

Approved January 18, 1990
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Wint Winter, Jr. at
Chairperson

10:00 a.m./~~p.m.~~ on January 11, 1990 in room 514-S of the Capitol.

All members were present ~~except~~:

Committee staff present:

Gordon Self, Office of Revisor of Statutes
Eric Witkoski, Office of Revisor of Statutes
Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Judy Crapser, Secretary to the Committee

Conferees appearing before the committee:

Chip Wheelen, Kansas Medical Society
Ted Fay, General Counsel, Kansas Insurance Department
Secretary Steve Davies, Kansas Department of Corrections

SB 416 - relating to the health care stabilization fund oversight committee; concerning the confidentiality of certain information provided a consulting actuary; amending K.S.A. 1989 Supp. 40-3403b and repealing the existing section.

The Chairman called the meeting to order by opening the hearing for SB 416. Senator Dick Bond presented the bill which extends the confidentiality protections that normally apply to Stabilization Fund information to include the actuary. Dr. Bill Wolff, Legislative Research Department, added that the additional confidentiality insures the actuary has access to information he deems necessary to complete the contract and also provides for the maintaining of confidentiality protection, especially in lesser populated areas..

Chip Wheelen, Kansas Medical Society, testified in support of SB 416. (Attachment I)

Ted Fay, General Counsel, Kansas Insurance Department, testified in support of SB 416 with suggestions for technical changes in the wording on page two of the bill. (Attachment II)

This concluded the hearing for SB 416.

Senator Bond moved to ammend SB 416 as suggested by Mr. Fay using the language as in peer review legislation. Senator Morris seconded the motion. The motion carried.

Senator Bond moved to pass SB 416 favorably as amended. Senator Rock seconded the motion. The motion carried.

The Chairman recognized Secretary of Corrections Steve Davies who gave the committee a status report on the operations of the Department of Corrections, their facilities and programs. Dr. Davies informed the committee that Kansas is the only state that has experienced a decline in its inmate population and outlined in further detail the items covered in the SECRETARY'S REVIEW, Vol. 1 Ed. 8 dated January 1990. (Attachment III)

Due do the Committee's limited time available, Chairman Winter invited Secretary Davies to return on Friday to continue with his update to the Committee.

Next meeting of the Committee scheduled for 9:30 a.m. in Room 514-S on Friday, January 12, 1990.

Meeting was adjourned.

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: Jan 11, 1990

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
David A. Hawley	Wichita	Ks. Ass. for Small Business
ALAN COBB	Wichita	Ks Resp Care Society
BLAINE CARTER	TOPEKA	KANSAS SENTENCING COMM
Chip Wheelen	Topeka	Ks Medical Soc.
Tom Bell	"	Ks. Hosp. Assn.
Matt Shepherd	"	Page
Matt Lynch	"	Judicial Council
Vernon M. Howardell	"	" "
JERRY BLANCHARD	TOPEKA	KULS
TEO FAY	Topeka	KID
Tom Sloan	Topeka	Doc
Steve Davies	"	"
Chuck Simmons	"	"
Roger Wehlitz	"	"
Dan HOMMOS	Topeka	Budget
St Therese Banzert	"	Ks. Court. Crime + Del.
Ron Smith	"	Ks Bar Assoc
Bob Corkins	Topeka	KCCI
R Fry	"	KTHA
Helen Stephens	✓	KPOA
Ben COAKES	✓	KSC
Mike Warren	✓	"

January 11, 1990



KANSAS MEDICAL SOCIETY

1300 Topeka Avenue • Topeka, Kansas 66612 • (913) 235-2383
Kansas WATS 800-332-0156 FAX 913-235-5114

January 11, 1990

TO: Senate Judiciary Committee
FROM: Kansas Medical Society *Chip W. Feelan*
SUBJECT: Senate Bill 416; Health Care Stabilization Fund Oversight Committee

We appreciate this opportunity to make a brief statement in support of the provisions of SB 416. As you probably recall, the 1989 Legislature created the Health Care Stabilization Fund Oversight Committee to develop a plan for an orderly, responsible phase-out of the Fund. In order to accomplish this task, the Oversight Committee needs the benefit of actuarial services. It is for this reason that the law provides specific authority for the Legislative Coordinating Council to contract for the services of an actuary.

Senate Bill 416 would simply extend similar confidentiality protections that normally would apply to Stabilization Fund information to this new contractual relationship. We believe this addition to the law is essential in order for the Oversight Committee to proceed with its very important work. It is for this reason that we urge you to recommend passage of SB 416.

Thank you for considering our concerns.

CW:lg

SENATE BILL No. 416

By Senators Bond and Rock

12-28

10 AN ACT relating to the health care stabilization fund oversight com-
 11 mittee; concerning the confidentiality of certain information pro-
 12 vided a consulting actuary; amending K.S.A. 1989 Supp. 40-3403b
 13 and repealing the existing section.
 14

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

16 Section 1. K.S.A. 1989 Supp. 40-3403b is hereby amended to
 17 read as follows: 40-3403b. (a) There is hereby created a health care
 18 stabilization fund oversight committee to consist of eleven members,
 19 one of whom shall be the commissioner of insurance or the com-
 20 missioner's designee, one of whom shall be appointed by the pres-
 21 ident of the state senate, one of whom shall be appointed by the
 22 minority leader of the state senate, one of whom shall be appointed
 23 by the speaker of the state house of representatives, one of whom
 24 shall be appointed by the minority leader of the state house of
 25 representatives and six of whom shall be persons appointed by the
 26 legislative coordinating council. The four members appointed by the
 27 president and minority leader of the state senate and the speaker
 28 and minority leader of the state house of representatives shall be
 29 members of the state legislature. Of the six members appointed by
 30 the legislative coordinating council, four shall either be health care
 31 providers or be employed by health care providers, one shall be a
 32 representative of the insurance industry and one shall be appointed
 33 from the public at large who is not affiliated with any health care
 34 provider or the insurance industry, but none of such six members
 35 shall be members of the state legislature.

36 (b) The legislative coordinating council shall designate a chair-
 37 person of the committee from among the members thereof. The
 38 committee shall meet upon the call of the chairperson. It shall be
 39 the responsibility of the committee to make a report to the legislative
 40 coordinating council on or before September 1, 1990, and to perform
 41 such additional duties after September 1, 1990, as the legislative
 42 coordinating council shall direct. The report required to be made
 43 to the legislative coordinating council shall include recommendations

1 to the legislature for commencing the phase-out of the fund on July
 2 1, 1991, an analysis of the market for insurance for health care
 3 providers, an analysis of the impact and recommendation on the
 4 advisability of the imposition of limitations on attorney fees involving
 5 actions arising out of the rendering or failure to render professional
 6 services by a health care provider for which the fund has liability
 7 and recommendations for legislation necessary to implement or alter
 8 the phase-out of the fund.

9 (c) *The commissioner or the commissioner's designee shall provide*
 10 *any consulting actuarial firm contracting with the legislative coord-*
 11 *inating council with such information or materials pertaining to the*
 12 *health care stabilization fund deemed necessary by the actuarial firm*
 13 *for performing the requirements of an actuarial review for the health*
 14 *care stabilization fund oversight committee notwithstanding any con-*
 15 *fidentiality prohibition, restriction or limitation imposed on such*
 16 *information or materials by any other law. The consulting actuarial*
 17 *firm and all employees and former employees thereof shall be subject*
 18 *to the same duty of confidentiality imposed by law on other persons*
 19 *or state agencies with regard to information and materials so pro-*
 20 *vided and shall be subject to any civil or criminal penalties imposed*
 21 *by law for violations of such duty of confidentiality. Any report of*
 22 *the consulting actuarial firm shall be made in a manner which will*
 23 *not reveal the name of any persons or facilities involved in claims*
 24 *or actions for damages for personal injury or loss due to error,*
 25 *omission or negligence in the performance of professional services*
 26 *by health care providers.*

directly or indirectly
 entities or individual reserve information

27 (d) (i) The staff of the legislative research department, the office
 28 of the revisor of statutes and the division of legislative administrative
 29 services shall provide such assistance as may be requested by the
 30 committee and to the extent authorized by the legislative coordi-
 31 nating council.

Information provided to the actuary shall not be subject to disclosure or
 discovery in any civil proceedings and shall be returned by the actuary to
 the health care stabilization fund.

32 (d) (e) Members of the committee attending meetings of the
 33 committee, or attending a subcommittee meeting thereof authorized
 34 by the committee, shall be paid compensation, travel expenses and
 35 subsistence expenses as provided in K.S.A. 75-3212, and amend-
 36 ments thereto.

37 (e) (f) This section shall be a part of and supplemental to the
 38 health care provider insurance availability act. The provisions of this
 39 section shall expire on July 1, 1991.

40 Sec. 2. K.S.A. 1989 Supp. 40-3403b is hereby repealed.

41 Sec. 3. This act shall take effect and be in force from and after
 its publication in the Kansas register.



DEPARTMENT OF CORRECTIONS

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Mike Hayden
Governor

Steven J. Davies, Ph.D.
Secretary

SECRETARY'S REVIEW

Vol. 1 Ed. 8

January 1990

I hope all of you who receive this newsletter had a very happy holiday season. I certainly had a good time - home in bed with walking pneumonia. I hardly talked at all, and many of you have told me that was a wonderful gift. I'm looking forward to the session and 1990. I feel it will be a very productive year.

Well, here we go with the first newsletter of 1990!

PUBLIC SAFETY

As 1989 was drawing to a close, I imagine that most people, including myself, took at least some time to reflect on the end of another year, if not the end of another decade.

The seven months I have served as Secretary seem to have passed by at an incredibly rapid speed. My staff can testify to my frustration at not having enough time or resources to accomplish all which I feel we need to accomplish.

But as I look back at all we have been able to do since May, I also take great pride in the achievements we have made. I reflect on the issues we have confronted internally to the Department, in presentations before interim legislative committees, in cooperation with other state agencies, in the Criminal Justice Coordinating Council and the Sentencing Commission, and I find a common thread holding the fabric together. I firmly believe that our most important responsibility is to promote and provide for the public safety. The specific issues have ranged from ACA accreditation to the disclosure of communicable disease exposure, but the ultimate goal of providing for the public safety remains constant.

Yes, I do read about the increase in crimes reported in Kansas last year. Yes, I do read about the increase in drug related violence in many of our cities. Yes, I do believe each of us could, and should do more to provide for the public

safety. Yes, I am frustrated that we can't do more. But I can assure you that as long as I am Secretary of Corrections, this Department will have no greater priority.

What follows is a sampling of our most recent efforts toward achieving this goal.

BOARD OF HEALING ARTS

On December 21, 1989, I was notified that the Medicine and Surgery Review Committee of the Kansas Board of Healing Arts had found no valid complaints regarding the quality of medical care being provided to inmates at the Kansas State Penitentiary.

You may recall that in July, 1989, I had requested the Board of Healing Arts to conduct an independent, professional review of the health care being provided in the Kansas correctional system. I was prompted to make this request, after I was interviewed by Ted Fredrickson, a reporter for the Wichita Eagle-Beacon, who had raised some disturbing allegations about the quality of care being provided by Correctional Medical Systems, the private company with whom we contracted to provide that service. Once that article was published on July 30, I also asked the Board to review the specific cases referred to in that article.

The letter from the Executive Director of the Board of Healing Arts, Richard Gannon, stated, "After a thorough investigation, the Medicine and Surgery Review Committee found that the quality of medical care the inmates in question received at KSP was more than adequate... the Review Committee found there were no valid complaints regarding the quality of medical care. Further, Correctional Medical Systems appeared to be doing a competent job as far as their medical contract with KSP. "

"After review by the Medicine and Surgery Review Committee it was their opinion that the inmate allegations and complaints merited no additional review or follow-up. The Review Committee advised that after conducting an exhaustive review there was adequate documentation regarding the standard of medical care to inmates at KSP. Finally, the Review Committee felt that Correctional Medical Systems had met all guidelines regarding the standard of medical care required by the National Commission on Correctional Health Care, the American Correctional Association, and the Joint Commission for Accreditation for Health Care."

I am particularly pleased with the Review Committee's last finding, which supports the results of audits conducted by the American Correctional Association in September, which found that both KSP and the Kansas State Industrial Reformatory were in 100% compliance with all ACA standards which apply to medical health-care services. We have been working very closely with, and closely monitoring, CMS, and I believe we have made great strides in improving the medical and mental health care available to inmates.

I am very appreciative to the Board of Healing Arts for the professional peer review process which has led to these findings. I intend to ensure that any future questions regarding the adequacy and appropriateness of medical services will be handled in this professional manner.

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Since becoming Secretary of Corrections in May, I have repeatedly stressed the need to have an ongoing monitoring system for mental health and physical health care for the Department. While I realize that development of this type of monitoring program may not be fiscally possible in the immediate future, I continue to believe that such monitoring would help provide proper care and hopefully end some of these types of misunderstandings in the future.

CORRECTIONAL MEDICAL SYSTEMS

When I first became Secretary of Corrections, some people questioned whether I supported contracted programs such as CMS. My response was, and still is, that I support all contract programs which provide quality service according to their contract. I got started in the corrections business as a contract employee in the academic education program at Kansas State Industrial Reformatory.

There have certainly been some difficulties between the Department and CMS during this past year, but we have continued to work together diligently to make this a successful venture. It is easy to look at our current system and identify things which could be better, but to get a true picture of our level of care today one needs to remember where we were only a year ago: complaints and grievances were commonplace, staffing was so low we operated from day to day, we had contracted with half a dozen employment services for temporary help, and medical and mental health care was at the center of the lawsuit challenging conditions of confinement.

In addition to the items recognized by the Board of Healing Arts, I would like to highlight some of the other positive accomplishments of CMS during their first year of operation in Kansas:

- Negotiation of lower outside provider costs, such as hospitalization;
- Coordination of health care statewide for the first time;
- Assuring continuity of care by providing standardized
 - Problem oriented medical records
 - Medical policies and procedures
 - Medical protocols
 - Mental health policies and procedures
 - Mental health documentation
 - Nursing policies and procedures
 - Nursing treatment protocols; and,
- Providing the consultative assistance necessary to allow KDOC to develop and implement an interim program for chronically mentally ill inmates.

Even while accomplishing the above items, we have both recognized the need to strive to improve in some areas. We are continually working together to correct problems such as putting in a strong management team, providing adequate staffing levels at all facilities, and acquiring the proper medical equipment to get the job done. We have also developed a monitoring system to be completed by each facility director on a monthly basis which checklists each requirement of the

contract to ensure performance. I am very pleased that CMS received a systemwide compliance rate of 88% during December, the first month that monitoring system was in place.

As we continue to work together we will strive to reach the same level of performance which we have achieved in our other contracted programs such as academic and vocational education, substance abuse treatment and sex offender treatment.

LONG-TERM PLAN FOR MENTALLY ILL INMATES

On December 11, 1989, United States District Judge Richard Rogers signed an order approving the Department's long-term plan for mentally ill inmates. This plan had been prepared as a result of the Court's April 21 order in the case of Arney, et al. v. Hayden, et al.

The plan approved by Judge Rogers includes the following:

- The DOC will continue to utilize Larned State Hospital for those inmates who require inpatient psychiatric treatment. A total of 84 beds (74 for men and 10 for women) are available for inmates at Larned.
- The DOC will construct a 150-bed transitional facility at Larned. This facility will meet the standards of the American Correctional Association and the National Commission on Correctional Health Care.
- The cells at this facility will be 100 square feet in size. This will allow the facility to be converted to a hospital if the State's needs so require.
- A staffing proposal for the transitional facility was included in the plan. This staffing will be submitted to the Legislature for funding approval.
- The plan will be monitored for quality assessment by a three member panel consisting of an expert designated by the DOC and one designated by the plaintiffs, plus a DOC staff member. This panel will make recommendations to me regarding compliance problems. Any disputes which cannot be resolved through this process may be submitted to the Court for resolution.
- Several issues regarding the plan have not yet been resolved. There will be ongoing discussions regarding those issues.

I believe the plan the DOC submitted is a reasonable plan which meets the State's needs. It does provide for less than the 300 hospital beds recommended by Dr. William Logan last summer. However, other consultants retained by the two sides are of the opinion that the DOC's plan is adequate to meet the Department's needs.

I will keep you informed regarding our progress in implementing this plan.

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KDOC COMPLIANCE WITH COURT ORDER

Development of the long term plan for mentally ill inmates is only one part of our effort for compliance with the mandates of the Federal Court Order. With the beginning of the new year, I want to take this opportunity to update you on several other key aspects of that effort.

Pursuant to the order in the Arney case, the inmate count at KSP is capped at 1,700. This cap will remain in place until July 1, 1991, when the population must be reduced to not more than 1,262. We have been able to maintain the count at below the 1,700 figure since it became effective October 1, 1989.

The renovation of "A" Cellhouse is expected to be completed by February 1, 1990. Once it is completed, double ceiling will not be permitted at KSP except in the medium security facility. All double ceiling at KSP must end by July 1, 1991.

The population reduction to 1,262 will be achieved in part through the closing of the Adjustment and Treatment (A & T) Building and the minimum security outside dorms, the R & S Units, by July 1, 1991. These closings were ordered by the Court. We are exploring other uses for these buildings after they are closed for inmate housing purposes.

The staff at KSP are working to achieve ACA accreditation by the October 1, 1991 deadline. Substantial progress has been made in that area and we expect to meet that deadline.

The new housing unit at the Kansas Correctional Institution at Lansing was occupied by the December 31, 1989 deadline established in the court order. With this building coming on line, two of the three existing housing units were closed for inmate housing purposes. We will evaluate the potential uses of those buildings in the future. With this new housing unit, the operating capacity of KCIL increased from 158 to 240.

KCIL will be audited by ACA in July, 1990. Accreditation of KCIL by ACA is required by December, 1990.

The inmate count at the Kansas State Industrial Reformatory is now capped at 1,126. We have complied with that cap since it became effective October 1, 1989. By July 1, 1991, the count at KSIR will be capped at 945.

KSIR received ACA accreditation in September. This was achieved fully two years ahead of the October 1, 1991 deadline.

We have been working very hard to accomplish these goals, and I am very proud of our staff for their efforts in helping achieve these goals.

POPULATION UPDATE

For the past several months, I have made a point of including in this newsletter a table indicating the institutional population decline which we have been experiencing since June, 1989. Last month, we included the corresponding increase we have seen in the parole population. Still, I am frequently asked if the number of admissions to the system is not decreasing as well, contributing to the overall drop in institutional population. The answer is, no!

You will notice there is a slight difference between the admission and release numbers and the end-of-month population figures in the following table. This is due to a difference in how the two computer programs used to generate these numbers handle certain types of admission and release information.

<u>Month</u>	<u>Population</u>	<u>Change from Previous Month</u>	<u>Admissions</u>	<u>Releases</u>
Jan 1988	5927	+52	231	171
Feb	5971	+44	221	184
Mar	5982	+11	293	270
Apr	6056	+74	256	201
May	5953	-103	252	346
Jun	6013	+60	299	256
Jul	5984	-29	255	271
Aug	5996	+12	304	308
Sep	6020	+24	279	270
Oct	5972	-48	269	319
Nov	5941	-31	248	293
Dec	5932	-9	298	294
Jan 1989	6057	+125	333	210
Feb	6105	+48	274	232
Mar	6139	+34	291	263
Apr	6163	+24	308	290
May	6180	+17	333	310
Jun	6172	-8	331	348
Jul	6072	-100	289	367
Aug	5831	-241	341	558
Sep	5730	-101	293	406
Oct	5709	-21	309	333
Nov	5687	-22	317	343
Dec	5628	-59	300	361

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In an effort to put all of these numbers in perspective, consider the monthly averages of admissions and releases.

	<u>Admissions</u>	<u>Releases</u>
FY 1990 (thru Nov. 30)	310	403
FY 1989	294	284
FY 1988	250	222

Despite the month to month fluctuations demonstrated in the first table, the monthly average numbers are very indicative of the increases we are seeing in both the admission and release columns. I remain concerned that the anticipated increase in drug related incarcerations will soon cause a dramatic increase in the admissions side of the ledger, while only minor changes in rate of favorable parole decisions by the Kansas Parole Board could result in a decrease in the number of releases.

As we enter 1990, our overall population to capacity conditions remain relatively well balanced. However, the demand for maximum and medium security space is still far greater than our available supply.

12/31/89	Maximum/Special Management		Minimum/Community
	<u>Unclassified</u>	<u>Medium</u>	<u>Custody</u>
Population	1,717	1,709	2,202
<u>Capacity</u>	<u>1,441</u>	<u>1,705</u>	<u>2,511</u>
Difference	-256	-4	+309

ADJUSTING FOR POPULATION MOVEMENT

We have been working very hard to reduce the populations at KSP and KSIR over the course of the last year. Much of our success has been due to our ability to bring the Hutchinson Correctional Work Facility, the Ellsworth Correctional Facility, Norton Correctional Facility, and the Stockton Correctional Facility on line. But I learned long ago that yesterday's solutions are today's problems, and we are now working very hard to adjust to the impact that these population shifts have had, and are continuing to have, on the operation of our institutions.

Perhaps the most noticeable problem which has occurred as a result of this movement is one which I began to deal with while I was still the Director at KSP. We have effectively reduced the overall institutional populations at the Penitentiary and the Reformatory by moving minimum and medium custody inmates to HCWF, ECF, NCF, and SCF. However, this movement of lower custody inmates has drained our traditional source of labor for facility maintenance, operations such

as food service, laundry, and groundskeeping, for Kansas Correctional Industries, as well as taking it's toll on the number of inmates available for community service work from KSP and KSIR.

At the same time, we are also having to re-evaluate whether the programs such as academic and vocational education, sex offender counseling and substance abuse treatment, are being made available at the appropriate institutions. Eventually, we will be able to identify the kinds of programs an inmate needs, determine the appropriate custody setting for that inmate, and arrange for placement at an appropriate institution. This has been a tremendous challenge recently, particularly with the rapid movement of inmates which we have been experiencing as the new institutions are brought on line.

Each of our facility directors has been very actively involved in this analysis, and during the month of December, Deputy Secretary for Operations, Dick Koerner, and Deputy Secretary for Programs, Dave McKune, traveled the state, reviewing and validating the initial determinations prepared by the institutional directors. We realize that this evaluation must be an ongoing process, and must now include the proposed facilities in Larned and El Dorado. Only by conducting this kind of continuing evaluation can we ensure that we are providing the most effective overall operation of the entire correctional system. I will keep you updated frequently as we make final decisions in this area.

KDOC ESCAPE AND ABSCONDER TASK FORCE UPDATE

In the December edition of the Secretary's Review, I explained that many of our facility directors and parole supervisors had expressed their concerns to me about the numbers of inmates who escape and attempt to escape, and parolees who abscond while on parole status. At that time, I appointed a Task Force headed by Director Louis Bruce of the Norton Correctional Facility to study this issue, and I have now received a copy of their preliminary findings, and I want to summarize their work so far.

The Task Force collected the escape and absconder statistics from Kansas, Colorado, Missouri, Nebraska, and Oklahoma, and compared those with the criminal sanctions imposed for those activities. Their hypothesis was that an inverse relationship exists between escapes, escape attempts, parole absconding, and new crimes committed while on parole, and the sanctions applied to those offenses. Simply put, as penalties for those types of activities increase, those types of activities decrease. Their preliminary findings tend to support the hypothesis, but the report also states that additional study of this issue does need to be conducted.

With the dramatic decrease we are observing in our institutional population, and the corresponding increase in parole population, I believe we must pay very close attention to the problems we are experiencing with escapes and absconding. While I do not believe the issue has been examined carefully enough at this time to recommend specific changes in legislation and potentially tougher penalties for these activities, I do intend to have the Task Force continue their study and

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keep a close watch on this situation. As I noted at the beginning of the newsletter, my number one priority as Secretary of Corrections is public safety, and this is a critical aspect of meeting that goal.

PROPOSED PRISON SITE UPDATE

On December 4, the Kansas Supreme Court heard oral arguments in the appeal of the Butler County lawsuit regarding the zoning of the proposed prison site east of El Dorado. Since then, we have heard some speculation that the Supreme Court may release an early decision regarding that case, but at this point, I have no reason to expect such a decision prior to the middle of this month.

While we await the decision of the Court in this matter, we must also be moving ahead with development of this site. On December 14, the state did award a bid for construction of the access road from US-54 Highway to the site. That contract, for \$236,331, was awarded to the Lewis and West construction company of El Dorado. The company began work on the project on December 20. During construction, this road will provide the primary access for all vehicles involved in the construction process. When the institution is completed, the road will be paved to provide the permanent entrance and exit to the facility.

I believe we must move prudently on this project, since the site is still the subject of a legal challenge. But we must also move expeditiously, since our demand for high security bedspace remains our most significant problem. At the current time, we are making plans for our next bid package for work on the site, and I will continue to update you on progress on the new institution on a regular basis.

SRDC EVALUATIONS AND RECOMMENDATIONS FOR SENTENCE MODIFICATION

Senate Bill 49, which was approved during the 1989 legislative session contained two provisions which I believe have been misunderstood by some individuals. Those amendments provide that a court shall modify a sentence if recommended by the evaluation conducted by the State Reception and Diagnostic Center or if recommended by the Secretary of Corrections. I have been informed that some feel the court is required, no matter what, to follow these recommendations. Such is not the case. In both situations, if the court finds that the "safety of the public will be jeopardized and that the welfare of the inmate will not be served by such modification," the court does not have to follow the recommendation.

However, because of the concerns raised, members of my staff have met with Attorney General Stephan to discuss the impact of these provisions. We are also reviewing the evaluation process at SRDC and KCIL to ensure that all recommendations contained in the evaluations are appropriate. As has always been the case, recommendations of the Secretary for sentence modification are infrequently submitted and then only after careful review. This will continue to be our policy.

BUDGET

As I reported last month, we have submitted our appeals to the recommendations of the Division of the Budget. The governor is scheduled to release his budget Monday, January 8, 1990. After that time, we will be better able to determine our status. I anticipate having an in-depth report on this matter available in the February edition of the Secretary's Review.

WICHITA WORK RELEASE

On August 1, 1989, the state terminated the contract with the VIP Company of Oklahoma for operation of Community Residential Centers in Topeka and Wichita. As we closed the year, we were fortunate to have a surplus of minimum/community custody beds available to us, but I am convinced that the demand for this type of beds will, in the near future, outpace this supply. To prepare for this situation, and to improve the efficiency of the operation of the Wichita Work Release Center, the Department has taken a number of steps since August.

At the time we shut down operation of the Wichita CRC we moved approximately 80 inmates into the building at 309 N. Market, just to the south and west of the Wichita Work Release Center at 320 N. Market. This building had previously been occupied by the Sedgwick County Community Corrections Work Release Program, and was essentially ready for immediate occupancy in early August.

However, this still leaves us with the expense of paying for leases, utilities and staffing of two buildings for the Wichita Work Release Center.

Shortly after the transition occurred in August, we became aware of another building in Wichita which we believed would resolve the problems associated with the current two building operation. We submitted a request for funding to purchase and renovate that building in our FY 1991 budget, but that request was not recommended by the Division of the Budget. During November, the Department of Corrections, working with the Department of Administration, Division of Purchases, submitted a request for proposal for a suitable building.

On December 7, we opened proposals from five property owners who had responded to that request for proposal. We had a meeting with each of those property owners, to clarify any questions we have regarding their proposals. In the very near future, we will identify the one proposal which we feel will best meet our needs. But even when that process is complete, we will still to need receive the approval of the legislature and the Governor's office before any final deals are negotiated.

I am convinced that we must find the most cost effective way to operate the Wichita Work Release Center. Our initial efforts to achieve this goal were taken during what we considered to be a very limited window of opportunity this fall. We moved quickly, but I feel appropriately, in that effort, and I am disappointed that effort was not successful. I am very hopeful that our current efforts result in our being able to increase the efficiency of our operation, and get our best "bang for the buck" for this program.

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FORBES CORRECTIONAL FACILITY BUILDING #321

We are continuing our efforts to resolve the asbestos problems in Building #321 at Forbes Field, which we still intend to develop into the Forbes Correctional Facility Work Release Center. In late December, I instructed the Director of Kansas Correctional Industries to develop a plan for removal of all known asbestos from that building, and to submit that plan to the Department of Health and Environment for their approval. Inmates who have been certified in asbestos removal, and who are working with the KCI asbestos abatement program, will conduct this work on a priority basis once KDHE has approved the plan. These inmates have completed a similar effort at the Norton Correctional Facility, and work at Forbes Field is expected to take between four to six months.

In return for the asbestos removal, the Metropolitan Topeka Airport Authority, which owns the building, has agreed to reduce the lease payments by a total of \$47,500 on a pro-rated schedule over the term of the three year lease. In addition, the MTAA has granted to the DOC three one year options beyond the current lease expiration date of September 1, 1992. This gives us the potential to lease this building for six years, until September 1, 1995. I believe this arrangement will best serve the interest of the state and make available a total of an additional 200 minimum custody beds at a cost per square foot which is far less expensive than any other option.

INMATE PROPERTY

In last months edition of the Secretary's Review, I presented our reasoning for not allowing inmates to have word processors in their cells. During the month of December, we also had to make a similar decision, this time regarding whether or not the female inmates at the Kansas Correctional Vocational Training Center would be allowed to have Christmas trees in their individual cells.

Like word processors, Christmas trees are not on the list of approved personal property. We did have seasonal decorations, including trees, in each common area of the housing units. However, these items are not approved personal property, and were removed from the individual rooms.

This example points out a far more general problem which we are currently attempting to resolve. For many years, individual institutional administrators have developed approved property lists within very broad Departmental policy guidelines. This has left us with a great deal of disparity between institutions, and a great deal of confusion/frustration among staff and inmates.

To resolve this issue, Deputy Secretary of Corrections for Operations, Dick Koerner, and the facility directors have been developing one list of approved inmate property. This list will recognize the different needs which male and female inmates have regarding personal property, and will also take into account the types of property which are appropriate at maximum, medium, and minimum security institutions. When this list is complete, I will have final approval on it's implementation. However, the list is not complete yet, and despite a

great deal of speculation regarding how it will change the current property list, nothing has been finalized. We will also be taking steps to communicate our reasoning behind our final decisions, to reduce the amount of confusion which is inevitable when such a change does occur. While this may appear to be but one relatively small internal change to our operation, I believe it will make us far more efficient in the long run.

CRIMINAL JUSTICE COORDINATING COUNCIL

One year ago at this time, the Criminal Justice Coordinating Council was recommending the statewide expansion of community corrections, the authorization of a sentencing commission, and construction of a new maximum security prison. I am hopeful that the policy recommendations adopted by the Council during our meeting December 15, 1989 will receive similar legislative support during the 1990 session.

Those policy recommendations fall into four categories of importance to many professionals in the criminal justice system.

- 1) Establishing a Master Planning Commission on Juvenile Issues to conduct an on-going review of the system, and recommend possible changes which need to be made to more efficiently and cost effectively support the needs of children and youth.
- 2) Lowering the age of majority from 18 to 16 for criminal prosecution, and lowering the age at which a juvenile can be certified by the court to stand trial as an adult from 16 to 14 in circumstances where they would face A or B felony charges in the adult system. I am very pleased that Governor Hayden has made this proposal one of his major issues for this legislative session.
- 3) Modifying information confidentiality restrictions regarding juveniles which currently prevent a team approach involving the schools, SRS, and the courts in dealing effectively with the problems of young people who are "at risk".
- 4) Allowing the court ordered release of information regarding infectious disease exposure to specified state employees who were possibly exposed while performing their official responsibilities.

I want to express my appreciation for the work which has gone into development of these recommendations. In particular, the Special Assistant to the Secretary of Corrections, Tom Sloan, has put out a yeoman's effort as Special Assistant to the Chairman of the Criminal Justice Coordinating Council. We will have specific language to proposed legislation prepared for presentation early in the 1990 legislative session. I will be keeping you updated on the progress of these proposals in coming editions of the Secretary's Review.

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SENTENCING COMMISSION

Next month, the Kansas Sentencing Commission will be presenting a preliminary report of it's work to the Legislature. While much of our work is ahead of us, it is quite apparent that we have some very difficult, and very emotional issues to resolve.

One of our first major issues has been to develop a list of goals, which has been done, and includes the following:

- Developing guidelines that promote public safety by incarcerating violent offenders
- Reducing sentence disparity to ensure the elimination of any racial, geographical or other bias that might exist
- Establishing sentences that are proportional to the seriousness of the offense and the degree of injury to the victim
- Establishing a range of easy-to-understand presumptive sentences that will promote "truth in sentencing"
- Providing state and local authorities with information to assist with population management options and program coordination, and
- Providing public policymakers information that will enhance decisions regarding resource allocation.

One of the more difficult issues surfaced during public hearings in December, when the discussions focused on what weight criminal history should play in sentencing. It is quite apparent that a significant number of people believe that prior history should play a major role in sentence determination, while others believe that it should play some lesser role. Again, this will not be an easy issue to resolve, and it can ultimately have a significant impact on our institutional populations.

I look forward to working closely with Commission Chairman Attorney General Bob Stephan and Executive Director Ben Coates, as we address and resolve these issues, and prepare our final recommendations for the 1991 legislative session. I will continue to keep you updated on the status of our efforts, in future editions of the Secretary's Review.

PUBLIC HEARING HELD ON COMMUNITY CORRECTIONS/PAROLE REGULATIONS

On Wednesday, December 27, the Department held a public hearing to consider the adoption of proposed rules and regulations concerning parole and community corrections.

Those regulations provide for the receipt, expenditure, and accounting for grants received under the Community Corrections Act. The regulations are procedural in nature and in some instances are necessary in order to be in compliance with amendments contained in Chapter 92 of the 1989 Session Laws of Kansas. The regulations are not estimated to have any economic impact on governmental units, persons subject to proposed rules and regulations, or the general public, other than requiring community corrections programs, in some instances, to restructure their budgets to comply with the regulations.

We did not receive any comments, either verbal or written, regarding these regulations, which will become effective 45 days after their publication in the Kansas Register, unless a specific date is contained in the regulation.

CONSERVATION CAMP COMPROMISE

I want to congratulate all of those who had a part in the negotiations which, on December 18, 1989, resulted in the Labette County Commissioners signing a resolution agreeing in principal to the guidelines proposed by the Department of Corrections for development and operation of the state's first corrections conservation camp. Officials from the Department, and many dedicated local officials, have spent a great deal of time in this process, and I believe we have been able to reach a compromise which will be acceptable to all parties.

Of course, implementation of this program will be on hold for the time being, until we can determine whether funding for ongoing operation of the camp will be approved during this legislative session. As I have stated previously, we must avoid implementing such a program now, only to find in six months that money for it's continued operation could not be found. But again, all of those who have been working to make this program a reality have done an outstanding job, and I expect to continue working closely with the Labette County Advisory Board in the future.

PAROLE

REORGANIZATION

Over the last few months, the Department's parole services section has undergone a number of changes in an effort to solidify the many positive aspects of the operation and correct those areas needing attention.

One of the most significant of these efforts is a complete revision of the Field Service Order Manual. This manual provides the field parole officers with the guidelines and orders under which they operate. Shortly after becoming Deputy Secretary for Community and Field Services, Roger Werholtz discovered that no one in parole services was certain that they had an up-to-date manual. Much parole policy was being disseminated by memo and parole staff have been struggling to maintain statewide consistency. Revision of the Field Service Order Manual should be completed this spring.

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Other projects underway or scheduled include:

- validating the risk/needs assessment used for parole classification status
- restructuring of basic training for new parole officers
- emphasizing life safety skills in training for current parole staff
- creating a standardized manual for institutional parole officers
- creating a standardized manual for field parole officers
- developing a uniform workload formula
- standardizing the orientation given to inmates about to be released on parole
- developing a tracking system for parole violators, and
- developing a tracking system for jail per diem payments.

We will continue to look for ways to make parole services more efficient and consistent while maintaining our efforts to provide an appropriate level of public safety and assisting the inmate in achieving success in the community.

PAROLE CASELOADS AND SUPERVISION STANDARDS

I suspect that you have read or heard in recent news stories some concern about the continued rapid growth in our parole population. The focus of those news stories has been whether the current level of supervision provided in parole is adequate to protect public safety. I believe we can all be proud of the work our parole officers do in spite of the combination of circumstances that has emerged that make the job much more difficult. Parole caseloads continue to grow dramatically. When we submitted our FY 1991 budget to the Budget Division this summer we asked for 13.5 new field positions to keep pace with this growth. The traditional caseload size on which funding has historically been based is fifty. If I were submitting that request now it would be for sixteen officers and five clerical positions, that is how dramatic the caseload growth has been.

Money will be in short supply in FY 1991 and the Department will make do with the funds we are appropriated, but I want to make you aware of the situation our parole division is facing.

Parole officers were carrying an average caseload of 57 on December 1, 1989 (it has grown since then). They supervise every type of offender committed to our system including violent, sexually assaultive and mentally ill offenders. They have no hand held radios, no mobile radios, no surveillance officers to assist them, no job developers to assist their parolees, and they are currently facing

two to three month waits to get people into treatment programs. In addition to those tasks parole officers must conduct Morrissey hearings, perform furlough and parole plan investigations, notify victims of impending community releases per legislation passed in the 1989 session, and solicit comments from local officials on proposed parole plans. Much parole officer time in rural areas is consumed by extensive travel.

I would like to point out that each parole region has only one employee designated to be a full time supervisor. All other parole officers are factored into the caseload computations whether they have supervisory or other responsibilities as well. That means that each supervisor is responsible for the direct supervision of anywhere from thirteen to twenty three staff. There are currently 73 parole officer positions authorized. As of January 2, 1990, 23 of those positions were filled by officers with less than one year's experience. With supervisory resources stretched as far as they are, the quality and quantity of supervision these officers receive is of great concern to me. I feel I should point out that the organizational structure created for community corrections and court services does not require a span of control of that magnitude.

The performance of community corrections intensive supervision programs (a service similar to parole) has earned them significant success and support across the state, and the legislature has appropriated sufficient resources which enable those programs to meet high standards of supervision developed jointly by KDOC and the local programs. They are funded at a level which allows their officers to carry caseloads of twenty five. That supervision can be supplemented by electronic monitoring, surveillance staff, mental health programs, substance abuse programs, educational programs and job developers. The target population is now defined as essentially first time non violent felony offenders (based on presumptions built into SB 49). With total support from the Department, some community corrections directors have purchased hand held and mobile radio equipment to ensure staff safety.

The following two pages represent a matrix showing current standards of supervision for community corrections, court services (probation) and parole. The parole standards shown reflect what we think is appropriate and what has been established historically based on available resources.

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Level 1 (most restrictive supervision)

Probation (court services)	2 face to face contacts per month; 1 home visit within 90 days; and, 1 collateral contact per month.
Community Corrections	3 face to face contacts per week; 3 collateral contacts per week; 1 training/education/employment verification per week; 1 law enforcement notification per month; 1 law enforcement records check per week; and, 4 substance abuse screenings per month if history of abuse.
Recommended Parole Standards	2 face to face contacts per month; 2 field contacts including 1 home visit per month; 1 collateral contact per week; and, 2 substance abuse screenings per month.
Parole Standards prior to September 1988	2 face to face contacts per month, including 1 in the field; and, 2 collateral contacts per month.
Current Parole Standards	2 face to face contacts per month; 1 field contact every 3 months (will count as face to face); 1 collateral contact per month; and, 1 substance abuse screening per month.

Level 2 (next most restrictive supervision)

Probation (court services)	1 face to face contact per month; and, 1 collateral contact every 2 months.
Community Corrections	2 face to face contacts per week (may be reduced after first 30 days in level); 2 collateral contacts per week; 1 training/education/employment verification per week; 1 law enforcement notification per month; 1 law enforcement records check per week; and, 4 substance abuse screenings per month if history of abuse.
Recommended Parole Standards	2 face to face contacts per month; 1 field contact per month; 2 collateral contacts per month; and, 1 substance abuse screening per month.
Parole Standards prior to September 1988	1 face to face contact per month; 1 field contact per month; and, 1 collateral contact per month.
Current Parole Standards	1 face to face contact per month; 1 field contact every 3 months; 1 collateral contact every 2 months; and, 1 substance abuse screening every 3 months.

Level 3 (next to least restrictive supervision)

Probation (court services) 1 personal or 1 collateral or 1 supplemental contact every 3 months.

Community Corrections 1 face to face contact per week;
After 30 days in this level, 1 face to face contact every other week;
1 collateral contact per week;
1 training/education/employment verification every other week;
1 law enforcement notification per month;
1 law enforcement records check every other week; and,
2 substance abuse screenings per month if history of abuse.

Recommended Parole Standards 1 face to face contact every 3 months;
1 collateral contact every 3 months;
1 substance abuse screening per month; and,
1 mail in report per month.

Parole Standards prior to September 1988 1 face to face contact every 3 months;
1 collateral contact every 3 months; and,
1 mail in report per month.

Current Parole Standards 1 face to face contact every 4 months;
1 collateral contact every 6 months; and,
Substance abuse screening upon suspicion.

Level 4 (least restrictive supervision)

Probation (court services) 1 personal or 1 collateral or 1 supplemental contact every 3 months.

Community Corrections 1 face to face contact per month;
1 employment verification per month;
1 law enforcement notification per month;
1 law enforcement records check per month; and,
1 substance abuse screening per month if history of abuse.

Recommended Parole Standards 1 face to face contact per year;
1 collateral contact per year;
1 law enforcement record check per year; and,
1 substance abuse screening per year.

Parole Standards prior to September 1988 No standards.

Current Parole Standards 1 face to face contact per year;
1 collateral contact or record check per year; and,
Substance abuse screening upon suspicion.

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COMBINING COMMUNITY CORRECTIONS, COURT SERVICES AND PAROLE SERVICES

During recent meetings of the Criminal Justice Coordinating Council and the Sentencing Commission, I have been made aware of informal discussions which have been held regarding the possible consolidation of probation, community corrections and parole services into one system. Members of my staff have been approached with this idea as well.

Currently, probation provides post-sentencing supervision of offenders through Court Service Officers. Community corrections provides post-sentencing/incarceration diversion supervision of offenders through community corrections programs operated at the county level. Parole services provides post-incarceration supervision of offenders through state parole staff. While each of these programs offers unique services, it may be necessary to examine whether some economies can be found by combining those systems. It may also be necessary to consider one single source of policy regarding the supervision and management of adult offenders.

These types of examinations will require a considerable amount of study, similar to the type of effort being recommended for the juvenile system by the Criminal Justice Coordinating Council. If there is sufficient interest in this idea, I am very willing to become involved in the discussions, and to commit my staff and resources to explore it fully.

KDOC DIRECTORY

In the last issue of the Secretary's Review, I informed you that we were putting the finishing touches on an updated directory of key KDOC administrative staff and their duties and responsibilities, and that you would be receiving a copy of that directory with this edition of the Secretary's Review. So, you ask, where is the directory?

The truth is that when we realized the cost of mailing a copy of the finished product to everyone on the newsletter mailing list, we began to look for less expensive options of distribution. We hand carried copies to our facility directors and parole supervisors during our regularly scheduled December meeting, we placed copies in the mailboxes of all members of the legislature, we have had copies delivered by inter-office mail to other state agencies, and we still have copies available and waiting. If you have not received one yet, I would ask that you contact my Public Information Officer, Bill Miskell, in Central Office, and he will make sure that you receive a copy. Or, if you plan on being in Topeka anytime soon, you may come by and pick up a copy.

I believe this directory contains some very valuable information and will provide a very valuable resource when you have questions regarding the Department. It has also been prepared in such a format that we will be able to update it periodically, and provide you with revisions at a very minimal cost. I hope you find it useful in your dealings with the Kansas Department of Corrections.

SURPLUS PROPERTY ON THE KANSAS RIVER

Little did I imagine when I became Secretary of Corrections that I would eventually be getting into the riverboat business! But that is exactly what happened on December 22, when the General Services Administration announced that the Federal Surplus Property operation of the Kansas Correctional Industries program had been designated as the transfer agency for the river dredge the William S. Mitchell.

Our Surplus Property operation is donating the 1934-vintage craft to the Kaw Point Historical Association, a not-for-profit corporation which will operate the Mitchell as a river history museum. The boat will be permanently moored at Kaw Point, which is the confluence of the Kansas and Missouri Rivers in Kansas City. It will be easily visible to motorists traveling I-70 across the Lewis and Clark Viaduct. The Historical Society has also agreed to maintain the boat's status on the National Historic Register.

I am very pleased that the Department and our Surplus Property program were able to work with GSA and the Kaw Point Historical Society, to keep this important piece of history in the Kansas City area. I am looking forward to being one of the first visitors when the river museum is opened.

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