

Approved February 6, 1990  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Michael R. O'Neal at  
Chairperson

3:30 ~~xxx~~/p.m. on January 29, 1990 in room 313-S of the Capitol.

All members were present except:

Representative Peterson, who was excused

Committee staff present:

Jerry Donaldson, Legislative Research Department

Jill Wolters, Revisor of Statutes Office

Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Ben Coates, Executive Director, Kansas Sentencing Commission

The Chairman announced Ben Coates would present a briefing on the progress of the Sentencing Commission.

Ben Coates, Executive Director, Kansas Sentencing Commission, informed the Committee the Kansas Sentencing Commission was created during the 1989 Legislative session through SB 50. SB 50 was the result of action taken by the Criminal Justice Coordinating Council. The Council felt that sentencing guidelines would encourage respect for the criminal justice system by providing equal and fair sentences for those who commit similar crimes. The Kansas Sentencing Commission is charged with the development of uniform sentencing guidelines that establish a range of presumptive sentences. The Commission has created subcommittees to address certain aspects of the guideline process. He said that 4,000 to 6,000 felony cases handed down during fiscal 1989 will be reviewed. The data will be collected from all 31 Judicial Districts. They will rank existing crimes by seriousness level; develop a criminal history scoring system; develop a detailed inventory of resources and construct a sentencing grid.

Mr. Coates submitted an Interim Report to the Legislature dated February 1, 1990, see Attachment I. A final report and recommended guidelines will be submitted to the Legislature at the beginning of the 1991 session.

**BILL REQUESTS:**

The Chairman explained a bill request from the Attorney General's office. The bill would amend 77-537 of the Kansas Administrative Procedures Act, regarding the scheduling of hearings.

A motion was made by Representative Solbach and seconded by Representative Whiteman to introduce the bill requested by the Attorney General's office. The motion passed.

The Chairman also explained a bill request from the County Counselor of McPherson County. The County Counselor would like the responsibility for the operation of the prosecutor's training fund to be with the County Commissioners instead of the County Treasurer. This would be a McPherson County bill only and would not have uniform application.

Representative Solbach moved to introduce the legislation requested by the McPherson County Counselor as a Committee bill. Representative Lawrence seconded the motion. The motion passed.

The Chairman announced the Committee may consider taking action on HB 2059, HB 2067, HB 2375, HB 2601, HB 2644 and HB 2643 at the Committee meeting Tuesday, January 30, 1990 if time allows.

The Committee meeting adjourned at 4:40 p.m. The next meeting will be Tuesday, January 30, 1990 at 3:30 p.m. in room 519-S.





# KANSAS SENTENCING COMMISSION



## Interim Report to the Legislature

February 1, 1990

# Draft

*1/29/90  
H. J. Com*

*Attachment 1*

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*1/29/90*  
*H. Jud Com.*  
*Att I*

## INTRODUCTION

The Kansas Sentencing Commission was created during the 1989 legislative session through Senate Bill 50. This bill came about as a result of action taken by the Criminal Justice Coordinating Council. The Council felt that sentencing guidelines would encourage respect for the criminal justice system by providing equal and fair sentences for those who commit similar crimes.

The Sentencing Commission is responsible for the development of sentencing guidelines that will serve a number of purposes. Those purposes include:

- o Appropriate sentencing for crimes against persons and property
- o Appropriate presumptive probation and presumptive incarceration wherein individuals will be presumed to be incarcerated in the absence of findings of mitigation or aggravation.
- o Appropriate mandatory probation and mandatory incarceration
- o Minimize sentencing disparity which may presently exist relating to racial or regional biases
- o Advisability of use of good time credits in regard to parole or conditional release
- o Projected role, of the Kansas Parole Board
- o Consideration of current sentencing and release practices and correctional resources

The Sentencing Commission is to submit an interim report to the Legislature by February 1, 1990. A final report and recommended guidelines are to be submitted at the beginning of the 1991 session.

1/29/90  
H. Jud. Com.

Att I

**KANSAS SENTENCING COMMISSION  
MEMBERSHIP**

Attorney General

Robert T. Stephan, Chairperson, Topeka

Chief Justice or Designee

Judge Gary Rulon, Kansas Court of Appeals, Vice Chairperson, Topeka

Secretary of Corrections or Designee

Steven J. Davies, Ph.D., Secretary of Corrections, Topeka

Parole Board Chairperson or Designee

Carla Stovall, Kansas Parole Board Vice-Chairperson, Topeka

Appointments by the Chief Justice

Judge James M. Macnish, Jr., Third Judicial District, Topeka

Judge Richard B. Walker, Ninth Judicial District, Newton

Gary L. Marsh, Court Services Officer, Emporia

Appointments by the Governor

Jillian Waesche, Public Defender, Wichita

Shelley Bloomer, Private Defense Counsel, Osborne

Paul Morrison, Johnson County District Attorney, Olathe

Allen Flowers, Chief of Police, Coffeyville

Dave Meneley, Detective, Topeka

John Burchill, Community Corrections Program Director, Salina

Appointments by the Senate President and the Minority Leader, and the Speaker of the House and the Minority Leader, serve ex officio, without vote

Senator Jerry Moran, Thirty-Seventh District, Hays

Senator Frank Gaines, Sixteenth District, Augusta

Representative Martha Jenkins, Forty-Second District,  
Leavenworth

Representative Kathleen Sebelius, Fifty-Sixth District,  
Topeka

## COMMISSION MEETING SUMMARY

The Commission held its first meeting August 21, 1989 and decided to meet the second and fourth Monday of each month. The Commission later decided to meet the second and fourth Friday when the Legislature is in session and to revert back to the Monday format the rest of the year.

The Commission staff offices are located in Suite 501 of the Jayhawk Towers. All Commission meetings are held in the Senate Room of the Jayhawk Towers. The meeting dates for 1990 are listed below.

January 12	July 9
January 26	July 23
February 9	August 13
February 23	August 27
March 9	September 10
March 23	September 24
April 13	October 8
April 27	October 22
May 14	November 26
June 11	December 10
June 25	

The following summary provides a brief overview of Commission meetings held:

### August 21, 1989

The first meeting was called by the Chairman Attorney General Robert T. Stephan. The primary purpose was to organize the Commission and to hear from those involved in the development of the Commission, as well as, from stakeholders in the Kansas criminal justice system.

### September 11, 1989

The major purpose of the meeting was to interview and hire an Executive Director. Ben Coates, former Chief of Staff from Social and Rehabilitation Services was chosen. The Commission also toured several Kansas Department of Correction facilities.

### September 25, 1989

Kay Knapp, Director of the Institute for Rational Public Policy, and former Director of the Minnesota Sentencing Commission, provided an overview of problems and strategies. Ms. Knapp advised the Commission to adopt a goal statement before getting underway in other activities. Ben Coates began his duties and was given permission to locate office space and hire a staff.

October 5-8, 1989

Four commission members and the Executive Director attended a structured sentencing workshop - The workshop was attended by participants from nine states engaged in various levels of sentencing guidelines development. Kansas made a presentation on Senate Bill 50.

October 9, 1989

Matt Lynch, from the Kansas Judicial Council provided an overview of the status of the work of the Council's Criminal Law Advisory Committee. Commission members were asked to develop a list of goals and objectives, for the next meeting. They were also asked to indicate what subcommittees they would like to see formed and serve on.

October 23, 1989

The Commission reviewed goal statements and tentatively adopted them. Subcommittees were established to work on data collection, crime seriousness and criminal history.

November 13, 1989

Commission staff were introduced. The Criminal History subcommittee announced a series of public hearings. A formal goal statement was adopted.

December 11, 1989

The Commission heard from Kathleen Bogan, Executive Director of the Oregon Sentencing Commission. Ms. Bogan provided an overview of the development of the Oregon guidelines which took effect November 1, 1989. The Kansas Parole Board made a presentation and reviewed the duties of the board. They also spoke about proposed future roles. The Kansas Department of Corrections provided a historical overview of good time practices.

January 12, 1990

The Commission reviewed and tentatively adopted a data collection format. The form will serve as a template for gathering data from field records in each judicial district. There was a review of good time and parole practices in 10 states that have implemented guidelines or some form of determinate sentencing.

January 17 - 19, 1990

The Executive Director and a staff member traveled to Minnesota to gather information from the guidelines staff and Commission. They interviewed staff, a district judge, a probation officer, and a prosecutor. They also attended a Commission meeting.



January 26, 1990

The Commission adopted the severity principles recommended by the Crime Seriousness Subcommittee. They approved the introduction of legislation to allow data collection efforts to occur, and approved the report to the 1990 Legislature. The Commission adopted a policy statement limiting their scope the felony convictions.

## MISSION AND GOAL STATEMENT

The Commission adopted a formal mission and goal statement during their November 13, 1989 meeting. This statement was the product of several previous discussions and is intended to provide a set of guiding principles for future decisions.

The statement adopted is provided below. It should be noted that the order of presentation of the goals does not indicate priority, all goals were held to be of equal importance.

### **Mission Statement**

The Kansas Sentencing Commission is charged with the development of uniform sentencing guidelines that establish a range of presumptive sentences. These sentences will be based on the assumptions that:

- o Incarceration should be reserved for serious offenders;
- o The primary purposes of a prison sentence are incapacitation and punishment.

### **Goals**

- o To develop a set of guidelines that promote public safety by incarcerating violent offenders;
- o To reduce sentence disparity to ensure the elimination of any racial, geographical or other bias that may exist;
- o To establish sentences that are proportional to the seriousness of the offense and the degree of injury to the victim;
- o To establish a range of easy to understand presumptive sentences that will promote "truth in sentencing;"
- o To provide state and local correctional authorities with information to assist with population management options and program coordination;
- o To provide policy makers information that will enhance decisions regarding resource allocations.

## COMMISSION'S ONGOING ACTIVITIES

The Commission has created subcommittees to address certain aspects of the guideline development process. These subcommittees are each assigned a staff person and pursue topics as assigned by the chair. A topic is undertaken and initial recommendations are formed. The recommendations are brought to the full Commission for approval and/or modification. Subcommittees are currently pursuing the following areas.

### Data Collection

The Commission must undertake a large data collection effort to have the ability to accurately forecast the impact of proposed sentencing guidelines. The database collected will provide information on current sentencing practices and indicate what factors seem to drive current practices. It should provide an empirical assessment of any racial and geographical disparities. Most importantly, it will provide a database to check the system impact of any changes to current practices.

The data subcommittee reviewed data collection instruments from several other states, but paid particular attention to Oregon's recent effort. The data subcommittee made the following recommendations:

- o gather data on recent convictions to develop a database;
- o all 31 Judicial Districts should be represented;
- o develop a data collection instrument similar to the one used by Oregon;

The Commission reviewed a proposed data collection instrument during their January 12, 1990 meeting, and made final recommendations. This instrument is being field tested and once final corrections are made, will be used in the data collection effort. Much of the data resides in existing data bases. Hopefully, the major portion of data on persons sent to the Department of Corrections will be readily available via a computer transfer. The rest of the data will be collected by teams of data collectors during the next several months. (The most recent version of the proposed data collection instrument can be found in Appendix A).

The Commission has established a rather sophisticated data management system that will maximize machine effort. (an overview of the actual equipment is included in Appendix B).

## Crime Seriousness/Criminal History

Most existing guideline systems assume that there are two major elements that go into deciding a sentence: the seriousness of the offense and the criminal history of the offender. Therefore the Commission has developed subcommittees to address each of these topics. The most frequent conceptualization of these two items is represented in a grid format. The grid assumes that all crimes will be assigned a seriousness ranking or score, and this involves developing a scheme to rank order crimes. This becomes known as the crime seriousness axis. The other axis is the criminal history score, which is made up of weighted factors related to the specific history of an individual offender. The criminal history score should not be related to demographic or socioeconomic factors. There is also the assumption that some cells within the grid should presume specified periods of imprisonment and others should presume probation or some form of community sanction. An example of a "typical" grid is provided in Exhibit A. A real grid would have presumptive ranges of sentences included in each cell.

See Exhibit "A"  
Sample Grid,  
next page

# Exhibit A

## Sample Sentencing Grid

Crime Severity Level	Criminal History Score					
	F	E	D	C	B	A
<b>LEVEL 1</b>						
<b>LEVEL 2</b>	<b>Incarceration</b>					
<b>LEVEL 3</b>						
<b>LEVEL 4</b>						
<b>LEVEL 5</b>						
<b>LEVEL 6</b>						
<b>LEVEL 7</b>						
<b>LEVEL 8</b>						
<b>LEVEL 9</b>			<b>Presumptive Probation</b>			
<b>LEVEL 10</b>						

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The crime seriousness subcommittee reviewed the work of several states and came to the following conclusions:

- o The number of classifications of crime should be expanded from the current five levels of felonies.
- o A set of guiding severity principles should be developed and adopted.

These principles should provide a frame of reference to rank order the existing felony offenses.

- o A separate grid for drug offenses may be advisable. This area is highly volatile and may offer some unique sentencing challenges.

To date, the subcommittee has developed the following recommendations:

- 1) There are currently five levels of felony classifications. The subcommittee recommends that the number of felony classifications be expanded to ten. This will provide sufficient range to distinguish between varying levels of crime seriousness. This recommendation is in line with the actions taken by other states.
- 2) The subcommittee reviewed severity principles already in effect in other jurisdictions (most notably, the state of Oregon), and developed the following working principles which were adopted by the full Commission during the January 26, 1990 meeting:
  - a. The primary determinant of crime severity is the harm produced by the criminal conduct. Harm is defined as the actual damage or threat of damage to the societal interests protected by the criminal statute.
  - b. Factors indicating the culpability of the offender should be considered primarily when assessing aggravating and mitigating circumstances.
  - c. Different societal interests have different weights with respect to assessing crime severity:
    1. Society's greatest interest is to protect the individual from physical and emotional injury.
    2. The second most important societal interest is to protect private and public property rights.
    3. The third set of societal interests identified by the subcommittee was to protect/preserve the integrity of governmental institutions, public peace and public morals.

The criminal history subcommittee is working to develop a weighted scale that will indicate the level of past criminal activity that should be counted when determining a sentence. There are a variety of concerns in this area. There is general agreement that socio-economic and demographic factors should not be considered. The subcommittee scheduled a series of public hearings on a statewide basis to gather input. The public was invited to come and tell the subcommittee what factors they thought should be considered. Key actors in the criminal justice system were notified and asked to testify in person or to provide written comments. Public hearings were scheduled as follows:

Pittsburg  
December 7, 1989

Wichita  
December 14, 1989

Topeka  
January 12, 1990

Hays  
February 8, 1990

Garden City  
February 8, 1990

The public hearings focused on several issues namely:

- o What factors should be measured in the scoring process?
- o Are there factors that should not be included in the scoring process?
- o Should prior criminal records be based on arrests, convictions or incarceration?
- o Should misdemeanors be considered?
- o Should all prior misdemeanors and felonies be taken into account, or should they be "forgiven" after a period of time? If they are "forgiven" should all offenses have the same time period?
- o Should prior juvenile adjudications be considered? If so, should all adjudications be considered or just those that would have been felonies if committed by an adult? Should there be a time limit on how long these juvenile convictions will continue to be considered?

- o Should all prior convictions have equal weight, or should there be a differential built in based upon the seriousness of the current offense compared to the seriousness of prior offenses?
- o Should status at the time of conviction be taken into account? Should a distinction be made if someone is already on probation or parole from another conviction?

There have been 13 formal presentations at these hearings, plus several individuals asked questions about the purpose of sentencing guidelines. The subcommittee has also received written comments from 24 individuals.

Many people have experienced concerns that child abuse or spouse abuse be given serious consideration. Many individuals who have commented have experienced personal tragedies and are representing victims organizations.

Once the public hearing period is over, the subcommittee will begin to develop a series of recommendations to address these issues. The criminal history portion of the grid is difficult to construct, many items are difficult to quantify and each decision has a large impact on prison resources.



## FUTURE ISSUES

The Commission is well underway; however, there are a series of difficult tasks to be completed and challenging decisions to be made. These will have a powerful effect on future criminal justice policy. It is not possible to change one part of the system without impacting several others. These decisions will impact a variety of actors and may well shift demands for resources. This effort must be closely coordinated and most segments of the criminal justice community are represented on the Commission. The Commission is deeply committed to involving the public in its deliberations and will continue to keep all interested persons or groups informed as decisions are made. Once a working model is developed, the full Commission will hold a series of public hearings. The public will be invited to comment and to make suggestions for changes.

**Persons interested in providing input  
into this process should contact:**

**Ben Coates  
Executive Director  
Suite 501  
700 Jackson  
Topeka, Kansas 66603  
913-296-0923**

The following segment provides an overview of tasks that must be completed and decisions that must be made before a working model can be developed.

### **Tasks to be Completed**

- o Develop database - staff must collect and analyze data on several thousand recent convictions. This will require an intensive effort since data will be collected from every judicial district. Much of the effort will require teams to go on site and glean information from court files. This labor intensive effort will be supplemented by an analysis of existing data using the Commission's data management resources. - Estimated completion date August 1990.
- o Rank existing crimes by seriousness level - The crime seriousness subcommittee must rank all existing felony crimes using the severity principles. These rankings must be reviewed and approved by the full Commission. Estimated completion date June 1990.

- o Develop criminal history scoring system - The subcommittee must finish the public hearings and analyze the input received to decide what should be included. Once a scoring process is developed it must be matched with the seriousness ranking axis. There are a series of decisions regarding what will be considered and how much weight will each receive. These decisions will be brought to the full Commission for final approval. Estimated completion date, June 1990.
- o Develop a detailed inventory of resources - Resource information on available prison, jail, community corrections, probation and parole resources will be developed. Community treatment resources will also be analyzed. Estimated date of completion May 1990.
- o Construct a grid - The products of the crime seriousness rankings and the criminal history scores must be meshed. Each cell must be assigned a value and a series of options developed. These options must be tested against the database to assess their impact on current resources. Estimated completion date, November 1990.

### **Decisions That Must be Made**

- o Future role of parole board - The Commission must develop recommendations for how release procedures will be handled. There are likely to be more than one set of release procedures in place after the implementation of the guidelines. One set for current sentences and one for post guideline ones. The Commission has looked at how other states have handled this situation, a review of how ten states that adopted structured sentencing practices is included in appendix C.
- o Future role of good time - Like parole this is an area where some decisions must be made. There are powerful arguments pro and con and almost an infinite number of possible good time frameworks. A review of good time in ten states that have adopted structured sentencing policies is included in appendix C.
- o Future role of Court Services Officers and possible modification to the existing presentence report form.
- o How to handle concurrent and consecutive sentences, as well as, existing mandatory imprisonment or probation policies.
- o How to handle drug crimes, will they require a separate grid?
- o How to handle departures from the grid. In most state departures are appealable. If this practice is put in place in Kansas, standards for appeal and appellate procedures must be developed.
- o Future role of sentence modifications due to Kansas Department of Corrections State Diagnostic Reception Center evaluations.
- o How to monitor compliance with the guidelines.

Appendix A

# KANSAS SENTENCING COMMISSION

## Data Collection Form

1. Defendant Name \_\_\_\_\_  
(Last, First, MI)

2. Case Number \_\_\_\_\_

3. County of Conviction \_\_\_\_\_ Judicial District \_\_\_\_\_

4. Sentencing Judge (I.D.#) \_\_\_\_\_

5. Date of Arraignment (MM/DD/YY) \_\_\_\_/\_\_\_\_/\_\_\_\_

6. Date of Conviction (MM/DD/YY) \_\_\_\_/\_\_\_\_/\_\_\_\_

7. Date of Sentencing (MM/DD/YY) \_\_\_\_/\_\_\_\_/\_\_\_\_

8 A. Original Offenses (List up to 5 beginning with most serious offense. List crimes against persons before crimes against property.)

_____	_____	_____	_____	____/____/____
_____	_____	_____	_____	____/____/____
_____	_____	_____	_____	____/____/____
_____	_____	_____	_____	____/____/____
_____	_____	_____	_____	____/____/____

List total number of different statutory original offenses if more than five. \_\_\_\_\_

8 B. Conviction Offenses (List up to 5 beginning with most serious offense. List crimes against persons before crimes against property.)

K.S.A. Statute Number	Class A-E	Number of Counts	A=Attempt S=Solicitation C=Conspiracy	Sentence Received MIN MAX	
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

List total number of different statutory conviction offenses if more than five. \_\_\_\_\_

9. Detainer filed (in-state or out-of-state) \_\_\_\_\_

- 1.) Yes      2.) No      99.) Missing/don't know

10. Basis for conviction (i.e. finding of guilt) \_\_\_\_\_

- 1) Plead guilty as charged      5) No Contest  
2) Negotiated plea      97) Other \_\_\_\_\_  
3) Jury trial      99) Missing/don't know  
4) Bench trial

11. Type of legal representation \_\_\_\_\_

- 1) Representing self      4) Private counsel  
2) Public Defender      5) Represented, type unknown  
3) Other court appointed counsel      99) Missing/don't know

12. Offender's liberty status at time of sentencing \_\_\_\_\_

- 1) Free, OR Bond      4) Incarcerated  
2) Free, on security      5) Absconded/Failure to Appear  
3) Conditional or other release      99) Missing/don't know

13. Specify minimum length of sentence to be served \_\_\_\_\_ (Year(s))

14. Specify maximum length of sentence to be served \_\_\_\_\_ (Year(s))

15. Type of Primary Sentence at date of Sentencing \_\_\_\_\_

- 1) Prison  
2) Probation with prison sentence suspended  
3) Probation from prison term  
4) Jail with Probation  
97) Other -- Specify \_\_\_\_\_  
99) Missing/Unknown

16. If incarceration in jail is part of probation, specify length:

\_\_\_\_\_ (Days/Year)

17. If probation is granted, specify length of probation:

\_\_\_\_\_ (Month(s)/Year(s))

18. If probation, specify type: \_\_\_\_\_

- 1) Court Services Officer      97) Other \_\_\_\_\_  
2) Community Corrections      98) N/A, no probation imposed  
3) Unsupervised probation      99) Missing/Unknown

18A. If probation, was probation due to 120 day modification? \_\_\_\_\_

- 1.) Yes      2.) No      99.) Missing/don't know

19. If more than one term of incarceration is imposed at this sentencing, specify terms:

- |                               |                                    |
|-------------------------------|------------------------------------|
| 1) Concurrent                 | 4) Unclear from avail. information |
| 2) Consecutive                | 98) Not Applicable                 |
| 3) Concurrent and Consecutive | 99) Missing/don't know             |

19A. Sentenced under Mandatory Consecutive Act? \_\_\_\_\_

- 1.) Yes      2.) No      99.) Missing/don't know

19B. Was sentence \_\_\_\_\_

- 1.) Doubled      2.) Tripled      98.) N/A      99.) Missing/don't know

20. Special sentencing provisions: \_\_\_\_\_

- |                          |                         |
|--------------------------|-------------------------|
| 0) None                  | 4) Presumptive Sentence |
| 1) Habitual Criminal Act | 99) Missing/Unknown     |
| 2) Mandatory Firearm Act |                         |
| 3) Both 2 & 3            |                         |

21. How is this sentence to be served in conjunction with a sentence received previously? \_\_\_\_\_

- |                |                                      |
|----------------|--------------------------------------|
| 1) Concurrent  | 4) Unclear from avail. information   |
| 2) Consecutive | 98) N/A, no prior sent. being served |
| 3) Both 1 & 2  | 99) Missing/Unknown                  |

22. Other dispositions: 1=Yes 2=No 99=Missing

- |                          |        |                        |       |
|--------------------------|--------|------------------------|-------|
| A) Restitution           | 1 2 99 | If yes, amount (\$)    | _____ |
| B) Fine                  | 1 2 99 | If yes, amount (\$)    | _____ |
| C) 1 Attorney Fees       | 1 2 99 | If Yes, amount (\$)    | _____ |
| 2 Supervision Fee        | 1 2 99 | If Yes, amount (\$)    | _____ |
| 3 Other Fees             | 1 2 99 | If yes, amount (\$)    | _____ |
| D) Community Service     | 1 2 99 | If yes, amount (hours) | _____ |
| E) Drug Treat./Eval      | 1 2 99 |                        |       |
| F) Alcohol Treat./Eval   | 1 2 99 |                        |       |
| G) Urinalysis            | 1 2 99 |                        |       |
| H) Blood/breath testing  | 1 2 99 |                        |       |
| I) Antabuse              | 1 2 99 |                        |       |
| J) Mental Health Eval.   | 1 2 99 |                        |       |
| K) Mental Health Treat.  | 1 2 99 |                        |       |
| L) Education Program     | 1 2 99 |                        |       |
| P) Abstain From Alc/drug | 1 2 99 |                        |       |
| Q) Medical Treatment     | 1 2 99 |                        |       |
| R) No contact w/victim   | 1 2 99 |                        |       |
| S) Other _____           | 97     |                        |       |

**OFFENDER DEMOGRAPHICS**

22. Sex \_\_\_\_\_ 1) Male 2) Female 99) Missing/don't know

23. Race \_\_\_\_\_  
1) Caucasian 4) Hispanic 99) Missing  
2) Black 5) Oriental/Asian  
3) Native American Indian 97) Other \_\_\_\_\_

24. Citizenship \_\_\_\_\_  
1.) USA 4.) Illegal alien  
2.) Foreign National on work permit 99.) Missing/don't know  
3.) Foreign National on tourist visa

25. Birth date (MM/DD/YY) \_\_\_ / \_\_\_ / \_\_\_

26. Marital Status (at time of offense) \_\_\_\_\_  
1) Single, never married 5) Cohabiting  
2) Married, and living together 6) Divorced  
3) Separated 7) Widowed  
4) Separation, legal 99) Missing/don't know

27. Highest grade completed \_\_\_\_\_  
1) High school, did not graduate  
2) High school/GED graduate  
3) Some undergraduate/vocational work, no degree  
4) College graduate or above  
98) Not applicable, offender never attended school  
99) Missing/don't know

28. A. Employment status at arrest \_\_\_\_\_  
B. Employment status at sentencing \_\_\_\_\_  
1) Unemployed  
2) Unemployed, with compensation  
3) Employed, less than full time  
4) Employed, full time  
5) Employed, time unknown  
6) Incarcerated  
7) Not available for employment (e.g. retired, housewife, health problems, student)  
99) Missing/don't know

29. Offender's history of alcohol use: \_\_\_\_\_  
0) None 2) Heavy  
1) Light to moderate 99) Missing/ don't know

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30. Offender's history of drug use: \_\_\_\_\_

- |                      |                        |
|----------------------|------------------------|
| 0) None              | 3) Heavy               |
| 1) Light to moderate | 99) Missing/don't know |

31. Drug of primary use: \_\_\_\_\_

- |                           |                                |
|---------------------------|--------------------------------|
| 1) Heroin                 | 10) Inhalants                  |
| 2) Other narcotics        | 11) Marijuana/Cannabis         |
| 3) Related analgesics     | 12) Hallucinogens              |
| 4) Cocaine                | 13) Related hallucinogens      |
| 5) Crack                  | 14) Prescription drug misuse   |
| 6) Amphetamines           | 15) Multiple drugs, list _____ |
| 7) Barbiturates/sedatives | 97) Other, list _____          |
| 8) Minor tranquilizers    | 98) Not applicable             |
| 9) Major tranquilizers    | 99) Missing/don't know         |

32. Defendant's liberty status at time of alleged offense \_\_\_\_\_

- 1) Free (i.e. under no form of criminal justice control)
- 2) Free on security release (bail), other criminal actions pending
- 3) OR'd, other criminal actions pending
- 4) Probation
- 5) Parole
- 6) Probation and Parole
- 7) Incarcerated
- 8) Temporary Leave
- 9) Escape status
- 10.) Diversion
- 97) Other, specify \_\_\_\_\_
- 99) Missing/don't know

33. Role of defendant in the offense \_\_\_\_\_

- 1) Acted alone
- 2) Leader
- 3) Accomplice/equal involvement
- 4) Accessory/peripheral or minor role
- 99) missing/don't know

34. A. Weapon use \_\_\_\_\_

- 0) None
- 2) Feigned weapon
- 3) Weapon used by co-defendant or accomplice
- 4) Weapon in offender's possession but not used
- 5) weapon used to threaten victim, bystander, or police
- 6) Weapon used in attempt to injure victim
- 7) Weapon used to injure victim
- 8) Weapon used resulting in death of victim
- 9) Weapon use unclear
- 99) Missing/don't know



34 B. Weapon type \_\_\_\_\_

- 1) Feigned weapon
- 2) Blunt instrument
- 3) Knife/sharp instrument
- 4) Sawed off shotgun
- 5) Hand gun
- 6) Long gun (e.g., rifle)
- 7) Machine gun
- 97) Other weapon, list: \_\_\_\_\_
- 98) Not applicable, no weapon involved
- 99) Missing/don't know

35. Drug use at the time of the offense \_\_\_\_\_

- 0) None
- 1) Light to moderate
- 2) Heavy
- 99) Missing/don't know

36. Alcohol use at the time of the offense \_\_\_\_\_

- 0) None
- 1) Light to moderate
- 2) Heavy
- 99) Missing/don't know

37. Does the offense involve a crime against a person? \_\_\_\_\_

- 1) Yes
- 2) No

38. Most serious physical injury of victim \_\_\_\_\_

- 1) Injury requiring no treatment
- 2) Injury requiring emergency treatment, nothing more
- 3) Injury requiring hospitalization
- 4) Injury resulting in permanent disability
- 5) Death
- 6) Personal/emotional injury
- 98) Not applicable/not a crime against the person
- 99) Missing/don't know

39. Circumstances of physical injury \_\_\_\_\_

- 1) Physical injury was deliberate end in itself
- 2) Physical injury was deliberate means to another end
- 3) Physical injury was accidental means to another end
- 4) Accidental end
- 98) Not applicable/not a crime against the person
- 99) Missing/don't know

40. Victim relationship to offender \_\_\_\_\_

- 1) Spouse
- 2) Ex-spouse
- 3) Significant other
- 4) Child
- 5) Parent
- 6) Sibling
- 7) Step-child
- 8) Other family relative
- 9) Friend
- 10) Employer/employee
- 11) Casual acquaintance
- 12) Stranger
- 13) Criminal Justice Official
- 97) Other \_\_\_\_\_
- 98) Not applicable
- 99) Missing/don't know

41. Victim's age \_\_\_\_\_

1) Under 18

2) 18-55

3) 55+

42. Victim's Race \_\_\_\_\_

1) Caucasian

2) Black

3) Native American Indian

4) Hispanic

5) Oriental/Asian

97) Other \_\_\_\_\_

99) Missing

43. Victim's sex \_\_\_\_\_

1) Male

2) Female

98) Not applicable/no victim

99) Missing/don't know

44. Does the offense involve a crime against property? \_\_\_\_\_

1) Yes

2) No

45. Type of property crime victim \_\_\_\_\_

1) Personal victim known to offender

2) Personal victim unknown to offender

3) Business victim; employer/employee relationship

4) Business victim; no employer/employee relationship

5) Government or state institution

6) Non profit organization (churches, charitable institutions)

97) Other institutions not mentioned above; List \_\_\_\_\_

98) Not applicable/not a property crime

99) Missing/don't know

46. Estimated value of property stolen and/or damaged \_\_\_\_\_

1) Financial loss of less than \$ 500

2) Financial loss \$500 to \$50,000

3) Financial loss of \$50,000 or more

98) Not applicable/not a property crime

99) Missing/don't know

47. Is the offense a drug crime? \_\_\_\_\_

1) Yes

2) No

99) Missing/don't know

48. Primary drug substance involved in offense \_\_\_\_\_

1) Heroin

2) Other narcotics

3) Related analgesics

4) Cocaine

5) Crack

6) Amphetamines

7) Barbiturates/sedatives

8) Minor tranquilizers

9) Major tranquilizers

10) Inhalants

11) Marijuana/Cannabis

12) Hallucinogens

13) Related hallucinogens

14) Prescription drug misuse

15) Multiple drugs, list \_\_\_\_\_

97) Other, list \_\_\_\_\_

98) Not applicable

99) Missing/don't know

**CRIMINAL HISTORY**

49. Has offender ever been declared Child In Need Of Care \_\_\_\_\_  
1.) Yes      2.) No      99.) Missing/don't know

50. Age at first juvenile offender adjudication \_\_\_\_\_  
0) None  
1) Under age 10  
2) 10- 15  
3) 16 - 18  
4) Adjudication occurred, unable to ascertain age  
5) Juvenile record not mentioned in PSI  
99) Missing/don't know

51. Total number of prior juvenile offender Misdemeanor adjudications \_\_\_\_\_  
0) None  
1) Adjudications occurred, unable to determine number  
2) Juvenile record not mentioned in Pre-Sentence Investigation  
99) Missing/don't know

52. Total number of prior juvenile Felony adjudications \_\_\_\_\_  
0) None  
1) Adjudications occurred, unable to determine number  
2) Juvenile record not mentioned in Pre-Sentence Investigation  
99) Missing/don't know

53 A. Total number of prior juvenile out-of-home placements following adjudications  
(include foster care, group home, state youth center, etc.) \_\_\_\_\_

53 B. Did the juvenile go to the State Youth Center? \_\_\_\_\_  
1) Yes  
2) No  
99) Missing/don't know

54. Age at first adult conviction (exclude present offense) \_\_\_\_\_  
0) No prior adult convictions  
96) Convictions noted, age unspecified  
99) Missing/don't know

55. If subject to waiver was waiver \_\_\_\_\_  
1) Automatic  
2) Court Order  
99) Missing/don't know

56. Total number of prior adult criminal felony convictions \_\_\_\_\_

- 0) None
- 1) 1- 3
- 2) 3- 6

57. Total number of prior adult misdemeanor convictions \_\_\_\_\_

- 0) None
- 1) 1- 3
- 2) 3- 6

58. Most recent prior adult felony convictions (list up to 10, start with most current)

K.S.A. Statute Number	Class A-E	Number of Counts	A=Attempt S=Solicitation C=Conspiracy	Date of Conviction
-----	-----	-----	-----	___/___/___
-----	-----	-----	-----	___/___/___
-----	-----	-----	-----	___/___/___
-----	-----	-----	-----	___/___/___
-----	-----	-----	-----	___/___/___
-----	-----	-----	-----	___/___/___
-----	-----	-----	-----	___/___/___
-----	-----	-----	-----	___/___/___
-----	-----	-----	-----	___/___/___
-----	-----	-----	-----	___/___/___

59. Total number of prior adult felony convictions \_\_\_\_\_

60. Has adult probation been granted resulting from prior adult convictions \_\_\_\_\_

- 1) Yes
- 2) No
- 99) Missing/don't know

61. Have there been prior adult probation revocations \_\_\_\_\_

- 1) Yes
- 2) No
- 99) Missing/don't know

62. Have there been prior adult Jail terms resulting from prior adult convictions \_\_\_\_\_

- 1) Yes
- 2) No
- 99) Missing/don't know

63. Have there been prior adult Prison terms resulting from prior adult convictions \_\_\_\_\_

- 1) Yes
- 2) No
- 99) Missing/don't know

64. Has adult parole been granted resulting from prior adult convictions \_\_\_\_\_

- 1) Yes
- 2) No
- 99) Missing/don't know

65. Have there been prior adult parole revocations \_\_\_\_\_

- 1) Yes
- 2) No
- 99) Missing/don't know

Appendix B

## KANSAS SENTENCING COMMISSION Data Collection/Processing Capabilities

The Kansas Sentencing Commission computer system was designed to produce the most computing capability for the least expenditure. To this end, it was determined that a six-node peer-to-peer network of IBM™-compatible personal computers would be both effective and cost-efficient.

### Server and Workstations

The system consists of one server and five workstations as follows:

Server: (1)

IBM™ AT™ compatible with 1 MB (million bytes) RAM  
(random access memory) and 330 MB mass-storage

Desktop Publishing/Primary workstation: (1)

IBM™ AT™ compatible with 5 MB RAM, 120 MB mass-storage and  
network access

Numerical/Database workstation: (2)

IBM™ AT™ compatible with 1 MB RAM, 20 MB local  
mass-storage and network access

Word Processing workstation: (2)

IBM™ XT™ compatible with 640 KB (thousand bytes), 20 MB local  
mass-storage and network access

### Hard Copy Output

Hard copy output devices are attached to the network and/or locally as to allow access to all components of the network by all users.

Hard copy output devices are as follows:

- 1 - Dual function typewriter/daisy wheel computer printer
- 1 - Narrow carriage dot matrix personal printer
- 1 - Wide carriage high speed dot matrix printer
- 1 - 6 page per minute laser printer with PostScript™ capability
- 1 - Color Ink-Jet printer

### Data Collection

Data collection devices have been planned and acquired so as to facilitate the smoothest possible transfer of data from existing sources, as well as providing a means to reduce manual data entry requirements to a minimum.

Data Collection devices are as follows:

- 1 - 9 track reel-to-reel tape drive capable of reading any format tape including EBCDIC, ASCII, ANSI/ISO/IBM labeled, unlabeled, fixed or variable length records and can translate all of the above into a format that can be used directly by the PC.
  
- 1 - Full page scanner with OCR (optical character recognition) capability. Capable of reading a full page (8.5" x 11") of typewritten information directly into main computer memory with as high as a 99.9% accuracy.

### Security

Much of the data to be handled by the Kansas Sentencing Commission will be of a confidential nature. Due to this confidentiality, this data will be physically held on a secure machine with hardware-base password protection as well as software encryption. No outside communication devices (i.e. modems, FAX, etc.) will be connected to this machine. At present, there are no plans to connect this system to any other systems outside of the Kansas Sentencing Commission.



Appendix C

**CURRENT PAROLE AND GOOD TIME PRACTICES IN TEN STATES THAT HAVE ADOPTED  
GUIDELINES OR SOME FORM OF DETERMINATE SENTENCING.**

**CALIFORNIA** - passed a determinate sentencing law in 1978.

Parole Board - No post sentence jurisdiction for inmates sentenced after 1978 except for those with a life sentence. The Board retained authority over parole violators. All released felons have three years of supervised release.

Good time - There are two levels of good time: day for day if involved in active programing and one day for each three days in they are well behaved, but not involved in programs.

**OREGON** - guidelines will become effective November 1, 1990

Parole Board - The Board will continue to release persons sentenced before the guidelines become effective. They will be responsible for revocations as well as approval of release plans. The current thinking is that the Board will be reduced in size after two years due to their decreased workload.

Good time - The inmate can earn up to 20 percent earned credit.

**WASHINGTON STATE** - Guidelines became effective in 1981

Parole Board - The Board was phased out after the majority of "old sentence" inmates were released. They have reinstated a one year release supervision, but revocations are handled by the Department of Corrections.

Good time - One third good time for all except sex offenders, they are limited to 15 percent of their sentence.

**NEW MEXICO** - currently looking at guidelines, but they became a determinate sentence state in 1979.

Parole Board - They have no release role for the post 1979 sentences. They do handle revocations and establish mandatory supervision conditions (one or two years for all crimes except life then its five years).

Good time - Good time was retained at a day for day.

**CURRENT PAROLE AND GOOD TIME PRACTICES IN TEN STATES THAT HAVE ADOPTED  
GUIDELINES OR SOME FORM OF DETERMINATE SENTENCING.**

**TENNESSEE - guidelines 1989**

Parole Board - They still retain release authority, the guidelines only established the minimum term. They kept their current sentencing structure in place.

Good time - They maintained good time but makes a differential based upon good behavior and good behavior plus program participation.

**PENNSYLVANIA - guideline since mid 1980's**

Parole Board - They retained indeterminate system, guidelines only impacted the minimum term. Longer minimum were established.

Good time - They have no good time.

**LOUISIANA - They are ready to present guidelines during their 1990 session.**

Parole Board - no firm decision yet, but they are leaning toward a phase out once the current inmate population is released. They have a separate Pardon Board to handle inmates with a life sentence.

Good time - no firm decision yet, but they are confident that some good time system will remain intact.

**FLORIDA - Guidelines implemented in October 1983**

Parole Board - Parole Board only handled cases sentenced under the old system, but they are scheduled to be reconstituted into a release authority. The release authority will be charged with reviewing all inmates within 30 days and setting outdates which may override the sentence. They must release enough people to keep the prisons at 97.5 percent capacity.

Good time - currently can earn up to 30 days per week.

**MINNESOTA - guidelines since 1980**

Parole Board - They were abolished after a three year phase out. There is a period of supervision but it is managed by the Office of Supervised Leave which is part of the Department of Corrections.

Goodtime - Inmates can earn up to 1/3 off and it must be served as supervised leave.

**CURRENT PAROLE AND GOOD TIME PRACTICES IN TEN STATES THAT HAVE ADOPTED  
GUIDELINES OR SOME FORM OF DETERMINATE SENTENCING.**

**VIRGINIA** - Adopted on a voluntary basis in July 1988, the guidelines only serve as a reference.

Parole Board - There are no charges, parole eligibility occurs after one-fourth of the sentence.

Since the guidelines are voluntary there was no attempt to impact current parole practices. Staff members indicated that if guidelines become mandatory, parole release would probably be effected.

Good time - remained intact - day for day.

Appendix D

## Subcommittees

### Data Collection

Steven J. Davies, Ph.D. - Chairperson  
John Burchill  
Representative Martha Jenkins  
Staff - Larry Sanders

### Crime Seriousness

Carla Stovall - Chairperson  
Allen Flowers  
Shelley Bloomer  
Judge Richard B. Walker  
Paul Morrison  
Senator Jerry Moran  
Staff - Michael Warner

### Criminal History

Judge James MacNish, Jr. - Chairperson  
Judge Gary W. Rulon  
Gary Marsh  
Jillian Waesche  
Dave Meneley  
Representative Kathleen Sebelius  
Staff - Blaine Carter