asked the City of El Dorado to withdraw its request. Ramon Criss, President of El Dorado Inc., said the group voted to ask the City of El Dorado to withdraw the prison proposal. El Dorado mayor, Ed Blake, said the City of El Dorado would not seek the proposal on its own, "We're going with whatever El Dorado Inc. does", Blake said. Why isn't the City of El Dorado doing what the majority of the community want?

At this time many of the fears of the citizens were relaxed. However, on Sept. 20, El Dorado Inc. presented their prison proposal to the Secretary of State Corrections, Roger V. Endell. This was the same proposal our Planning Board denied the special land use request on. We feel this was a slap in the face to the Butler County Planning Board.

It is true that the prison would bring jobs to the county but at what cost to our safety and way of life? El Dorado Inc. now said "Getting facts to the public is our No. 1 priority" and in the Augusta Gazette, Sept. 22, Ramon Criss said the prison should not raise taxes. "It will be a net tax producer for the area." He also said "taxpayers are going to pay their share whether the prison is located in El Dorado or Oberlin." What Mr. Criss and El Dorado Inc. neglected to tell the public is that if the prison is built in Butler County we will not only pay our fair share for the building and operation of the

land, roads, sewer and other utility lines. El Dorado mayor Ed Blake said, "It is apparent that having correctional facilities in Lansing has not brought an influx of undesirable citizens or welfare recipients" to Lansing.

We do know of one instance of a girl, friend of one of the prisoners relocated there and was arrested trying to smuggle drugs into the prison and sent to the county jail. Who pays for the jail time, local law enforcement, time, public defenders, and court costs? What could the cost of a murder trial be for the county for a murder from an escaped prisoner or by someone who moves into our community because of the prison?

More importantly, no matter how many jobs or money a prison would bring, would it be worth the life of someone you love? Even with the work release center now located at the Cerebral Palsy Ranch, local sheriff officers have responded on several occasions, which takes time away from their other duties and is an added cost to the taxpayer. Yet El Dorado Inc. says a prison will not put additional stress on local law enforcement.

We applaud the government officials in Harvey County, Maize, Wichita and Sedgwick County for rejecting prison proposals. Not only did they listen to public opinion but also considered additional disadvantages. We also commend the Wichita Eagle-Beacon editorial staff for the editorial entitled "Pushing for Prisons" published in the Sept. 22 edition.

Dan Bragg, Butler County Economic Development Director said, "It's a nice sized industry, El Dorado is not moving." Yet the El Dorado Times published a story on Sept. 15 showing pictures of seven new businesses in El Dorado since January of this year. El Dorado has also been recommended as the new site for Pioneer Balloons which will have a work force of over 100. These are the kind of businesses we would welcome to our area.

On Sept. 1 the Department of Human Resources released the unemployment rates. The state rate was 4.6 percent while the Butler County rate for July was down to 3.7 percent. We realize if just one person in our county cannot find work it is unfortunate. However, a certain amount is not only expected but desirable, allowing for normal family moves and advances. Of course Butler County could still use more and better jobs, but improvements are already being made without a prison.

Additional facts that the El Dorado officials have not addressed are:

1. Initial cost to County (land, roads, utilities).
 2. Cost of the prison building and operation.
 3. Total tax burden to local taxpayers.
 4. State prison will pay \$100 in taxes to county.
 5. Decrease in quality of life in Butler County.
 6. Potential increased local crime rate.
 7. Potential additional police protection.
 8. Transient type of people settling in our community.
 9. Spouses, children and guilt of prisoners on our welfare rolls.
 10. Negative impact on our school systems and the quality of education we now have.
 11. Decrease in the safety of our property and lives.
- We are for community growth, but let's make it with good, clean, positive growth, not a prison.
- If you feel like we do, please plan to attend the next Planning Board meeting concerning the prison. We will try to have notification of the time and place published in the Augusta Gazette.
- Please call your county officials and voice your opinion. Jack Hanford 1-394-2359, Don Lamb 776-2560, Dan Hogboom 1-312-5704.

Terry D. Smith
Augusta

February 10, 1989

Governor Mike Hayden
2nd Floor-State Capitol Building
Topeka, Kansas, 66612

Honorable Governor Hayden:

Butler County, Kansas residents no longer have the right of FREEDOM OF SPEECH, and their right to PEACEFUL AWSEMBLY has been intimidated, as reported by KSNW CHANNEL 3, Wichita, Kansas, February 8, 1989.

To date, the only OPEN MEETING concerning the placing of a Multi-Security facility in Butler County, Kansas, was held on January 12, 1989, by the persons opposing the prison. On February 8, 1989, a PUBLIC FORUM meeting was held by the proponents of the prison. The rules for the meeting were as follows. There would be no signs allowed showing opposition to the prison inside. All questions would be written and submitted to city hall prior to the meeting. No one would be allowed to directly ask questions of the panel. If time allowed, written questions would be accepted from the audience. Doing the moderating of the questions was the Municipal Court Judge. The panel consisted of the County Attorney, A member of the Dept. of Corrections, the City Manager, and the Superintendent of Schools. As you can well see, this was not an open meeting, but a CONTROLLED FORUM. For this reason hundreds of Butler County residents opposing the prison did not attend the meeting.

Before the meeting a number of persons protesting the prison held a peaceful and controlled display of their concerns outside of the building. The doors of the building remained locked until 30 minutes before the meeting was to begin. Many residents finding the doors locked, left, rather than stand in the 15 degree weather. A sign was also hung on the door that said "NO SIGNS INSIDE" Upon trying to enter, the opponents were blocked entry to the building by the El Dorado City Manager and El Dorado City Clerk. A request to the Director of Public Safety for entry was requested and granted. During the course of the forum, questions submitted were not read as presented, and were read out of context, and were slanted to reflect the views of the proponents. Some of the questions submitted to the panel were made fun of and laughed at. For these reasons, many people became disgusted with the conduct of the panel and left before the meeting was concluded. I contend that this display by the organizers of the PUBLIC FORUM was a clear display of SUPPRESSION and DENIAL of CONSTITUTIONAL RIGHTS.

On February 8, 1989 you were interviewed on KWCH CHANNEL 12, Wichita, Kansas, at which time you stated that the prison would not be placed in an area where there was opposition to it. Petitions numbering 2594 opposing the prison have been sent to your office. I ask you at this time to stand by that statement and remove El Dorado from contention, considering the threats of violence, job threats, denial of OPEN MEETINGS, and the denial of a vote on this issue, to the persons opposing the prison. I also ask that you name Concordia, as the one site, where the DEMOCRATIC PROCESS has been fulfilled.

Respectfully yours:

Charles E. Oursler

cc: Senators and Representatives

THE WICHITA EAGLE-BEACON

Sunday, April 16, 1989

As for the crisis in prison space, I've never understood why prisons have to be more expensive to build than luxury housing.

When there are wars, no-frill prison camps are built, simple and cheap. Barracks surrounded by high barbed-wire fences, maybe electrified, with armed guard towers, search lights and mean dogs.

We have vast stretches of useless, remote land in this country, perfectly suitable for prison camps. True, inmates might not learn a useful trade or earn a college degree, and visitors might have a long journey. But life is tradeoffs. The criminals might be unhappy, but the people will be safer.

Mike
Royko

No prison choice for Butler County

The citizens of Sedgwick and Harvey counties should commend their county commissioners for holding open meetings in their respective counties pertaining to the placement of a maximum-security prison in their area. This is not a privilege that has been afforded the residents of Butler County.

On Sept. 6, 1988, a Butler County zoning board meeting was held to consider a special use permit submitted by El Dorado, Inc. At the meeting only four persons spoke in favor of locating the prison in Butler County. There were over 350 persons in attendance, and 90 percent were opposed to the prison. The special use permit was denied by the zoning board. Petitions were presented by the persons favoring the prison. The next day at a Chamber of Commerce meeting, a petition was circulated among the 100 persons attending the meeting. Only 25 signatures were obtained supporting the prison. In the areas petitioned by Citizens Opposing Prisons in Butler County, 75 percent of the residents contacted opposed the prison.

After the meeting, the El Dorado City Commission and El Dorado, Inc., submitted a prison proposal against the wishes of the residents of Butler County. Now, rather than have to face the residents of Butler County again, it is rumored that if El Dorado



Geoffrey Moss

is chosen as the site for the location of the prison, the El Dorado City Commission and El Dorado, Inc., will annex the place of property where the prison would be located.

At a recent Butler County Commission meeting, a resolution was passed by the commissioners to pledge \$550,000 to the El Dorado City Commission and El Dorado, Inc., for expenses for the prison site. This was done by the commission when members knew that the prison issue had been denied by their zoning board. It is questioned now by residents of Butler County as to who is running the city and county, the persons chosen to represent their constituents or El Dorado, Inc.?

It has been requested on five different occasions by the residents of But-

ler County that the prison question be brought to a vote of the people. This request has fallen on deaf ears at both the city and county levels. Is this how the democratic process works?

Citizens Opposing Prisons in Butler County urges all citizens in Kansas to urge their senators and representatives to deny the placement of the maximum-security prison in Butler County, Kan. We strongly suggest that the prison be placed in Concordia, Kan., where a meeting was held and where the citizens voted a 1 percent sales tax to fund the costs of placing the prison there. If Concordia is not chosen, the state should utilize the 360 acres at Hutchinson, the 2,000 acres at Lansing or the 3,000 acres at Stockton already owned by the state for the placement of the prison.

Corrections Secretary Roger Endell has been quoted as saying that the prison will be placed in a community where it is wanted and would be accepted. If placed in Butler County, it will never be accepted. In these times of increasing costs, and the need for roads, streets and bridges to be repaired or replaced, a community, city and county need to be pulling together, not forever divided.

ED OURSLER

TOM WHITE

GENE HERRMANN

KENNETH LOREN

Steering Committee

Citizens Opposing Prisons

in Butler County

El Dorado

-15-

It is middle of April, 1989. The Kansas Legislature is in recess. All that remain the 2 week wrap up session. High on the list of priorities is the PRISON Decision. The PRISON Decision has El Doradoans enthralled. Their lives hang in limbo waiting for the final decision. Some are not waiting for the decision--their homes are for sale; they are trying to leave now.

But let's take a look at the events which have led to the most divisive emotional battle between proponents and opponents ever waged in El Dorado and Butler County.

First, the formation of El Dorado, Inc. An unelected, self appointed, economic development organization who received tax funds from the City of El Dorado. They ultimately have been the deciding factor, not our city or county commissioners, on the future of Butler County. A quote from The El Dorado Times September 8, 1988 best describes our situation. After the overwhelming defeat of prison zoning on September 6, Mayor Ed Blake states "The city commission would support El Dorado, Inc. if it's members decided to go for the prison but that the city wouldn't seek it on its own. We're riding with El Dorado, Inc..." What about the people who elected you?

Just over six years ago, El Dorado became the proud home of the local Honor Camp---the darling of corrections. Being assigned to the El Dorado Honor Camp became a treasured post among corrections workers. El Dorado Citizens wined and dined inmates at dinners in their honor, invited them to church, assisted them in their Wild Life Center, put their pictures in the local paper, and even accepted an El Dorado Song from an inmate writer. All things wonderful come with a correctional facility in your neighborhood: so we're told.

About three years ago El Dorado further gained attention with their local event: the Governor's One Shot Turkey Hunt. Local and State officials and others gather and hunt and talk and plan.

When in 1988, the Corrections Department was looking for a site for a new Prison, El Dorado, Inc. joined the race. The competing communities set out to woo and win the Secretary of Corrections. Endell visits and is apparently won as El Dorado was accepted and given to the Governor as the Number One site without a zoned land site and without having a public meeting to determine opposition. The Governor says "we won't put this thing where it is not wanted". Yet, he recommended El Dorado, where no Public Meeting had ever been held, in his State of the State Address in 1989.

What follows is gathered from three newspapers--The El Dorado Times, The Wichita Eagle Beacon, and the Augusta Daily Gazette and from personal letters. It will explain the frustration felt by the citizenry of Butler County who have tried to make their feelings known. They have been denied open meetings and the chance to vote. I believe that the opposition is the majority, therefore, the strong arm tactics used to deny us a voice.

April, 1988 Local citizens begin writing opposition letters to the Secretary of Corrections, Governor Hayden and to local representatives.

July, 13, 1988 Endell is again in El Dorado; this time to discuss Community Corrections Facility at an undisclosed site.

July 21 Endell meets with city and county officials at the Red Coach Inn to discuss the possibility that "El Dorado could be a site for a Correction Academy where it would offer a six or seven week course for all new staff".

July 26 Corrections announces formal proposals are due by September 20. Statute of Corrections states "sites in and near Wichita may receive heavy consideration". Previously on July 12 Endell states "Wichita, El Dorado, and Newton Triangle". (Where is Hutchinson?)

By September both Wichita and Newton had Public Meetings and did not pursue a Prison. They bowed to the wishes of the people. El Dorado is the site by default. El Dorado who has had no Public Meeting.

July 30 El Dorado City Commission agrees to sell VIP five acres in the Industrial Park for Community Corrections. The local Cerebral Palsy Jaycees Ranch is to be its temporary home with no Public Meeting for area residents. Area residents begin working against CRC and file court cases, still being appealed at the present time.

July 30 Local citizen, G. Herrmann writes to Department of Corrections and offers Petitions of Opposition to prison facility.

August 4 CRC advertises for workers. Local residents have not been considered.

August 8 Letter to the Editor, El Dorado Times "one of the selling points for bringing a facility to El Dorado is that there is already an Honor Camp near El Dorado so why not bring another. I am afraid this type of thinking will spawn more of these facilities and will eventually ring the town and surrounding area with Prisons. Wichita neighborhoods did not welcome a Correctional Facility and I firmly believe that it is time that we taxpayers need to make our wishes known. We have the right to ask questions and receive answers". G. Herrmann.

Earlier on July 30, Ernie Barker of Butler Rural Electric Cooperative said "we (who is we?) think getting this center (Work Release Center) would be another step in helping El Dorado to

get a Maximum Security Prison". Still no Public Meeting and many misstatements are occurring about the type of prison El Dorado, Inc. is bringing to El Dorado.

August 15 Legal Notification published for a Special Use Permit for a State Correctional Facility two miles South of El Dorado. Meeting scheduled for September 6. Area residents write and call local and state officials and representatives. Opposition petition drives are increased. Opposition advertising runs in local papers.

August 23 Community Release Center, VIP is approved for a building in the Industrial Park by El Dorado Planning Board. (Industrial zoning, in my opinion, is the correct zoning for a Correctional Facility. A-2 Agricultural which contains residential housing is not appropriate for a Maximum Security Prison.)

August 26 The El Dorado and Butler County Commissioners "are busy preparing Prison Proposal assisted by El Dorado, Inc."

August 30 Letter to the Editor El Dorado Times- "Crime is costly--not economically advantageous. Crime does not pay and it won't pay in El Dorado". Mildred Lowry.

September 1-5 El Dorado Times "Controversy over the 1,200 bed prison south of El Dorado is expected to bring an overflow crowd to the Butler County Court House for a Public Hearing Tuesday". This was indeed the case. The meeting had to recess and move to the larger 4-H Building. The Times also states "neighbors are upset about the possibility of a prison moving in. There are Petitions against it and advertisements in local papers urging citizens to attend Tuesday's meeting. The state prison could be the third correctional facility".

Mr. Herrmann's predictions of a ring of prisons seems to be coming true. There is much skepticism about economic impact by local citizens.

At the September 1 City Commission Meeting City Commissioner, Randy Wells, member of El Dorado, Inc. and Butler County Economic Development Board questions the timing of a city sales tax. He mentions the "organized opposition to plans for a prison south of town" when explaining his reasons for not supporting an increased city tax at this time. City Manager, Stan Stewart, mentions the need to 'educate' citizens".

Opposing citizens call area residents and carry petitions. They urge everyone to attend Zoning Hearing. Many residents state they are opposed to Prison but are unable to sign petitions because they fear reprisals from employers or business associates (against themselves and their families).

September 6 The Butler County Planning Board Meeting is held. Over 300 people come in opposition. Planning Board denies Prison Special Use on a 3-1 vote. Reason cited "would not promote health, safety, morals and welfare of the residents and general public because it is not compatible with other land uses, it is not desirable to the area affected and it would adversely affect property values in the area". Clarence Mitchell refers to the inflated economic benefits this way "this reminds me of those old time medicine shows when they sold a tonic which would cure everything--it was alcohol. The next day you had the same problems. Is this a medicine show?" A Prison is not the economic answer to anything in El Dorado. 90% in attendance opposed.

Many local residents elated by their victory for their town and county cease their efforts to oppose a prison in Butler County. Feeling sure the public has spoken and been heard we relaxed remembering the Governor's promise "this prison will not be placed in a community who had opposition". Little did we realize El Dorado, Inc. merely re-grouped and began to develop a prison site that belonged to an El Dorado, Inc. Member, was adjoined by property belonging to an El Dorado, Inc. Member and adjoined city limits making annexation an option.

September 6 El Dorado City Commission meeting. El Dorado, Inc. was granted "a real estate sales agreement between the City and El Dorado, Inc. for construction of a 30,000 square foot speculation building in the Industrial Park. El Dorado, Inc. will obtain a loan for the construction of the building...Price per acre of the property will be determined by the occupancy of the building".

I'm confused. Is El Dorado, Inc. a business or is it an economic development organization which receives local tax funds?

September 8 El Dorado Times "Attempts to obtain a prison in El Dorado apparently in limbo. Ramon Criss, president of El Dorado, Inc. said the group voted Wednesday to ask the city to withdraw a request for a Special Use Permit on property two miles south of El Dorado". Criss was asked if the group planned to stop efforts to get a 1,200 bed prison. "I would not make that statement" responded Criss. This statement after overwhelming negative response from the public. Mayor Ed Blake states "the city commission would support El Dorado, Inc. if it's members decided to go for the prison but that the city wouldn't seek it on its own. We're riding with El Dorado, Inc." NOTE--see Augusta Daily Gazette September 29 editorial from Terry Smith of Augusta.

September 20 El Dorado Times--Facility Proposal Submitted. "Representatives of El Dorado, Inc.

were Speka today offering their proposal for the location of a 700 to 1,000 bed state prison in the El Dorado Area". County Planning Board denied zoning three weeks earlier at the site two miles south. Criss states "I don't consider it (previous hearing) a fair hearing...of the overwhelming number of people who spoke against the prison most were residents of the county". All those who spoke in favor (three) were from El Dorado...I think it would be premature to say the prison is not wanted...but not wanted by whom?"

Is Criss and El Dorado, Inc. implying that it does not matter what the county citizen thinks only what El Dorado wants? Criss further says "in the interim period we will be going through the 'education' process".

Are we, as county citizens, in need of an education because we don't agree with El Dorado, Inc's proposal to put a prison in the county where we live?

September 21 El Dorado Times-Ramon Criss states "Most of the people who don't already support our efforts will join us".

Is this more of the "education" opponents are in need of? Sounds more like indoctrination! El Dorado, Inc. members plan to supply the "public with the facts in the coming weeks". This, only after initial request for zoning denied.

El Dorado opposition is surprised Corrections Department accepts El Dorado, Inc.'s proposal without a zoned land site as are representatives from competing communities. Department of Corrections continues to work on the site two miles south making preliminary design plans for this site. Opposition mentions CAVES and SINK HOLES. Eventually this site is ruled out which should have been the case FROM THE VERY BEGINNING AS ZONING WAS DENIED BY COUNTY PLANNING BOARD.

El Dorado remains site of choice... Opposition members have played by the rules, won the zoning hearing, have overwhelming opposition to a prison, and yet we are still the site.

September 23 El Dorado Times-"Annexation as a means of accomodating a proposed new state prison facility in the county was discussed by Butler County Economic Development Board". Board member and El Dorado City Commissioner, Randy Wells, was asked what the city's position would be if zoning came before the county and lost again. He replied "Anything is possible".

The site east of town abuts city limits and is possible target for annexation. This would effectively eliminate county residents from opposing prison at Planning Hearing. The City routinely prohibits county citizens from speaking at El Dorado City Commission meetings.

Opposition still thinking they have won are not actively pursuing petitions at this time.

October 5 El Dorado Times City Commission meeting reports "El Dorado Staff should cooperate with El Dorado, Inc. in providing information about proposed prison". A Public Hearing was discussed. City Commissioner Dankert "until the state selects a site he did not want to get involved with anything extraneous". City Manager "Pratt, when trying to get a Federal Prison, a public hearing was held right away. We never did that...perhaps we can get something through the news media. We should do something". In The El Dorado Times City Manager Stan Stewart later said "he took issue in that things were being done behind people's back". Steve Waite of El Dorado, Inc. showed up later. He agrees "since nothing has been decided by the state..He did not think now was the time for a public meeting".

It seems to me El Dorado, Inc. has decided we don't need a public meeting. A decision that should be made by elected representatives of the people.

October 6 Wichita Eagle Beacon - Prison promoters are "starting campaign to 'educate' people..to having a prison in the community" said Criss, president of El Dorado, Inc., an 'economic development organization'. T. Smith of Augusta said opponents are "continuing to collect signatures on petitions against the prison and they would fight the proposal...if the matter comes before the commission for a decision it will most likely come after the November 8 general election". Two County Commissioners are up for re-election.

October, November and early December Citizens continue to oppose a prison. (COP)(Citizens Opposing Prisons) writes and submits petitions to Endell and area Representatives.

December 16 Endell recommends El Dorado. "The site east of town is about 600 acres". Steve Funk of El Dorado, Inc. says "I'm excited and pleased Secretary Endell has recommended El Dorado to be the site of a 1,400 bed correctional facility".

Size of facility and Type of prisoner are being mis-representated to the public.

December 16 El Dorado Times - "After meeting with County Counsel Norman Manley, El Dorado Mayor Ed Blake, Gus Collins City Clerk, Bruce Remsburg City Engineer, Randall Wells of City Commission and Ray Connell of El Dorado, Inc., County Commissioners unanimously authorized Commission Chairman Jack Bunyard to sign a resolution authorizing an interlocal agreement between the County and the City. The agreement authorizes the County to spend up to \$560,000.00

for improvements on unspecified prison site".

This is just one month after elections when Commissioners up for re-election said they did not favor or oppose a prison in Butler County! Evidently they were and are in favor!

December 21 The site is official. El Dorado Times - The site is "an approximately 600 acre tract one mile east of El Dorado. It will cost \$1.5 million for land and utilities". (Same cost estimates from previous proposal) Opposition immediately hears rumors Stone will donate land to State and avoid zoning by asking for condemnation. City Manager and others have conversations with Attorney General. Stone later signs a letter of intent with the city and county. Zoning still required. State wants to adhere to local zoning. The city and county have a LEASE AGREEMENT with the Corrections Department for the proposed site.

Wichita Eagle- Editorial endorsement of El Dorado as a new prison site. "Vocal opposition" could be avoided by placing the "prison in El Dorado". Vocal opposition has not been avoided-- it has been prevented. There has been no public meeting open to questions from the general public. Citizens opposing prisons continue to correspond with Corrections Department and local and state officials.

December 30 Last County Commission meeting of 1988. Citizens Opposing Prisons speak out. In question is the \$560,000.00 committed by the county for prison site development when the people have had no public meeting. Commissioner Bunyard tells the people "completion is not far enough down the road to be put to a vote of the people. We have not received an application of zoning change". Verbal request is made to Commissioners for notification of all meetings (city and county) concerning the prison issue by several citizens who oppose a prison. Notification is not received until April 4 after the Attorney General's office is made aware of the unanswered verbal request regarding open meetings notification.

1989 arrives Citizens opposed to prison step up efforts. Advertising against Prison is placed in Shoppers Guide.

January 12 Eagle Beacon - Public Forum. Letter from Citizens Opposing Prison is printed. Titled "NO PRISON CHOICE FOR BUTLER COUNTY".

January 12 El Dorado Times - Prison Opponents Are Preparing for Battle. COPS meeting. Open meeting held by opponents. Citizens opposing prisons charge "city and county officials have not allowed enough opportunity to public debate on the issue....they have not seen fit to allow us this privilege". This was the only Open Meeting held on the prison issue. It was organized and advertized in the local paper by prison opponents. Those in favor of a prison were welcome to attend. Ray Connell, member of El Dorado, Inc. and a prison proponent, spoke. Citizens were urged to call toll free numbers of Legislators and the Governor. Petitions were available for signatures opposing placement or construction of any additional state correctional facilities in Butler County. Contributions were accepted.

January 18 El Dorado Times - Duane Van Horn (member El Dorado, Inc.) holds first meeting as President of the El Dorado Chamber of Commerce. Attending this joint closed meeting were the Chamber Board of Directors, El Dorado, Inc., the El Dorado City Commissioners and the Butler County Board of Commissioners. "Concern was expressed that grass root level support for the prison be shown...people should be 'encouraged' to write the El Dorado Chamber if they like, expressing their support, for the prison. These letters will be forwarded to legislators in Topeka".

How many letters of opposition were forwarded to Topeka by the Chamber of Commerce of El Dorado? Did they pay postage?

El Dorado Times "Persons in favor of the prison call 1-800-432-2487.

January 24 Wichita Eagle Beacon - READERS DEBATE EL DORADO PRISON PLAN in the public forum section of the paper.

Augusta Daily Gazette prints more letters opposing prison.

January Rodney Cox, President of Butler County Community College sends a staff memo: "The college supports El Dorado as the prison site because we believe we are able to work our magic rehabilitating individuals who need it most".

To the Editor -(printed in both The El Dorado Times and The Augusta Gazette) "The College has no official position on the prison placement". Rodney Cox.

January 25 The Augusta Gazette - "Butler County Commissioners met Monday with El Dorado city officials regarding a county-wide sales tax.....Commissioners Bill Mauk, Tom Pinot and Bart Hogoboom discussed the sales tax with El Dorado City Manager Stan Stewart and Mayor Ed Blake during a luncheon meeting at the Red Coach Restaurant" IS THIS THE KIND OF OPEN MEETING THAT OUR CITY AND COUNTY CONDUCTS? Over lunch with no attendance by interested citizens possible?

January 26 Member of COPS (Citizens Opposings Prisons) receive death threats!

January 7 COPS officially disbands. Wichita Eagle Beacon - "Group opposing prison d. ads. El Dorado, Butler County Sheriff's officials are investigating reports of two death threats to members of the Citizens Opposing Prisons in Butler County Organization. Group members held a news conference Friday to announce that they were disbanding because of a threat received Thursday. They said a caller warned a member to stop opposing a Butler County prison site or someone would be killed".

Taken from El Dorado Times - "Second Threat Received. A second telephone threat involving persons associated with opposition to a new state prison facility in Butler County was received Friday. Sheriff Williams said the caller in Friday's incident said "you better have your son get out of the opposition to the prison or you're going to have some trouble".

COPS is disbanded but opposition is still strong. It merely loses it's strong organization and it's ability to raise money. Now individuals are working on their own at their own expense.

January 27 City of El Dorado mails letters of invitation to some area residents to discuss prison. No public notice of meeting is posted. No notice is printed in local paper. Invitations do not include the Greens who have one of the closest homes to the proposed site. Mrs. Green had been in contact with the city and proposed just such a meeting. I did not receive an invitation. Families who are farther away than mine received letters. The city, when called, blamed the county for the incomplete list of residents.

January 31 Local radio station KSPG makes this announcement at 6:30 a.m. "Kansas Corrections Secretary Roger Endell scheduled to meet prison officials and El Dorado city officials Wednesday, February 1st, in El Dorado. Topic of discussion is unknown. Meeting will be a 'closed door conference'. A location is not available for release at this time due to the concern about unwanted protestors opposing the proposed prison in El Dorado. It's known only that a select group by invitation only will meet Roger Endell and guest Wednesday".

Mark off another opportunity for open meetings and free exchange of information concerning a proposed prison in El Dorado. Tape Recording available.

An angered citizen immediately called the Corrections Department. An announcement giving location was then made later that day in the El Dorado Times.

January 31 Meeting at the City is held. This is not a public meeting as many residents had no opportunity to attend; could not read about it in the local paper.

El Dorado Times - "Butler County Community College (along with sponsorship from El Dorado, Inc. and the El Dorado Chamber of Commerce) will host a dinner for Endell and other Department personnel. El Dorado, Inc. and Chamber members are all being invited to attend as well".

February 1 El Dorado Times - Bill Mason (El Dorado, Inc. and Butler County Economic Development Board) said 'he considered passage of continued County Funding (economic development) as clear as anything a vote in favor of the prison'. I THINK NOT. No where on the ballot did it mention prison or funding for a prison. Economic Development had been doing a fine job bringing new manufacturing and service business to Butler County. This is what people voted for---not a prison. (Economic Development brought \$450,000.00 additional to our tax base in 1988.

February 2 - El Dorado Times - "Endell and forty other state prison officials met in El Dorado for a monthly staff meeting at the Red Coach Inn. Endell explained the new prison!" By invitation only.

February 3 - El Dorado Times quotes Endell "those people (legislators) need to know you are solidly behind the project---you want this thing and it makes sense to come here" We still have had no public meeting. How does he know if we are solidly behind this?

February 4 - El Dorado Times announces January 26th letter to Endell from Sedwick County twenty-three member legislative delegation unanimously on record support El Dorado site.

Opponents to prison continue to battle. Two opponents gain permission to speak to Appropriations Committee in Topeka. Stan Stewart, City Manager, says "I'm disappointed that once they have determined they can't get their message across locally, they go to Topeka".

Gene Herrmann appears before the Appropriation Committee when El Dorado makes its proposal presentation. The only community opposition to a prison proposal to do so.

February 6 El Dorado Times - "A Public Forum on the proposed El Dorado State Correctional Facility will be held from 7 to 9 p.m. Wednesday in the auditorium of the El Dorado Middle School. The forum is being jointly sponsored by the El Dorado City and Butler County Commissioners to inform the community on details regarding the prison. Written questions should be mailed or submitted in advance to City Hall".

THIS IS NOT THE FORMAT FOR AN OPEN PUBLIC MEETING.

February 8 - Public Forum is held. Opposition has peaceful demonstration outside. People

were not allowed to speak; only written questions accepted. No clarification of answers possible. THIS WAS NO OPEN MEETING. Channel 3 KSNW of Wichita called it "controlled" with the opposition voices "muzzled". Questions were screened by two members of El Dorado, Inc. Note: see enclosed letter and El Dorado Times article (Oursler).

February 9 - El Dorado Times publishes staff editorial by JFM which effectively attacks prison opponents as fearful, "irrationality clouds reality and judgment". It holds prison supporters to be "trusted respected community leaders". It presents two letters to the Editor as examples.

Although the paper has a right to take an editorial position on a local issue, by attacking prison opponents in print, I felt the Times removes the only means someone who is not moneyed and influential has of exercising their freedom of speech in print; i.e. the letter to the Editor in the local paper! But, outraged citizens began submitting numerous letters to the paper overwhelmingly in opposition to the prison and the attack made on its vocal opponents.

Letters continue throughout February and March.

February 10 - Detail on hearing outlined-El Dorado Times guidelines for Special Use Permit printed. Supreme Court ruling is cited that planning board must remember who constitutes the public. "This court has previously held zoning is not to be based upon a plebiscite of the neighbors, and although their wishes are to be considered the final ruling is to be governed by a consideration of the benefit or harm involved to the community at large". Prison opposition felt these quotes from county zoning administrator along with the statement "no zoning change is necessary" were direct attempts to influence people to give up on opposition to a prison in Butler County.

February 10 - Augusta Gazette - "Butler County Commissioners plan to levy a one mill tax in the capital outlay improvement fund over the next three years to pay \$560,000.00 the county has committed to the proposed state prison east of El Dorado...the county plans to issue no fund warrants to meet it's financial obligation to the project. Ed Oursler and Gene Herrmann, both of El Dorado, encouraged the county board of commissioners to put the prison issue to a vote of the People".

February 13 - Official notification of request for zoning is published in the El Dorado Times and incorrectly in the Augusta Gazette, the official county newspaper.

Prison opposition had vocalized its attempt to block any attempt at bonding for funds by the city or the county.

February 23 - Cliff Stone (who is donating 375 acres to place a maximum security prison in an agricultural-rural residential community--Prospect--) and other members of El Dorado, Inc. (an economic development organization interested in bringing new business to El Dorado) fight the zoning in their neighborhood which is already largely commercial with a grocery store) of a three room Bed and Breakfast and Tea Room citing noise and disturbance of the neighborhood. Demanding that they have the right to neighbors they know and trust. REZONING IS STOPPED.

February 23 - El Dorado Times-"Topeka Mayor Doug Wright told legislative panel that a bill allowing the Secretary of Corrections to turn the state's inmate diagnostic center in Topeka into a maximum security prison for women could destroy property values in the neighborhood. Others also opposed the move, saying it was like dropping a prison in the middle of a residential neighborhood".

Last week in February and first Week in March - Prison opponents hold meeting and gather information which prove the special permit issue should be denied. Presentations to the planning board are prepared.

March 6 Prison opponents are invited to give presentation and answer questions from area club in Augusta.

March 8 - Augusta Gazette--Prison Detractors Vocal At Public Meeting Here (headline)

March 9 - Zoning Meeting - Opponents bring handmade signs and carry them peacefully outside meeting. El Dorado, Inc. (who receives city tax funds out of hotel-motel tax) hands out professionally printed signs to Chamber of Commerce, El Dorado, Inc. and other would be prison supporters.

In the previous week, Prison opponents made the county aware of an illegality in the printing of the official notice. No action was taken. Again, opposition brings inaccurate land description printed in the official county newspaper to the planning board's attention. Demo, zoning administrator, declares it merely typographical error. Meeting continues.

El Dorado Times - "Following a marathon seven hour long public hearing at the Butler County Community Building, the Butler County Planning Board voted 4-3 (chairman votes to break tie) to grant a special use permit for the use of property east of El Dorado for a proposed new state prison facility". Article enclosed. News coverage tapes available.

Prison opponents feel the planning board went against the overwhelming evidence that a prison is not an economic necessity for our community and that the harm suffered by the applicant, Cliff Stone, does not outweigh the concerns of the neighbors for the destruction of their rural residential community. A prison is not the best use for this property.

The Corrections Department prison plans continue to change. The size of prison is reduced. Economic impact, if any, will be greatly reduced for smaller facility. Information not presented or considered by Butler County Commissioners.

March 27 El Dorado Times - "Butler County Commissioners approved application of a special use permit to locate a proposed new state prison facility east of El Dorado. It followed a March 9 Butler County Planning Board vote 4-3 to recommend approval of the application.

March 30 El Dorado Times - Letter to the Editor--Shelly Green's presentation to the County Commissioners March 27. "If, as representatives of the taxpayers, and protectors of the rights of your constituents, you were not aware of the latest proposal to house only the worst of Kansas criminals in Butler County, then you should be outraged. If you were aware, then as a citizen of this community, I am outraged that the information has not been shared with the community as a whole".

Opponents begin writing individual letters to the legislators and banding together to hand deliver these letters. We are not an affluent group who are able to afford to pay \$30,000.00 for a lobbyist like El Dorado, Inc. or even the postage required for massive mailings.

During March and the first part of April residents have been putting more homes on the market. The sidewalks downtown have noticeably less shoppers. Banks are having accounts withdrawn--reason cited--their support for a maximum security prison. This is truly a community divided. And for what? At what cost? The price of a few dollars' profits to a community of business men who are experiencing city wide growth when many communities are not so lucky! We, the tax payer, ask only to vote on this highly emotional issue.

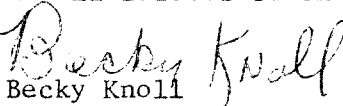
April 4--Election--Mr. Ramon Criss stated that it was those of us in the county who opposed a prison. He and El Dorado, Inc. set out to "educate" us to the concept of a prison in our community. The city has been allowed to speak. Times headlines "Incumbents Out In El Dorado". I take this for a clear indication that the city voters are not, as we in the county are not, happy with the current policy of city officials regarding the prison. The city voter does not want to be "RIDING" with El Dorado, Inc. They cast their vote against El Dorado, Inc. and the prison!!

IN CONCLUSION It is my hope that during Veto Session, the legislature will wisely make the most economical and fair choice concerning prison overcrowding. I fully support the extension of existing space and the sharing of support services by new facilities, located in the immediate vicinity of current cell space.

If Ultimately, Judge Rogers does not allow this most economical choice for the state tax payer, I hope you will consider the suffering of prison opponents in El Dorado. Remember the abuse of the system by local officials in El Dorado and Butler County which denied a vote to the majority-opponents of a maximum security prison.

Please support placement of a maximum security prison only in a community that has had open public meetings, listened to the people, and exercised their right to vote.

For your Time & Support of this emotional issue which will greatly affect me, my children and family, my neighbors and the future of our rural residential community now and into the future; I will forever be thankful.


Becky Knoll
R.R. 2, Box 166A
El Dorado, Kansas 67042

Telephone 316-321-7340

KANSAS SENATE



PAUL BUD BURKE
SENATE PRESIDENT

P.O. BOX 6867
LEAWOOD, KANSAS 66206

CHAIRMAN:
LEGISLATIVE COORDINATING COUNCIL
CHAIRMAN:
ORGANIZATION, CALENDAR AND RULES
MEMBER:
INTERSTATE COOPERATION
LOCAL GOVERNMENT
PUBLIC HEALTH & WELFARE
STATE FINANCE COUNCIL

OFFICE OF THE PRESIDENT

STATE CAPITOL
TOPEKA, KANSAS 66612-1565
913-296-2419

April 18, 1989

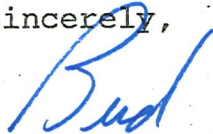
Senator Wint Winter
Acting Chairman of Ways and Means
P. O. Box 1200
Lawrence, KS 66044

Dear Wint:

Please find enclosed a letter from several concerned citizens in El Dorado about the possibility of a state prison being located near their city.

Would you please comply with their request and register their opposition to the El Dorado prison into the record of the next meeting of the Ways and Means Committee.

Sincerely,


Paul Bud Burke
Senate President

PBB/pas

Enclosure

cc: Charles E. Oursler
Box 849
El Dorado, KS 67042

ATTACHMENT 1/2
SWAM 4-21-89

.1 10, 1989

Sen. Paul Burke
Box 6867
Leawood, Kansas, 66206

Honorable Senator Burke:

We, the undersigned citizens of Butler County, Kansas, are once again writing to you, the members of the Senate Ways & Means Committee, Governor Hayden, The Department of Corrections, and members of the Senate and House to inform you of the delays and cost over-runs if a new prison facility is placed in El Dorado, Kansas.

Attached is a copy of the letter sent to Senator Gus Bogina addressing the opposition, site location, Home Owners Concern, and financing of the facility being placed in El Dorado, Kansas.

It has been learned since our letter was sent to Senator Bogina, that the El Dorado site has such poor soil conditions that clay and soil will have to be brought to the site and compacted, to obtain a base for the buildings to sit on. The utilities from the property line to the building site will still have to be run through solid rock. There will be immediate cost over-runs for these two reasons alone. The other sites proposed have good fertile soil to place the facility on.

When Sewer District 15 was formed and the line ran to the prospect area, which surrounds the proposed the proposed Valley View Site, the cost more than doubled. This was due to the rock encountered.

On April 20, 1989 there will be an appeal filed concerning the improper Zoning and the illegal printing of the legal in the official notice for the Zoning meeting. The appeals process could take as long as six months to resolve.

With the taxpayers of Kansas facing so many increases in taxes, we ask that you and your fellow Senators and Representatives exercise the utmost wisdom, caution and concern in your decision concerning the solution to the over-crowding of our state prisons.

We request that this letter and the attached letter that was addressed to Senator Bogina be entered into the record of the next meeting of the Ways and Means Committee.

Respectfully yours:

Kenneth S. Long
Melvin E. Althouse
Paul E. Green
D. J. Fuller
J. Burton
F. Burton
A. Barbee
R. Barbee

Betty S. Althouse
Shelly Adam-Joe
Jeffery R. Marshall
Becky Groll
Mary M. Payne
Mary D. McCoy
Linda Dunsler
Thomas A. White, Ph.D.
Eugene C. Hermann
J. E. Dunsler

Dear Senator,

This letter is being sent to you and others to inform you of the opposition to the prison being built in El Dorado, Kansas, and to apprise the Senate and House members of the repercussions if the facility is placed in El Dorado.

Opposition- The opposition is being ignored in the El Dorado area. Butler County residents are the only ones who spoke before the House Sub-Committee in opposition to the prison. We have submitted 2694 signed petitions to Governor Hayden and Secretary Endell. We have asked numerous times in our area to have this issue brought to a vote, but have been denied our constitutional right on this issue. The proponents have stated that if brought to a vote in this area they would be defeated. Governor Hayden has said that he would not place it where there is opposition. Only last week Governor Hayden stopped the placement of the Maximum Security Prison in Topeka, because of opposition. Butler County residents opposing the prison will be heard as outlined in the following paragraphs.

SITE LOCATION: The site chosen has one of the largest underground caves in Butler County. When the core drilling was done on this site, it was cored to a depth of 20 feet. Most of the ceilings of the caves are 25 to 28 feet deep. Only 40 holes were drilled on 640 acres, and the drilling was moved away from the large cave, which has a ceiling height of 15 feet below the surface. This site is in the same limestone formation that was abandoned south of El Dorado. Homes in El Dorado and Butler County continually crack above doors and windows due to the shifting of the unstable formation.

HOME OWNERS CONCERN: Detailed drawings and pictures of every basement within a five mile radius of the site are being compiled and documented. When the blasting starts for the fence posts and foundation, an injunction will be filed to stop construction, as well as damage suits. The concussion of the blasting will carry through the caves for many miles. The Kansas Speological Society will confirm the above statements.

Financing: Neither the city or county governments have secured the funding for the utilities or site preparation. There will be protests filed against any proposed funding. At the recent Planning Board Meeting, there was an error in the printing of the legal, but the meeting was held anyway. There is a suit being prepared at this time of the matter. This alone could be in the Courts for a long period of time.

We sincerely ask that El Dorado be removed as a site possibility for the prison. The prison should be put in an area where it is wanted, such as Concordia, or where the state already owns land.

Thank You.

Charles E. Oursler

Charles E. Oursler
Box 849
El Dorado, Kansas, 67042

M*

IPM30KS

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PMS SEN WINT WINTER, CARE OF HOUSE PRESIDENT RPT DLY MGN, DLR TODAY, B
STATE CAPITOL BLDG

TOPEKA KS 66612

BT

WE ENCOURAGE YOUR APPROVAL TO THAT PORTION OF HR2548 CONCERNING THE
USE OF PRIVATE PRISON FACILITIES IN WASHINGTON KS.

THANK YOU,

JAMES H SMART, MAYOR

PAUL L MONTY, CITY ATTORNEY

COUNSEL: PAUL K WILKINSON

RICHARD C JOHNSON

BRADLEY E OWENS

IRMA JOHNSON

FLOYD SORRICK

BILL SCHLOBOHM, PUBLIC BUILDING COMMISSION

1100 BOX 296

WASHINGTON KS 66968

NNNN

1349 EST

IPM30KS

ATTACHMENT 12
SWAM 4-21-89

western union

western union

Come share our space!
Hutchinson

R E N O C O U N T Y E C O N O M I C D E V E L O P M E N T C O U N C I L

A PROPOSAL
TO
THE DEPARTMENT OF CORRECTIONS
STATE OF KANSAS
TO CONSIDER
HUTCHINSON, KANSAS
AS A SITE
FOR A
1,200 BED CORRECTIONAL FACILITY

PREPARED AND PRESENTED
BY
THE RENO COUNTY ECONOMIC DEVELOPMENT COUNCIL
SEPTEMBER 20, 1988

The RENO COUNTY ECONOMIC DEVELOPMENT COUNCIL is a
division of the Greater Hutchinson, Kansas Chamber
of Commerce

CONTACT PERSON: L. Dale Stinson, Director
RENO COUNTY ECONOMIC DEVELOPMENT COUNCIL

ATTACHMENT 13
SWAM 4-21-89

INTRODUCTION AND STATEMENT

The Reno County Economic Development Council, on behalf of the community of Hutchinson and its area, proposes that a major new prison be constructed on property owned by the State of Kansas; adjacent to the Kansas State Industrial Reformatory.

This proposal is being made in consideration of these facts:

(1) The Kansas Department of Corrections has made public recommendations that a major prison be constructed in Kansas. (2) Governor Mike Hayden has stated that a major prison should be a legislative priority. (3) Recent reports from consultants recommend that additional prisons need to be built in Kansas, in light of court orders to reduce overcrowding and the anticipation of continued prison population growth.

As we make this proposal, it is our understanding that a "major prison" will consist of a 1,200 bed correctional facility. It is further our understanding that this prison would operate as a maximum security facility.

In making this proposal, we feel there are three major considerations to review in the best interests of the citizens of Kansas, the inmates of the correctional system and the operational efficiency of the Kansas Department of Corrections. These considerations include:

(1) The State of Kansas owns land immediately south of the Kansas State Industrial Reformatory. This 320

acre tract of land, while containing certain facilities in connection with KSIR, still offers 190 acres of very usable property suitable for a new site. As shown in the following pages of supporting material, the site is presently served by transportation and utilities. These factors alone would offer considerable savings for tax payers, either at the state or local level.

- (2) Considerable public discussion has been held regarding the desirability of the Department of Corrections to have a major prison near a metropolitan area. The site included in this proposal is located 19 miles northwest of Sedgwick County, the state's largest metropolitan area. This site would offer convenient accessibility to an area that would most likely generate a greater number of inmates to be housed.
- (3) A major consideration of selecting a prison site is the factor of community acceptance. In recent months some proposals for new prison facilities in various communities have even been abandoned, due to citizen's resistance. Hutchinson offers a proposal that assures the Department of Corrections that the matter of community acceptance will not be a deterrent. The Department of Corrections and the community of Hutchinson have had an excellent relationship for 100 years. The

visibility of a major prison, inmates being present in the community, and the related activities; all represent daily and common occurrences to the citizenry of Hutchinson. Historically, a most desirable relationship exists as a result of experiences with work release programs, inmates doing public service at events such as the Kansas State Fair, community improvement and maintenance projects for local government. The community of Hutchinson has a proven record of accepting any environment related to correctional facilities.

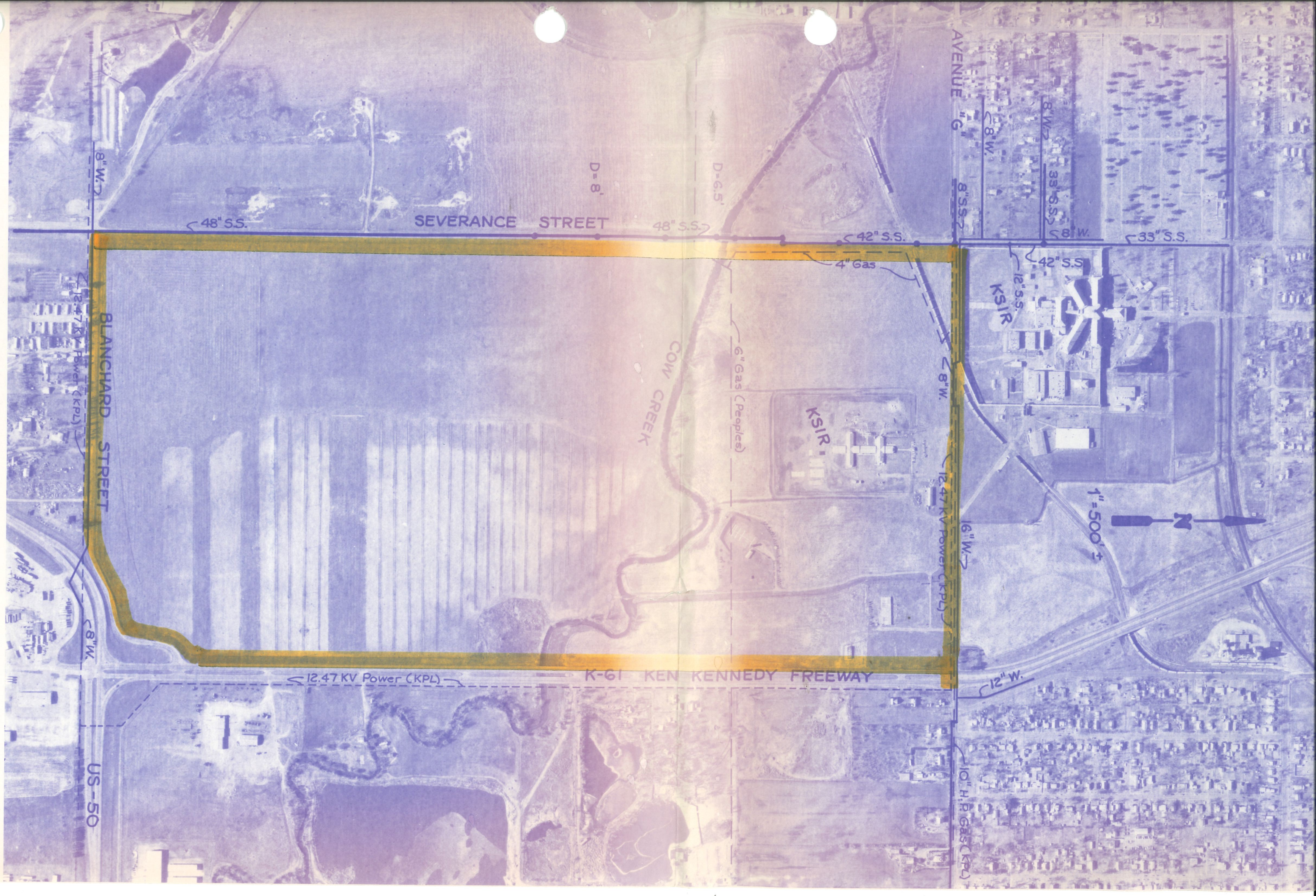
The fact that the Reno County Economic Development Council is making this proposal for a major prison site has been publicly announced to the Hutchinson community via newspaper, radio and television. To date, not a citizen has indicated any opinion, other than support of our efforts.

With the above considerations representing our focus, the Reno County Economic Development Council offers this proposal with utmost sincerity. Furthermore, we offer our resources to assist in any way possible and remain available for further information or explanation.

The following pages represent supporting material for this proposal.

SITE SIZE AND LOCATION

- A. ACREAGE: The amount of property owned by the State of Kansas that is currently not being used is approximately 230 acres. Specifically the suggested site would be on a tract of land containing 190 acres.
- B. PLOT PLAN: See attached in this section.
- C. LEGAL DESCRIPTION: The recommended site lies within NE 1/4, Sec. 19, T23S, R5W and SE 1/4, Sec. 19, T23S, R5W. Property is within city limits of Hutchinson, Kansas.
- D. EXTENT OF PROPERTY TITLE TO BE DELIVERED: Property already in title of State of Kansas.



8" W.2

48" S.S.

SEVERANCE STREET

D=8'

D=6.5'

48" S.S.

42" S.S.

4" Gas

COW CREEK

6" Gas (Peoples)

KSIR

12.47 KV Power (KPL)

16" W.2

8" S.S.2

8" W.2

33" S.S.2

8" W.

33" S.S.

KSIR

42" S.S.

12" S.S.

1"=500'

N

12" W.

12.47 KV Power (KPL)

K-61 KEN KENNEDY FREEWAY

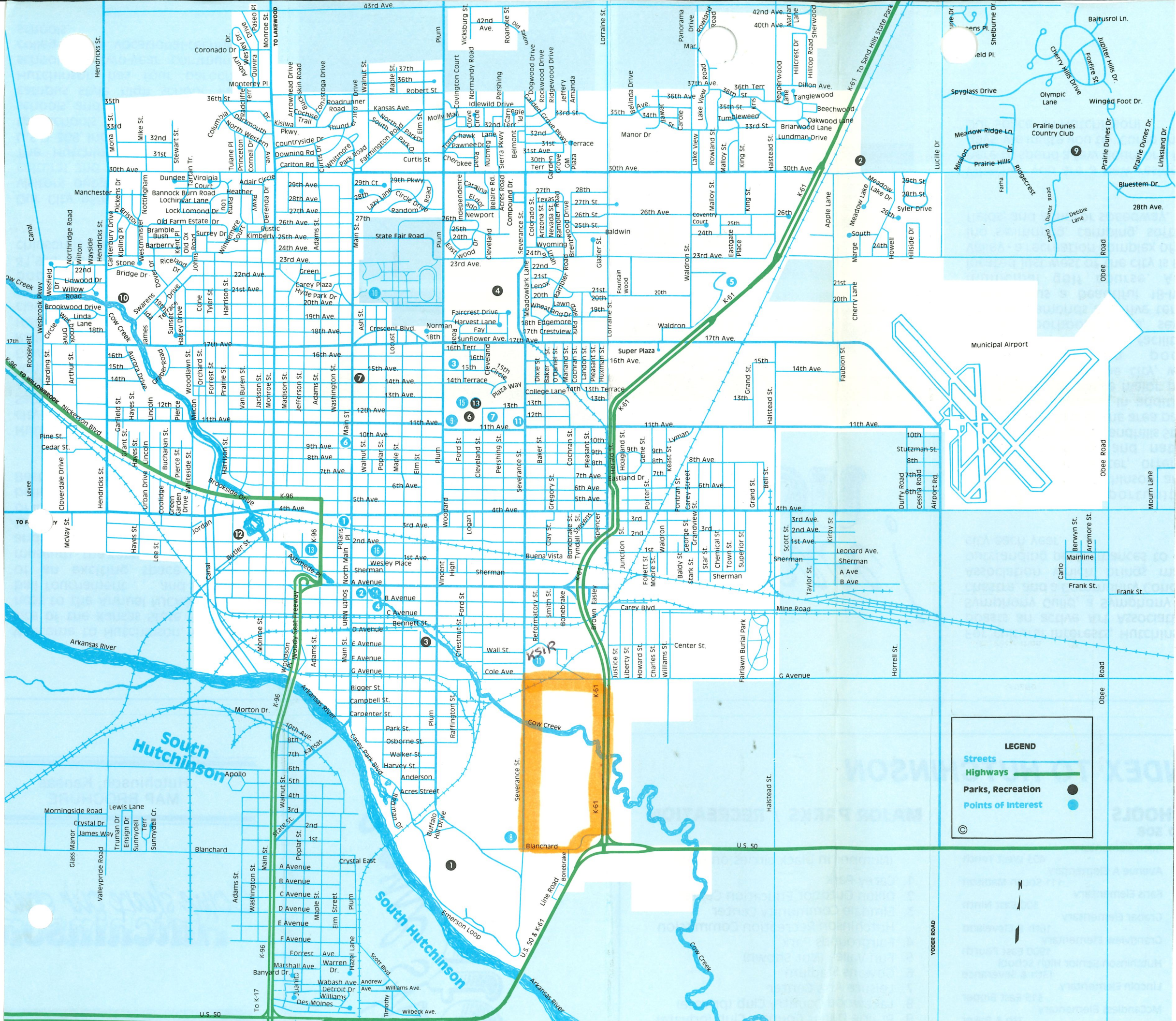
10" H.P. GAS (KPL)

BLANCHARD STREET

12.47 KV Power (KPL)

8" W.

US-50



LEGEND

- Streets
- Highways
- Parks, Recreation
- Points of Interest



South Hutchinson

South Hutchinson

Arkansas River

Cow Creek

Cow Creek

YODER ROAD

U.S. 50

TO K-17

TO K-96

U.S. 50 & K-61

K-61

U.S. 50

TO SAND HILLS STATE PARK

TO SAND HILLS STATE PARK

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TO SAND HILLS STATE PARK

AVAILABILITY AND CAPACITY OF UTILITIES

- A. WATER: Water for domestic use is already available to the boundary of the proposed site (see plot map). Water would be provided by the municipal system of the City of Hutchinson. Existing water lines include a 16 inch line paralleling Avenue G Street and an 8 inch line paralleling Blanchard Street. Water for fire fighting purposes would exist from the 16 inch line, as a pressure test taken in September of 1988 showed 2,000 gallons per minute available for fire flow.
- B. WELLS: Water from wells is usually found at a depth of 17 feet in this area. Due to the proximity of salt brine deposits, the water normally is not of potable quality. Wells could provide water for additional fire fighting reserve, if so needed.
- C. SEWER: A 48 inch sanitary sewer line parallels the west boundary of the proposed site. This line currently is utilized only to 50 percent of its capacity.
- D. ELECTRICAL POWER: Ample electrical power would exist to the proposed site. Two different lines with a 12.47 KV power supply exist to the boundaries of the state owned property. Electrical power is supplied by KPL Gas Service. (See attached letter in this section.)
- E. TELEPHONE: Lines for telecommunication service would be provided by Southwestern Bell. The Hutchinson area is served

by a state of the art electronic switching system. This system allows the usage of the most recent available equipment for direct dialing, access lines and computer applications.

F. TEMPORARY UTILITIES: To the best of our knowledge, no temporary utilities would be needed regarding this proposal.

G. GAS: Natural gas can be provided by Peoples Natural Gas, who already have a 6 inch service line across the state owned property. (See the attached supporting material in this section.)

HUTCHINSON

POST OFFICE BOX 1507, CHINA, MO
TELEPHONE 316/665-2610

OFFICE OF
CITY MANAGER

September 19, 1988

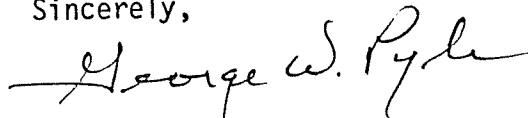
Kansas Department of Corrections
Landon State Office Building
900 S. W. Jackson - Suite 400 N
Topeka, Kansas 66612-1284

Gentlemen:

The Reno County Economic Development Council and its staff have worked with our staff in preparing a proposal for a major prison in Hutchinson. They have consulted us with special emphasis on the capacity of certain existing utilities and services.

Please be advised that we remain available to assist the Council in further developments of the proposal. We look forward to discussion about the type and need of additional services that may be required as you conduct your study.

Sincerely,



George W. Pyle
City Manager

GWP/bw



September 16, 1988

Re: Proposed Prison Site
Hutchinson, Kansas

L. Dale Stinson, Director
Reno County Economic Development Council
309 North Main
Hutchinson, Kansas 67501

Dear Dale:

The K.P.L. Gas Service Company has adequate energy supply in the immediate area of the proposed new prison facility, south of Cow Creek on the east side of Severance Street, Hutchinson, Kansas; southwest quarter of the northeast quarter of Section 19, Township 23 South, Range 5 West, Reno County.

K.P.L. Gas Service Company will extend overhead electric supply to one metering point on Severance Street, the point of delivery, at no cost for construction.

This is possible due to the anticipated electrical consumption supporting the investment and therefore will not impose a burden on other customers of K.P.L. Gas Service.

A copy of the rate structure that will apply to the proposed load is enclosed.

The K.P.L. Gas Service Company is extremely supportive of this proposed State facility being located in Hutchinson. We feel this would be a tremendous boost to local economy, plus, with the experience Hutchinson has with other correctional facilities, it would additionally benefit the State.

Sincerely,

Glen A. Scott
District Manager

GS:as

THE KANSAS POWER AND LIGHT COMPANY

SCHEDULE LP

(Name of Issuing Utility)

Replacing Schedule LP-81 Sheet 1

Entire Service Area

(Territory to which schedule is applicable)

which was filed December 16, 1981

No supplement or separate understanding shall modify the tariff as shown hereon.

Sheet 1 of 4 Sheets

LARGE POWER CONTRACT SERVICE

AVAILABLE

Electric service is available under this schedule at points on the Company's existing distribution facilities.

APPLICABLE

To any customer supplied electric service at one point of delivery whose Billing Capacity is 200 kilovolt-amperes (KVA) or more. Such customers, if otherwise qualified, may also receive their total requirements for electric service under the Company's rate schedules designated as PS, LPTD, LTM, or ICS.

Service under this schedule shall be in accordance with the Company's Electric Power Service Contract and be for a contract period of at least one year. This schedule is not applicable for temporary, breakdown, standby, or resale electric service.

CHARACTER OF SERVICE

Alternating current, 60 hertz, three phase, at the voltage stated in the Electric Power Service Contract.

NET MONTHLY BILL

Capacity Charge

\$4.45 per KVA for the first 200 KVA of Billing Capacity
\$4.25 per KVA for the next 400 KVA of Billing Capacity
\$4.05 per KVA for all additional KVA of Billing Capacity

Energy Charge

3.80¢ per KWH for the first 50 KWH per KVA of Billing Capacity
3.28¢ per KWH for the next 100 KWH per KVA of Billing Capacity
2.96¢ per KWH for the next 250 KWH per KVA of Billing Capacity
2.74¢ per KWH for all additional KWH

Commission File Number 46881-8

Issued December 15, 1987
with sales rendered on and after
Effective Jan. 4, 1988

By *Steven L. Kitchen* Sr. Vice President
Signature of Officer Title

NOTED & FILED DEC 22 1987

THE STATE CORPORATION COMMISSION OF KANSAS

By *Julia M. Marshall* Secretary

THE KANSAS POWER AND LIGHT COMPANY

SCHEDULE..... LP

(Name of Issuing Utility)

Replacing Schedule..... LP-81..... Sheet..... 2.....

Entire Service Area

(Territory to which schedule is applicable)

which was filed..... December 16, 1981

No supplement or separate understanding shall modify the tariff as shown hereon.

Sheet..... 2..... of..... 4..... Sheets

Minimum

The Capacity Charge but not less than \$890.00 plus applicable adjustments and surcharges.

Adjustments and Surcharges

The rates hereunder are subject to adjustments as provided in the following schedules:

- 1. Energy Cost Adjustment Clause
- 2. Tax Adjustment - Electric

BILLING CAPACITY

Billing Capacity at the point of delivery shall be the Highest Capacity established during the current month, provided that the Billing Capacities for July, August and September shall not be less than 80% of the Highest Capacity previously established in the current summer period; and, the Billing Capacities for other months shall not be less than 80% of the Highest Capacity established in the preceding summer period.

In no event, shall the Billing Capacity be less than fifty percent (50%) of the contract capacity as stated in the Electric Power Service Contract nor less than 200 KVA. Should the customer's Billing Capacity exceed such contract capacity during two billing months or more in any yearly contract period, then a new contract capacity shall be determined.

HIGHEST CAPACITY

Highest Capacity at the point of delivery shall be the average KW load during the thirty minute period of maximum use during the month divided by the power factor. Power factor will be determined as the quotient obtained by dividing the kilowatt-hours used during the billing period by the square root of the sum of the squares of the

Commission File Number 126381-8

Issued..... December 15, 1987
 with sales rendered on and after Jan. 4, 1988
 Effective.....
 By..... *Steven L. Kitchen* Sr. Vice President
 Steven L. Kitchen Signature of Officer Title

NOTED & FILED DEC 22 1987
 THE STATE CORPORATION COMMISSION OF KANSAS
 By..... *Guillermo Sanchez* Secretary

THE KANSAS POWER AND LIGHT COMPANY

(Name of Issuing Utility)

Replacing Schedule..... LP-81 Sheet 3

Entire Service Area

(Territory to which schedule is applicable)

which was filed..... December 16, 1981

No supplement or separate understanding shall modify the tariff as shown herein.

Sheet 3 of 4 Sheets

kilowatt-hours used and the lagging reactive kilovolt-ampere hours supplied during the same period. Any leading kilovolt-ampere hours supplied during the period will not be considered.

VOLTAGE AVAILABILITY AND METERING

This schedule is predicated upon service at one standard voltage selected by the customer, such voltage being either (a) the subtransmission voltage available, if any, at the service location, (b) the voltage of the Company's established primary or secondary distribution system available at the service location or (c) a standard voltage of the Company that can be readily transformed from said available primary distribution system or subtransmission system, if any, at the service location. Such one standard voltage once selected (i.e. the present voltage at the point of delivery for each existing service location), shall be considered permanent for that service location and will be changed at the sole expense of the customer. However, in cases where the customer's capacity requirements are very substantially changed, the Company and the customer may agree that another standard voltage is more appropriate in which event the Company will provide one new standard voltage at the point of delivery.

Metering hereunder will be at the standard voltage of the point of delivery; however, the Company at its option, may meter hereunder at the primary voltage of the Company's transformer installation serving the customer in which event appropriate adjustments to such meter reading will be made.

OTHER TERMS AND CONDITIONS

1. Individual motor units rated at ten horsepower or more shall have starting equipment satisfactory to the Company.
2. Any customer whose standard voltage and contract capacity at the point of delivery equals or exceeds 34.5

Commission File No. 86381-3

Issued..... December 15, 1987
 with sales rendered on and after Jan. 4, 1988
 Effective.....
 By..... *Steven L. Kitchen* Sr. Vice President
 Steven L. Kitchen Signature of Officer Title

NOTED & FILED DEC 22 1987
 THE STATE CORPORATION COMMISSION OF KANSAS
 By..... *Judith M. Brannell* Secretary

THE KANSAS POWER AND LIGHT COMPANY

SCHEDULE LP

(Name of Issuing Utility)

Replacing Schedule LP-81 Sheet 3

Entire Service Area

(Territory to which schedule is applicable)

which was filed December 16, 1981

No supplement or separate understanding shall modify the tariff as shown hereon.

Sheet 4 of 4 Sheets

kilovolts and 1,000 KVA, respectively, shall receive a discount of \$0.20 per KVA of billing capacity applied to the net monthly bill for said delivery point.

3. Service hereunder is subject to the Company's General Terms and Conditions as approved by the State Corporation Commission of the State of Kansas.

Commission File Number 188381-8

Issued December 15, 1987 with sales rendered on and after Effective Jan. 4, 1988

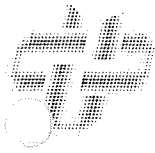
By Steven L. Kitchen Sr. Vice President Signature of Officer Title

NOTED & FILED DEC 22 1987

THE STATE CORPORATION COMMISSION OF KANSAS

By Judith M. Brand Secretary





PEOPLES NATURAL GAS

3424 East G Street
P.O. Box 859
Hutchinson, Kansas 67504-0859
316-662-0534

L. Dale Stinson, Director
Reno County Economic Development Council
P. O. Box 519
Hutchinson, Kansas 67504-0519

September 15, 1988

Re: Prison Facility Proposal - NE¼ Sec. 19, Township 23 South, Range 5 West

In pursuance to agreement during our telephone conversation of the 14th, please find attached for your reference:

A plot showing the approximate location of our existing facilities, including footages, and a copy of our current rate structure.

Due to the fact that this company currently has a natural gas pipeline located in close proximity to the above stated proposed facility site, and in congruence with our policy and financial analysis feasibility, we will construct and install, at our own expense, a natural gas pipeline, of sufficient size, to serve the needs of this proposed facility, as we did for the K.S.I.R. expansion that was built in 1984.

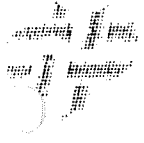
We have faithfully served K.S.I.R. with natural gas for over twenty (20) years and would be happy to entertain any comments or questions you may have concerning this matter.

I Remain,
Sincerely Yours,

David J. Neighbors
Manager

Att.

DJN/blj



PEOPLES NATURAL GAS

Suite 6001 --- One Main Place Building
100 N. Main
Wichita, Kansas 67202
316 262-4779

April 14, 1988

Kansas State Industrial Reformatory
Attention: Mr. Joe Davalos
P. O. Box 1568
Hutchinson, Kansas 67501

Dear Mr. Davalos:

Peoples Natural Gas has filed new rates with the Kansas Corporation Commission in accordance with the Commission's order resulting from the Tax Reform Act of 1986. This rate change incorporates the impact of the Tax Reform Act on Peoples' cost of service and will result in a decrease in your rate for natural gas. This change will become effective with volumes taken on or after April 11, 1988.

The revision will affect the retail rate to your facility as follows:

| <u>PNG Rate Schedule No.</u> | <u>Previous Rate (\$/MMBTU)</u> | <u>Amount of Decrease (\$/MMBTU)</u> | <u>New Rate Effective 4-11-88</u> |
|----------------------------------|-------------------------------------|--|---|
| 344 | 2.4277 | (0.0083) | 2.4194 |

In addition, you will be receiving a credit to your account in the upcoming months to reflect the federal tax savings from 1987. If there are any questions regarding this rate change or refund, please contact me at our Wichita office.

Sincerely,

Rich Rogers
General Manager

cc: Larry Headley
Dave Neighbors

kh
LTR-A88



TRANSPORTATION SERVICES

- A. AIRPORT LOCATION AND SERVICES: The Hutchinson Municipal Airport is located 3 1/2 miles from the proposed prison site. The airport has a Class I FAA Classification and has three runways capable of handling corporate aircraft. The northeast/southwest runway has an I.L.S. approach system.

Air Midwest serves Hutchinson daily with the Metro II aircraft for connecting flights to major cities.

Due to the fact that the Mid-Continent Airport, offering major airline commercial service, is located in west Wichita and the proposed prison site is in southeast Hutchinson; one can drive the forty some miles in less than an hour.

Other transportation services are shown on the following page.

- B. ACCESS TO HIGHWAYS AND ROADS: The proposed site is fronted by Kansas Highway 61, a north/south highway. The portion fronting the property is four lane and referred to as the Ken Kennedy Freeway.

At the southeast corner of the state owned property K-61 intersects with U.S. Highway 50, a major east/west highway across Kansas. U.S..50 intersects with Interstate 135 at Newton, 34 miles east of the proposed site. Additionally, K-61 intersects with Interstate 135 to the northeast or approximately 27 miles from the proposed site.

Additionally, Hutchinson is served by Kansas Highway 96, providing southeast connection to Wichita.

C. LOCATION OF NEAREST DISPOSAL FACILITY: The Reno County Sanitary Landfill is located seven miles west of the proposed site.

MARKETS & TRANSPORTATION

ACCESS TO MARKETS

Hutchinson is the principal city and the county seat of Reno County. It is located on the Arkansas River, about 50 miles northwest of Wichita.

Because Hutchinson is situated in the center of the state and nation, its proximity to both regional and national markets is a favorable factor for business and industry to locate here.

As the center of the U.S. population continues to move westward each year, Kansas finds itself in a greater strategic position. With this locational advantage, Kansas serves as an ideal location for business firms serving national or regional markets. From a profit standpoint, the state's central location makes shipment of goods less costly due to easy accessibility to major metropolitan centers. Numerous production facilities, warehouses and distribution centers have chosen Kansas because its central location reduces shipping costs.

Facilitating its strategic location, Kansas has a well-developed transportation network.

MARKET POTENTIAL

Kansas offers business and industry excellent opportunities for reaching potential customers. Approximately 31% of the nation's population (70 million persons) lives within 500 miles of Kansas' borders. Slightly over 29% (49 million persons) of the nation's urban population and 31% (25 million) of the nation's households fall within this same distance.

For the business selling directly to the consumer market, it is estimated that within a 500-mile radius of Kansas, slightly over \$600 billion in effective buying income (disposable personal income) is available for the purchase of goods and services. This figure equates to about 30% of the effective, national buying income.

Approximately \$330 billion is spent on retail sales within a 500 mile radius of Kansas' border, representing almost 32% of all retail sales nationwide. Within this same geographic area, the populace spends more of its disposable personal income on retail sales than the national average.

For the firm selling directly to other businesses, over 42,000 manufacturing plants are located within a 500-mile radius of Kansas. About a third of those plants have over 100 employees. Approximately \$660 billion worth of goods are shipped annually from these manufacturing plants. With a per plant average of almost \$16 million in shipments, the area surrounding Kansas provides tremendous opportunity for sales and movement of goods.

TRANSPORTATION SERVICE

Hutchinson is served by three major highways—US-50, K-61 and K-96. Interstate-35 is 35 miles to the east and Interstate-70 is 60 miles to the north.

TRUCK

- 15 motor freight carriers serve Hutchinson
- 38 motor freight carriers in the Wichita/Hutchinson area

Example of In-Transit Time:

Overnight Service - All in-state, Kansas City, St. Louis, Dallas, Denver, Oklahoma City, Tulsa, Omaha.

2-3 Day Service - Chicago, Cincinnati, Indianapolis, Louisville, Memphis, Nashville, Milwaukee.

4-5 Day Service - Atlanta, Boston, Los Angeles, New York, Philadelphia, Phoenix, Seattle.

Other Truck Service

- 4 household goods carriers
- 1 mobile home transporter
- 6 car/truck/trailer rental firms

RAIL

Hutchinson is on the main line of the Santa Fe, Missouri Pacific, Frisco, Southern Pacific and Hutchinson Northern (a local inter-city rail line). All of the railroads have reciprocal and piggyback service policies. Amtrak passenger service is available daily.

AIR SERVICE

Municipal Airport is located 4 miles from downtown and has a Class I FAA Classification. The airport has three runways capable of handling corporate aircraft. The northeast/southwest runway has an I.L.S. approach system.

Air Midwest serves Hutchinson daily with the Metro 11 aircraft for connecting flights to Wichita, Kansas City, Denver and Oklahoma City. The Wichita Mid-Continent Airport, with eight major airlines, is located 50 miles from Hutchinson.

Two fixed-based operators offer charter service.

OTHER SPECIAL TRANSPORTATION SERVICE

- 7 parcel service firms serve Hutchinson
- 1 bus line serves Hutchinson daily
- 1 armored car service in Hutchinson
- 1 taxicab service in Hutchinson

A comprehensive Transportation Directory is available from the Greater Hutchinson Chamber of Commerce upon request.

Truck Transportation... what Hutchinson industries say about it.

■ ■ Our company is a large division, operating 65 retail supermarkets throughout Kansas. Our distribution center is located in Hutchinson, and is supported almost 100% by trucks.

We currently receive about 2,500 truckloads of inbound freight each year (25% on our own trucks), and re-ship to our stores (100% on our private fleet). Our fleet runs about 5,000,000 miles per year in Kansas. Thirty-nine common carriers ship into our distribution center in Hutchinson. ■ ■

Ron Kelly
Executive Vice President
Distribution & Manufacturing
Dillon Stores Division

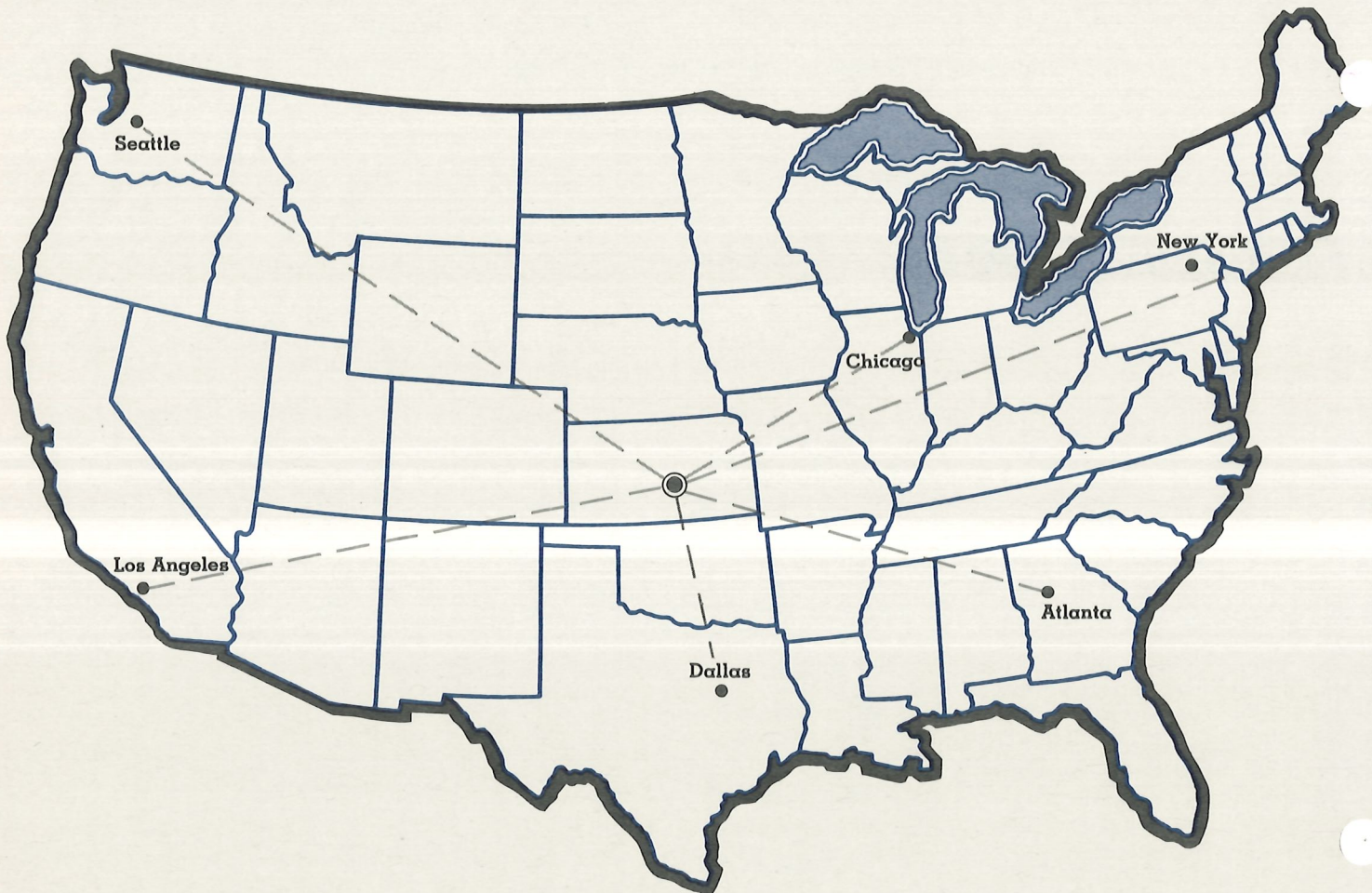
■ ■ Dorskocil Foods Company is a processor of frozen pizza toppings and other specialty meat items with distribution to all 50 states, Canada, and Japan. We currently ship approximately 80 million pounds annually from our Hutchinson location.

My experience has been that there is an ample supply of quality common and contract motor carriers to satisfy our needs here in Hutchinson, at competitive rates. ■ ■

Dev Traver
Group Director of Transportation
Dorskocil Foods

■ ■ Collins Industries, Inc. has four operating divisions in the Hutchinson vicinity. The average number of shipping days for all raw materials shipped on inbound and outbound is three days, and a maximum of five days. We unload over 3,000 common carrier shipments per year in Hutchinson. ■ ■

Lewis Ediger
Vice President
Collins Industries



SITE INVESTIGATION

- A. SOILS REPORT: See attachment in this section.
- B. WATER TABLE: See attachment in this section.
- C. PHOTOGRAPHS: See attachment in this section.

NONTECHNICAL SOILS DESCRIPTION REPORT
FOR DESCRIPTION CATEGORY - SOI URB

Survey Area- RENO COUNTY, KANSAS

| Map Symbol | Description |
|---------------|--|
| CA | <p>CANADIAN FINE SANDY LOAM Deep, nearly level, well drained, moderately rapidly permeable soils on flood plains. These soils are subject to rare flooding. They have a fine sandy loam surface layer and a very friable fine sandy loam subsoil.</p> |
| CF | <p>CARWILE-FARNUM FINE SANDY LOAMS Deep, nearly level soils on uplands. The somewhat poorly drained, slowly permeable Carwile soils have a fine sandy loam surface layer and a mottled, firm clay subsoil. The well drained, moderately permeable Farnum soils have a fine sandy loam surface layer and a mottled, firm clay loam subsoil.</p> |
| FS | <p>FARNUM-SLICKSPOT COMPLEX Deep, nearly level, well drained and somewhat poorly drained, moderately permeable and very slowly permeable soils on uplands. The well drained, moderately permeable Farnum soils have a loam surface layer and a firm clay loam subsoil. The somewhat poorly drained, very slowly permeable slickspot areas have a silt loam, loam, clay loam, or silty clay loam surface layer and a calcareous loam, silty clay loam, or silty clay subsoil.</p> |
| NA | <p>NARON FINE SANDY LOAM, 0 TO 1 PERCENT SLOPES Deep, nearly level and gently sloping, well drained, moderately permeable soils on uplands. These soils have a fine sandy loam surface layer and a friable sandy clay loam subsoil.</p> |
| SO | <p>SLICKSPOTS Deep, nearly level, somewhat poorly drained, very slowly permeable soils on uplands. These soils have a loam, clay loam, or silty clay surface layer and a firm silty clay loam subsoil that has a high content of sodium and gypsum.</p> |
| VA | <p>VANOSS SILT LOAM, 0 TO 1 PERCENT SLOPES Deep, nearly level, well drained, moderately permeable soils on uplands. These soils have a silt loam surface layer and a friable silt loam and silty clay loam subsoil.</p> |

CONSTRUCTION MATERIALS REPORT

Survey Area- RENO COUNTY, KANSAS

| Map symbol, soil name | Roadfill | Sand | Gravel | Topsoil |
|--------------------------|---------------------------------|----------------------------|----------------------------|--------------------------------------|
| CA CANADIAN | GOOD | IMPROBABLE Excess Fines | IMPROBABLE Excess Fines | GOOD |
| CF CARWILE | POOR Shrink-swell Wetness | IMPROBABLE Excess Fines | IMPROBABLE Excess Fines | POOR Too Clayey Wetness |
| FARNUM | GOOD | IMPROBABLE Excess Fines | IMPROBABLE Excess Fines | GOOD |
| FS FARNUM | GOOD | IMPROBABLE Excess Fines | IMPROBABLE Excess Fines | GOOD |
| SLICKSPOT | POOR Shrink-swell | IMPROBABLE Excess Fines | IMPROBABLE Excess Fines | POOR Excess Salt Excess Sodium |
| NA NARON | GOOD | IMPROBABLE Excess Fines | IMPROBABLE Excess Fines | FAIR Too Clayey |
| SO SLICKSPOTS | POOR Shrink-swell | IMPROBABLE Excess Fines | IMPROBABLE Excess Fines | POOR Excess Salt Excess Sodium |
| VA VANOSS | SEVERE Low Strength | IMPROBABLE Excess Fines | IMPROBABLE Excess Fines | FAIR Too Clayey |

BUILDING SITE DEVELOPMENT REPORT

Survey Area- RENO COUNTY, KANSAS

| Map symbol, soil name | Shallow Excavations | Dwellings Without Basements | Dwellings with Basements | Small Commercial Buildings | Local Streets and Roads | Lawns, Landscaping, and Golf Fairways |
|--------------------------|------------------------------|--|--|--|--|--|
| CA CANADIAN | SLIGHT | SEVERE Floods | SEVERE Floods | SEVERE Floods | MODERATE Floods | SLIGHT |
| CF CARWILE | SEVERE Ponding Wetness | SEVERE Shrink-swell Ponding Wetness | SEVERE Shrink-swell Ponding Wetness | SEVERE Shrink-swell Ponding Wetness | SEVERE Wetness Shrink-swell Ponding | SEVERE Ponding Wetness |
| FARNUM | SLIGHT | MODERATE Shrink-swell | MODERATE Shrink-swell | MODERATE Shrink-swell | SEVERE Low Strength | SLIGHT |
| FS FARNUM | SLIGHT | MODERATE Shrink-swell | MODERATE Shrink-swell | MODERATE Shrink-swell | SEVERE Low Strength | SLIGHT |
| SLICKSPOT | SEVERE Wetness | SEVERE Floods Shrink-swell | SEVERE Floods Wetness Shrink-swell | SEVERE Floods Shrink-swell | SEVERE Shrink-swell | SEVERE Excess Salt Excess Sodium |
| NA NARON | SEVERE Cutbanks Cave | SLIGHT | SLIGHT | SLIGHT | SLIGHT | SLIGHT |
| SD SLICKSPOTS | SEVERE Wetness | SEVERE Floods Shrink-swell | SEVERE Floods Wetness Shrink-swell | SEVERE Floods Shrink-swell | SEVERE Shrink-swell | SEVERE Excess Salt Excess Sodium |
| VA VANOSS | SLIGHT | MODERATE Shrink-swell | MODERATE Shrink-swell | MODERATE Shrink-swell | SEVERE Low Strength | SLIGHT |

WATER FEATURES

Survey Area- RENO COUNTY, KANSAS

| Map symbol and soil name | Hydrological | | Flooding | | High water table | | |
|-----------------------------|--------------|------|----------|--------|------------------|-------|---------|
| | group | Freq | Duration | Months | Depth | Kind | Months |
| | | | | | (Ft) | | |
| CA CANADIAN | B | RARE | - | - | 6.0- 6.0 | - | - |
| CF CARWILE | D | NONE | - | - | 1.0- 2.0 | PERCH | OCT-APR |
| FARNUM | B | NONE | - | - | 6.0- 6.0 | - | - |
| FS FARNUM | B | NONE | - | - | 6.0- 6.0 | - | - |
| SLICKSPOT | D | RARE | - | - | 2.0- 4.0 | APPAR | NOV-APR |
| NA NARON | B | NONE | - | - | 6.0- 6.0 | - | - |
| SD SLICKSPOTS | D | RARE | - | - | 2.0- 4.0 | APPAR | NOV-APR |
| VA VANOSS | B | NONE | - | - | 6.0- 6.0 | - | - |

ROADS AND ROAD RESTRICTIONS

A. **QUALITY:** K-61 Highway which parallels the entire east boundary of the proposed site is four lane concrete until it reaches the northeast edge of the city. At this point it becomes a two lane blacktop until it joins a four lane by-pass of McPherson, then intersecting with Interstate 135.

U.S. Highway 50 which intersects with K-61, at the southeast corner of the proposed site is a modified super two lane (wide and paved shoulders), east to Newton where it intersects with I-135. West from Hutchinson, U.S. 50 is four lane for approximately 12 miles concrete and asphalt.

A connecting highway from U.S. 50 to K-96, located one mile east of the site, going south to K-96 is two lane asphalt. This county highway is referred to as the Yoder Road.

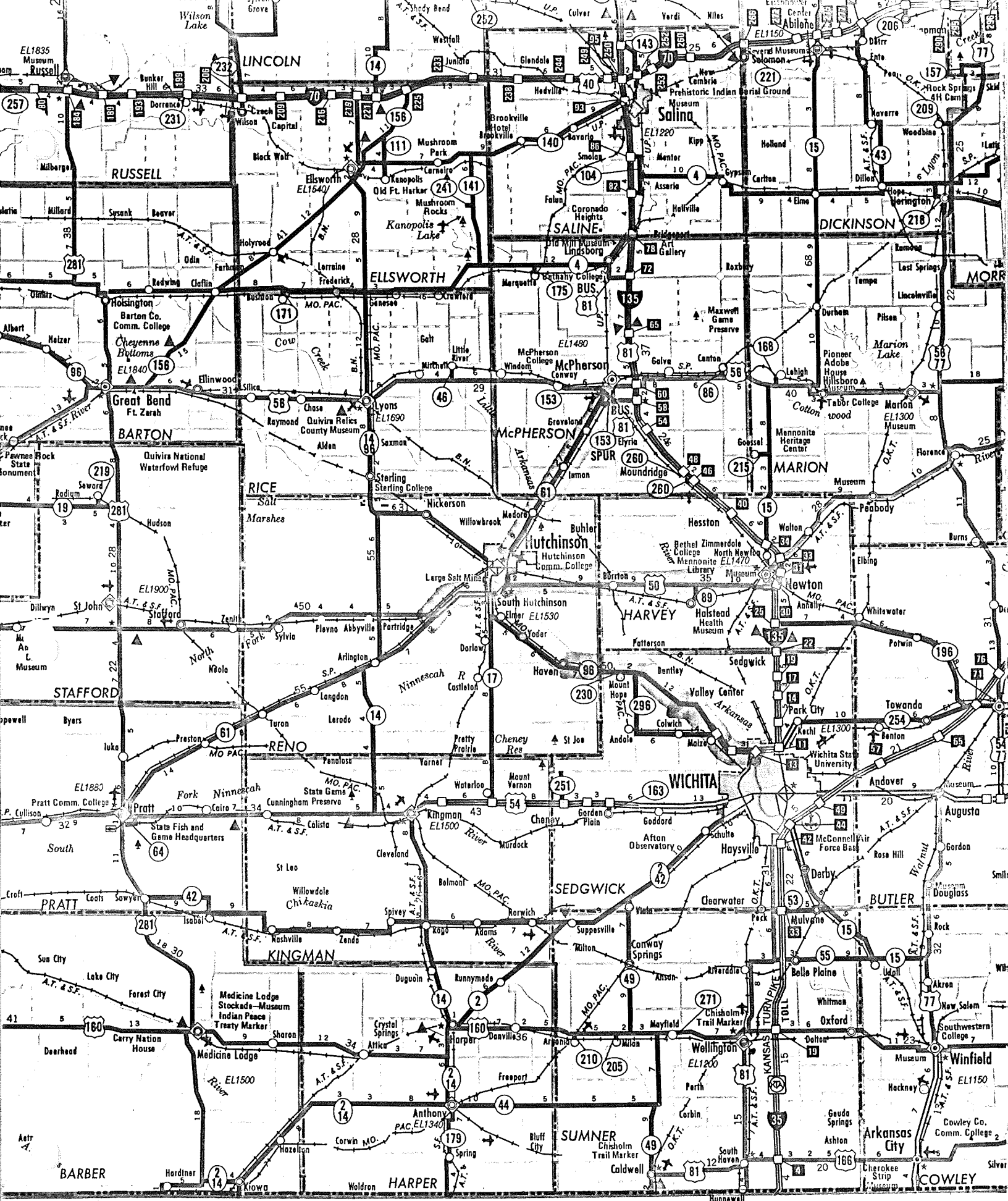
K-96 highway from Hutchinson to Wichita is two lane, wide shouldered and asphalt.

All city streets, Avenue G, Severance Street and Blanchard Street are two lane hard surfaced. These streets border the proposed site.

B. **AVAILABILITY:** Roads presently exist. See attachment this section.

C. **LOAD LIMITS:** Any load restrictions would be the same as the legal limits for state of Kansas.

D. **TRAFFIC CONDITIONS:** See attachment of traffic counts in this section.



COMMUNITY INFRASTRUCTURE TO
SUPPORT CORRECTIONAL EMPLOYEES

A: HOUSING AVAILABILITY: Due to an economic slow down that started in Reno County in 1986, a surplus of homes for sale exists. According to the Hutchinson Board of Realtors, approximately 450 homes, encompassing all price ranges, are currently listed on the market. It is generally agreed that opportunities for selection and affordability are as great as they perhaps have ever been in Hutchinson.

Some 1400 apartment units exist in Hutchinson contained in varying size of complexes. Occupancy levels indicate many apartments are available.

B: SCHOOLS: For complete information on the school systems of the area, see attachment in this section.

A real plus of the local educational facilities is the existence of the Hutchinson Community College. As to how the institution can enhance the operation of a correction facility, see the letters attached in this section.

C: HOSPITALS: Hutchinson serves a large trade area as a regional medical center. The Hutchinson Hospital Corporation operates an accredited 230 bed hospital which was built in 1975, followed by three expansions, including

a mental health out-patient center. Services of the hospital include CT Scan and Cancer Treatment Center.

The hospital additionally has many partnership programs with Wichita hospitals, such as helicopter service for medical emergency.

Two major clinics exist in Hutchinson, offering services such as emergency room treatment and out-patient surgery.

There are 78 practicing physicians in Hutchinson.

D: QUALITY OF LIFE: The Hutchinson community, having a population in excess of 40,000 offers a wide range of events and facilities to fit the individual's interpretation of "Quality of Life" (See Attachments in this section).

EDUCATION

Educational opportunities abound in Reno County including six public school districts.

- Hutchinson - USD 308
- Pretty Prairie - USD 311
- Nickerson - USD 309
- Haven - USD 312
- Fairfield - USD 310
- Buhler - USD 313

The largest of these, Hutchinson USD 308, has more than 5,000 students attending 11 elementary schools, two new middle schools, and a campus-style high school. In addition, there are two private schools: Central Christian (non-denominational) and Trinity (Catholic). Both offer classes through high school.

STUDENT ACHIEVEMENT

The students of the Hutchinson Public Schools consistently score much higher than the national norm on the Iowa Tests of Basic Skills. Well over 90% of our students exceed the minimum score on the Kansas Test of Minimum Competency. Each year, several high school students score high enough on the Preliminary Scholastic Aptitude Test to be named National Merit Scholars. Our students have also won national recognition in problem-solving contests and have been state debate champions several times.

POST HIGH SCHOOL EDUCATION

Hutchinson Community College, with an enrollment of more than 4,000 students, is one of the largest and most respected in the state. HCC has proven its capabilities to meet the needs of business and industry in providing educational and training programs tailored to individual businesses.

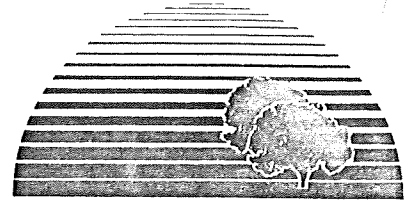
Additionally, Hutchinson is the home of Cranford College, offering career development programs in Secretarial Science, Business Administration, Travel and Tourism, Word Processing, Clerical, Data Processing, and Accounting.

A vocational program is provided in Hutchinson as part of the Central Kansas Area Vocational Technical School which has centers in Newton, McPherson and Hutchinson, and is one of sixteen vocational technical schools in the state.

Although Hutchinson does not have a four-year college, two colleges offer degree programs in Hutchinson and there are eight four-year colleges located within a 50-mile radius of Hutchinson.

The following colleges and universities offering baccalaureate degrees are located within a 50-mile radius of Hutchinson, Kansas:

- Wichita State University, Wichita
- Bethany College, Lindsborg
- Bethel College, Newton
- Friends University, Wichita
- Kansas Newman, Wichita
- McPherson College, McPherson
- Sterling College, Sterling
- Tabor College, Hillsboro



Hutchinson Community College

September 15, 1988

OFFICE OF THE PRESIDENT

L. Dale Stinson, Director
Reno County Economic Development Council
309 North Main
Hutchinson, KS 67501

Dear Dale:

Hutchinson Community College contracts with the Department of Corrections for a Basic Education Program, serving inmates grades 0 through 4; a Regular Education Program serving inmates grades 4 through 7.5; a General Education Development program serving grades 7.5 through 12; and a Support Education Program, providing assistance primarily for inmates age 21 who do not yet have a high school diploma or G.E.D. Additionally, 60 college courses are provided each year.

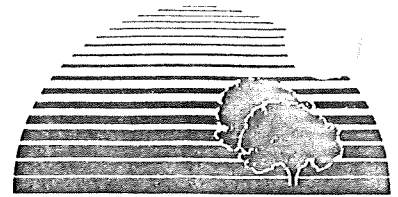
This year 7 inmates graduated with an associate degree from Hutchinson Community College and 190 inmates completed their G.E.D.

The KSIR-HCC Education Program has been recognized nationally as an exemplary program. The College has worked with the Department of Corrections in providing educational opportunities to inmates since 1973. HCC has the experience and the willingness to expand educational services as needed by the Department of Corrections and would welcome the opportunity to contract with the Department for any additional educational services needed.

Sincerely,

James H. Stringer
President

mm



Hutchinson Community College

September 15, 1988

Mr. Dale Stinson, Director
Reno County Economic Development
309 North Main
Hutchinson, Kansas 67501

Dear Mr. Stinson:

Hutchinson Community College has a commitment to serving the educational needs of the Kansas State Department of Corrections. The institution has established an exemplary education program at the Kansas State Industrial Reformatory which has been ranked as one of the top ten correctional education programs in the United States.

The program has produced over 2,000 GED graduates and nearly 100 Associate of Arts graduates since its inception in 1976. The statistic that is nearly invisible is the number of students that have improved literacy and computational skills and the number of inmates that have embarked on college careers because of their initiation to education at KSIR.

Hutchinson Community College has now been given the opportunity to create an education program at the Ellsworth Correctional Facility. The challenge of creating a duplicate of the KSIR program at Ellsworth in a very short time frame once again recognizes the ability of Hutchinson Community College to provide quality services to inmates. Hutchinson Community College has both the experience and willingness to provide educational services to Corrections which makes the expansion of prison facilities in Reno County a logical decision. Hutchinson Community College enthusiastically supports the location of additional correctional facilities in Reno County.

Sincerely,

Ed Berger
Dean of Continuing Education

EB/lrm

SUPPORT FOR CONSTRUCTION WORKERS

- A. AVAILABILITY OF HOUSING AND TYPES: As related in the previous section, a surplus of homes for sale exists in Reno County. Additionally, references to the daily newspaper show a considerable number of homes for rent. Also as indicated, some 1,400 apartments are in Hutchinson alone, with vacancies existing among the majority of the complexes. Of the vacant rentals, it appears a sufficient number would be in the lower priced market; which would perhaps provide temporary housing for construction. However, we would emphasize that a broad range of housing options exist.
- B. COST: In reviewing information from the local Board of Realtors, we find that costs would fall into the following ranges.
1. APARTMENT RENTALS:
 - A. One Bedroom \$150 to \$225 per month.
 - B. Two Bedroom \$225 to \$350 per month.
 - C. Three Bedroom \$350 to \$475 per month.
 2. HOUSING RENTALS: Basically the same as above, except for higher priced homes or townhouses.
- C. LOCATION AND DISTANCE: In addition to available housing in Hutchinson and Reno County, it should be pointed out that any construction activity in Hutchinson would undoubtedly draw workers that would not be seeking temporary housing. Workers could very well come from their own communities, such as in Harvey, McPherson and Sedgwick Counties, all within easy daily driving distance of Hutchinson.

COMMUNITY SUPPORT SERVICES AVAILABLE

A: FIRE PROTECTION AND DISTANCE FROM SITE: The City of Hutchinson which would provide fire protection to the proposed site, has 76 commissioned full time firemen. Equipment includes two ladder trucks and seven pumping units. The first station to respond to a call from the site, would most likely be at 11th and Halstead Streets, which is two miles from the site.

B: LOCAL LAW ENFORCEMENT AGENCIES: The City of Hutchinson has 53 sworn officers. Reno County Sheriff Department has 20 sheriff officers. Additional law enforcement would include five highway patrol personnel stationed in Hutchinson, and the Kansas Law Enforcement Training Center located near Hutchinson at the former airbase.

It would be appropriate at this point to note that the fire and police departments of the City and the Sheriffs department have all had experience in working with the Kansas State Industrial Reformatory. Knowledge and ability to provide security relative to a new prison would exist at the very outset.

RESTRICTIONS

- A. RESTRICTIONS: To the best of our knowledge there are not any restrictions in terms of codes, zoning, building, environmental, or covenants that would apply to this proposed site.

COLORADO GENERAL ASSEMBLY

Joint Budget Committee

SENATORS
Mike Bird, Chairman
Robert E. DeNier
Jim Rizzuto

200 E. 14TH AVENUE
LEGISLATIVE SERVICES BUILDING
DENVER, COLORADO 80203
303/866-2061

REPRESENTATIVES
Elwood Gillis, Vice Chairman
Tony Grampas
Richard R. Bond

April 12, 1989

Senator Wint Winter, Jr.
State Capitol, Room 120-5
Topeka, KS 66612-1594

Dear Senator Winter:

I am having a copy of the Rutgers Study and any other pertinent studies done by the Colorado Division of Criminal Justice sent to you.

Colorado's prison population continues to crowd our system and the local jails. For FY 1989-90 the Legislature has appropriated funds for continued double bunking and use of modulars in existing facilities. Funds have also been added to contract with local jails to house state prisoners at \$40.00 per day. An additional 61 beds have been added to community corrections programs.

Long range plans include a new 500 bed facility to be completed in 1991 as well as a new diagnostic center to hold 250 prisoners, also to be open in 1991.

In addition, a bill is near passing that creates a Criminal Justice Commission to study and make recommendations to the Legislature on sentencing guidelines, use of existing facilities, use of community corrections, and any other alternatives to continuing in the present emergency response mode.

I hope the information in the studies will assist you in dealing with this issue.

Sincerely,

Mike Bird
Mike Bird
Chairman

LET-CJ

ATTACHMENT 14
SWAM 4-21-89