

Approved 6-27-90
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 March 21, 19 90 in room 514-S of the Capitol.

All members were present, ~~except~~:

Committee staff present:

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

Conferees appearing before the committee:

Ellen Piekalkiewicz, Legislative Research Department
Chris Biggs, Geary County District Attorney
Robert Barnum, Kansas Department of Social and Rehabilitation Services

The Chairman opened the meeting by recognizing Senator Bond to present the subcommittee report on medically indigent.

SB 736 - amending and supplementing the Kansas tort claims act; providing that charitable health care providers are employees of the state for the purposes of such act.

Senator Bond explained the subcommittee recommendation to amend SB 736 to: 1) make the Kansas Department of Health and Environment the reporting agency instead of SRS; 2) change services provided to "primary care services", defined as general pediatrics, general internal medicine, family practice and general dentistry; and 3) amend in the tort claims act, K.S.A. 75-6117, to clearly delineate what is done to the tort claims act with respect to charitable health care providers in bringing them under the act.

Senator Bond moved to adopt the subcommittee report to amend SB 736. Senator Gaines seconded the motion. The motion carried.

Senator Bond moved to recommend SB 736 favorable for passage as amended. Senator Petty seconded the motion. The motion carried.

The Chairman reopened the hearing for the juvenile offender measures.

SB 743 - concerning corrections; comprehensive plans for correctional services and corrections advisory boards including juvenile offenders advisory boards.

SB 741 - concerning juvenile offenders; relating to their release at the age of 21; providing for a hearing to allow the department of social and rehabilitation services to retain custody.

SB 521 - concerning juveniles; creating master planning commission for juvenile affairs.

SB 526 - concerning juvenile offenders; relating to prosecution as an adult; notice to victims of release or discharge of certain juvenile offenders.

SB 641 - concerning payment of the cost of transportation of alleged juvenile offenders to and from hearings.

SB 742 - concerning juveniles; prohibiting detention in adult jails; development of alternatives to detention.

Ellen Piekalkiewicz, Legislative Research Department fiscal staff, gave the committee a general overview of the fiscal issues and general trends by the Ways and Means Committees regarding juvenile offenders.

Chris Biggs, Geary County District Attorney, testified in opposition to SB 742 because, although it would be consistent with federal law, the costs involved are very prohibitive

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 21, 1990.

at the local level. He presented a packet of information to the committee to support his position. (ATTACHMENT I)

Robert Barnum, Commissioner of Youth Services, Kansas Department of Social and Rehabilitation Services, testified in support of SB 743, SB 741, and SB 526. (ATTACHMENTS II through IV) He also expressed support of SB 742 with suggested amendments. (ATTACHMENT V) He concluded with stated that the worse that could happen if SB 742 does not pass is the federals could request the return of the past funds given to the state.

The meeting was adjourned until 12:00 p.m., March 21, 1990 in Room 313-S.

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: March 21, 1990

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Kelly Weiss	40319 S.W. 23rd	PAGE
Angie WBS	5917 SW 23rd ^{TR}	PAGE
Julene Maske	Topeka	AG Office
Patricia Henshall	TOPEKA	OJA
Ann Heiberger	Overland Park	LWVK
Therese Bangert	Topeka	KCCD
Bruce Link	Lawrence	KCAPC
Doug Bowman	Topeka	Children & Youth Advisory
Kathy O'Donnell	Topeka	Youth Services
Chris Pump (x)	Junction City, KS	Geary County Attorney
Jim Clark	TOPEKA	KCDAA
MAXINE TIEHEN	TOPEKA	VISITOR
Jack Tichen	Topeka	Visitor
Dick Mulla	Topeka	Westly Group
Robert Sue McKenna	Topeka	SRS legal
Bar Damm	TOPEKA	" .. legal
David Brown	Topeka	SRS - Youth Services
Anne Smith	Topeka	Ks. Assoc. of Counties
Jenny Lindberg	Topeka	Att. Gen. Office
MINE FESSE	TOPEKA	KDOT
Selen Stephens	P.V.	KPOA
Ann McBride	Topeka	observer
RG Frey	TOPEKA	KTLA
R. Smith	"	Kns Bar Assn
Cathy Lombard	Topeka	Ks. Assoc. of Counties to Court Serv. Off.

March 21, 1990 a.m.



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

June 28, 1989

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296 6296

Dear Friend:

In the past month this office has received several inquiries regarding the effect of the 1988 amendment to the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. §5601 et seq. Basically the questions asked are: 1) Whether local units of government in Kansas are now precluded entirely from placing juvenile offenders in adult jails; and 2) if so, what are the consequences for violation of this prohibition.

The Juvenile Justice and Delinquency Prevention Act (JJJPA) has as one of its purposes the assistance of state and local governments in removing juveniles from adult jails. 42 U.S.C.A. §5602(a)(8). 42 U.S.C.A. §5631 (West Supp. 1989) authorizes the administrator of the federal program to make grants to the states. To be eligible for such grant moneys, the state is required to formulate and submit a plan to carry out the purposes of the program. 42 U.S.C.S. §5633(a) (West Supp. 1989). The Kansas Department of Social and Rehabilitation Services (SRS), entered into this program and began receiving grant moneys in 1978. While specific provisions of the act have been amended from time to time, it appears that the removal of juveniles from adult jails has been one of the goals of the program from its inception.

42 U.S.C.A. §5633 sets forth the provisions required to be contained in each participating state's plan. Of particular relevance to the inquiries addressed herein is subsection (a)(14) which states:

"(a) In accordance with regulations which the Administrator shall prescribe, such plan shall --

. . . .

"(14) provide that, beginning after the five-year period following December 8,

Senate Judiciary Committee
3-21-90 a.m.
Attachment I page 1 of 20

1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall, through 1993, promulgate regulations which make exceptions with regard to the detention of juveniles accused of non-status offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearances within twenty-four hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas which--

"(A) are outside a Standard Metropolitan Statistical Area,

"(B) have no existing acceptable alternative placement available, and

"(C) are in compliance with the provisions of paragraph (13). . . ." (West Supp. 1989).

Thus, in order to be eligible for grant moneys, SRS has agreed that no juveniles shall be detained or confined in adult jails. (Note: 28 C.F.R. §31.303(e)(3)(i) acknowledges that juvenile detention facilities may be located in the same building or on the same grounds as adult jail facilities as long as the criteria for separateness of the two facilities are met. If the criteria are met, the placement of juveniles in such detention facilities is not deemed to be placement in an adult jail.) While there is an exception for certain states in 42 U.S.C.A. §5633(a)(14), Kansas is not eligible for the exception because we do not have a law requiring an initial court appearance for juvenile offenders within twenty-four hours of being taken into custody. K.S.A. 1988 Supp. 38-1632(a) provides for forty-eight hours of detention before an initial hearing. Even if K.S.A. 1989 Supp. 38-1632 were amended to allow Kansas to make use of the exception, the exception itself expires in 1993.

Having concluded that Kansas, by virtue of SRS's agreement to accept JJDP funds under specified circumstances, is currently precluded from detaining juvenile offenders in adult jails, we turn now to the question of possible consequences for violation of this prohibition. Aside from possible monetary consequences as a result of action taken by the Office of Juvenile Justice and Delinquency Prevention, local units of government, particularly sheriffs and chiefs

(3-21-90 am.)
I 2/20

of police, may be held liable in private causes of action brought by juveniles "wrongfully" incarcerated under the JJDP. In Hendrickson v. Griggs, 856 F.2d 1041 (8th Cir. 1988) the United States Circuit Court, in finding unappealable an interlocutory order requiring the State of Iowa to submit a plan in substantial compliance with the JJDP, indicated that a private cause of action may be brought to enforce the requirements of the JJDP. We have been advised that the district court's ruling in this regard will be appealed once a final order is entered and thus the circuit court will be able to handle this as a substantive issue at that time. Until it does so and renders a decision to the contrary, however, we must consider such private causes of action a possibility. See Soler, Dale and Flake, "Stubborn and Rebellious Children: Liability of Public Officials for Detention of Children in Jails," 1980 B.Y.U.L. Rev. 1, 12 (1980); Dale, "Detaining Juveniles in Adult Jails and Lockups: An Analysis of Rights and Liabilities," Am. Jails, Spring 1988, at 46; "Hendrickson vs. Griggs - Juvenile Justice Act Creates Rights for Detainees," Detention Reporter, August 1987, at 3. On the other hand, local units of government may be held liable for releasing a juvenile offender who then proceeds to commit subsequent crimes. Thus, local units of government are placed in a delicate situation and may be well advised to consider each case individually with these possibilities in mind.

I trust this information will be of assistance in clearing up any questions brought on by Ruth O'Donnell's (SRS) letter dated May 5, 1989.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas

RTS:JLM:jm

(3-21-90 am)
I 3/20

Increase in burglaries cause area crime statistics to jump

By KEVAN ANDERSEN
Daily Union staff writer

There was a 17.9 percent increase in crime in Junction City during the first six months of this year as compared to the same period in 1968, according to Kansas Bureau of Investigation crime statistics released Saturday.

These statistics also show a 18.7 increase in crime during the same period in Geary County. Statistics for Geary County include crimes reported in Junction City.

The increase in crime also occurred statewide, with only seven of the 35 cities with populations over 10,000 people showing a decrease in crime.

Statistics from the KBI only include

"Part One Crimes," which include murder, rape, robbery, assault, burglary, theft and motor vehicle theft.

The area which saw the largest increase in Junction City was burglaries, according to Pat Upham, senior records keeper with the Junction City Police Department.

There were 172 burglaries reported in Junction City between Jan.-June of 1968, while that number jumped to 319 during the same period in 1969, Upham said.

Junction City Police Chief Jerry Smith said today the increase is directly related to 15-20 juveniles in Junction City who are arrested and then released into the custody of their parents.

"These juveniles cannot be jailed in the Geary County Detention Center because of state statutes prohibiting minors from being housed in facilities where adults are jailed, he said.

Because there is no local juvenile detention facility, the youth arrested for crimes are usually released to their parents after being arrested, Smith said, and then they often commit more crimes.

"As far as I'm concerned, and statistics will bear me out, the reason for the increase is the number of repeat juvenile offenders," Smith said. "Probably 80-85 percent of our crimes against property are being committed by repeat juvenile offenders. There is no

place our magistrates can place them."

Other crime statistics were about where they were last year, Upham said.

There were 10 rapes reported from Jan.-June of 1969, and 10 also reported during the same period this year, she said. Thefts were listed at 565 reported during that period last year, and 555 this year.

Aggravated assaults were up slightly, with 88 reported during the first six months of 1969, and 83 reported during the period this year. There were 28 auto thefts reported from Jan.-June 1969, and 31 reported this year.

No murders were reported in Junction City during the first six months of 1969, while two have occurred during

that period in 1968.

Robberies were down this year, with 17 reported in 1968 and eight reported during the first six months of this year, Upham said.

The statistics state there were 837 arrests made in Geary County during the first half of 1969, with 218 of them being juvenile arrests and 609 adults.

The number of violent crimes committed in Kansas jumped 8.2 percent between the first and second quarters of this year, Kansas Bureau of Investigation Director Dave Johnson reported Monday.

See Crime, Page 2

Crime

Continued From Page 1

The increase helped shove the incidence of violent crime during the first six months of this year 11.4 percent ahead of the same period in 1968.

Violent crimes compiled by the KBI from reports fed to it by about 300 city and county law enforcement agencies statewide include murder, rape, robbery and aggravated assault.

Adding in property crimes, which include burglary, theft and motor vehicle theft, the number of total reported serious crimes in Kansas increased 8.1 percent between the first and second

quarters this year, and went up 8.2 percent during the first half of this year as compared to the first six months of 1968.

Property crimes rose 4.7 percent during the first half of 1969, the KBI statistics showed.

The most dramatic increase in comparing the first-half figures from 1968 to 1969 came in the number of murders reported in the state, up from 25 to 35 or 57.1 percent.

Most of that increase came during the first three months of this year, when the number of murders jumped from seven last year to 28 this year.

(3-21-90am)
I 4/30

JERRY E. SMITH
CHIEF OF POLICE



(Attachment)
MUNICIPAL BUILDING
JUNCTION CITY, KANSAS 66441
913-762-5912

POLICE DEPARTMENT

August 24, 1989

Mr. Chris Biggs
Geary County Attorney
Geary County Courthouse
Junction City, Kansas 66441

Dear Mr. Biggs:

This correspondence is to make you aware of a very serious problem in our community and throughout the State of Kansas. The problem I refer to is the lack of detention facilities to house repeat juvenile felony offenders.

It is my opinion that approximately eighty percent of the property crimes [burglary, theft and criminal damage to property (vandalism)] in Junction City, Kansas, is being committed by a very small percentage of the young people in our community. This being true it is obvious that we have a number of repeat offenders. We have experienced situations where juvenile offenders have been arrested by three separate agencies (Junction City Police, Fort Riley and Riley County Police) for burglary and theft within ten days of one another.

Our crime rate in Junction City is going to reflect a substantial increase for the year 1989. This increase is the direct result of repeat felony juvenile offenders. These juveniles are aware that once arrested they will immediately be released to their parents and nothing will be done. Within a few days they are arrested again for similar offenses and so begins the revolving door syndrome.

I have compiled a list of only a few juveniles offenders who fall within this category for my own information. I am forwarding a copy for your review. Some of these juveniles have now reached adulthood and are presently in adult detention facilities. The point is, however, the number of crimes, amount of money and property damage they were responsible for prior to anything truly being done to solve the problem.

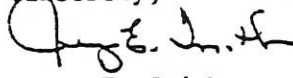
It is imperative that this widespread problem be presented to our citizens and legislators. Our Juvenile Codes must be changed and we must find some facility in which these violators can be incarcerated if we sincerely wish to protect our citizens.

(3-21-90 am)
I 5/20

- 2 -

If you have questions or thoughts to share, please contact my office at your convenience.

Sincerely,



Jerry E. Smith
Chief of Police

JES:mh

(3-21-90 am)
I 6/20

JERRY E. SMITH
CHIEF OF POLICE



(Attachment D)
MUNICIPAL BUILDING
JUNCTION CITY, KANSAS 66441
913-762-5912

POLICE DEPARTMENT

August 22, 1989

Mr. Chris Biggs
Geary County Attorney
Geary County Courthouse
Junction City, Kansas 66441

Dear Mr. Biggs:

I am writing to you concerning a problem in Junction City that is causing me, along with all my brother officers, great frustration. The problem I speak of is the juvenile offender.


Statistics compiled by the Police Department indicate a majority of property type crimes are committed by juveniles and although the large number of crimes does not indicate a large number of juvenile offenders it represents repeat offenders who commit crimes over and over again. Since you cannot incarcerate these offenders in the adult detention facility you release them to their parents so they can go out and commit more crimes, thus the frustration.

Recently in Junction City two juveniles were arrested for breaking into a local sporting goods establishment. The two were arrested as they exited carrying bows, arrows, knives and numerous other sporting good items. One of the juveniles had no local record, although he was new to the area, the other was a repeat offender. Ironically the same two juveniles had broken into a local school approximately two hours earlier and the repeat offender has been linked to other crimes in Junction City and Manhattan. Where is he, at home, planning more criminal activity, thus the frustration.

During my interview with him, after the sporting goods store break in, I told him he may go away this time if the court system makes him an adult, he just smiled and said, "We'll see," thus the frustration.

This vicious cycle will continue until and unless a juvenile detention facility is built or found in Geary County to incarcerate these juveniles. Although the expense of building or finding such a facility is high the costs of the losses created by these offenders is also high.

I believe the time is now to make the public aware and our frustration can be eliminated by correcting the problem.

Sincerely,

Thomas J. Wesoloski
Detective

TJW:mh

(3-21-90 am)

I 7/20

JERRY E. SMITH
CHIEF OF POLICE



(Attachment)

MUNICIPAL BUILDING
JUNCTION CITY, KANSAS 66441
913-762-5912

POLICE DEPARTMENT

August 22, 1989

Mr. Chris Biggs
Geary County Attorney
Geary County Courthouse
Junction City, Kansas 66441

Dear Mr. Biggs:

As you well know Junction City-Geary County is faced with a dilemma concerning incarceration of felony juvenile offenders.

Statistics indicate a majority of the crime reported in Junction City is committed by juveniles, but only a small percentage of the juvenile population is involved. The problem is obviously with the repeat offender.

Once the offender has been through the system, it's realized nothing happens. Therefore, the crime cycle begins again and will continue until measures have been taken to incarcerate the offender.

Statistics have been compiled concerning property damage and loss by the juvenile repeat offender and the figures are staggering.


Several things happen as a result of this. For example: higher consumer prices, higher insurance rates to name a few.

The community definitely suffers.

An answer to part of the problem lies with incarceration. A facility needs to be erected to accommodate the repeat offender. I realize there's an expense factor involved, but the losses created by the offender far outweigh the erection and operation of a detention facility.

I feel it's time the public becomes aware and measures are taken to rectify the problem.

Sincerely,


Charles T. Winters
Captain
Investigations Division

(3-21-90 am)
I 8/20

MEMORANDUM ...

(Attachment F, 7 PAGES)

DATE: August 10, 1989

TO: Jerry E. Smith, Chief of Police

FROM: Patricia Upham

SUBJECT: Frequent Juvenile Offenders

Following is a list of Juveniles with frequent offenses, to include the case numbers, type of offense, total amount of property stolen, and total amount of damage to property.

DOB: 10/21/73

DATE	CASE #	TYPE	TOTAL PROPERTY STOLEN	TOTAL PROPERTY DAMAGE
MT 06/29/87	87-095 31	Theft	\$100 (money)	
J/AR 01/17/88	88-00725	Theft	\$12 (empty pop bottle)	
J/AR 02/15/88	88-01981	Burglary/Theft/Criminal Damage	\$680 (radar detector, tapes)	\$150 (vehicle damage)
J/AR 02/27/88	88-02526	Burglary/Theft/Criminal Damage	unk amt (radar detector)	
J/AR 02/15/88	88-01982	Burglary/Theft/Criminal Damage	\$170 (radar detector)	
J/AR 02/15/88	88-01986	Burglary/Theft/Criminal Damage	\$80 (radar detector)	\$150 (vehicle damage)
J/AR 02/27/88	88-02528	Burglary/Theft/Criminal Damage	\$80 (radar detector)	\$50 (vehicle window)
J/AR 02/20/88	88-02243	Burglary/Theft/Criminal Damage	\$150 (radar detector)	\$150 (vehicle window)
J/AR 02/21/88	88-02267	Burglary/Theft/Criminal Damage	unk amt (radar detector)	\$150 (vehicle damage)
MT 02/27/88	88-02523	Possession of Burglary Tools		
J/AR 02/27/88	88-02525	Burglary/Theft/Criminal Damage	\$120 (radar detector)	\$100 (window)
J/AR 02/27/88	88-02529	Burglary/Theft/Criminal Damage	\$200 (radar detector, mirror)	\$125 (window)
J/AR 02/27/88	88-02531	Burglary/Theft/Criminal Damage	\$200 (radar detector)	
J/AR 02/27/88	88-02532	Burglary/Theft/Criminal Damage	\$70 (radar detector)	
J/AR 11/25/88	88-17018	Theft	\$150 (Tires)	
MT 12/03/88	88-17376	Theft	\$370 (tires & lug nuts)	
MT 07/04/89	89-09364	Burglary/Theft/Criminal Damage	\$1,000 + (cancorder, stereo, etc.)	\$50 (back door window)

DOB: 11/27/70

J/AR 05/29/86	86-08039	Theft	\$16 (cassette tapes)	
MT 03/31/87	87-04816	Theft	\$15 (cologne)	
SU 01/05/89	89-00205	Theft of Services	\$5 (cab Fare)	
A 04/29/89	89-05908	Theft/Damage to Property	\$3,350 (1984 Tempo, cassette radio)	\$600 (vehicle damage)

** LEGEND

MT Mentioned
 J/AR Juvenile/Arrested
 SU Suspect
 A Adult Arrested
 UN Unknown
 WT Witness

IF CHECKED REPLY MAY BE MADE IN LONGHAND HEREON

(3-21-90 am)

I 9/20

	<u>DATE</u>	<u>CASE #</u>	<u>TYPE</u>	<u>TOTAL PROPERTY STOLEN</u>	<u>TOTAL PROPERTY DAMAGE</u>
			DOB: 02/17/71		
U	03/07/87	87-03557	Theft	\$120 (bike)	
U	03/29/87	87-04702	Theft	\$130 (bike)	
T	04/11/87	87-05414	Burglary/Theft	\$50 (air gun, photos)	
U	04/15/87	87-05608	Burglary/Theft	\$150 (cassette stereo)	
T	04/17/87	87-05686	Burglary/Theft	unk (stereo speakers)	
/AR	04/30/87	87-06487	Burglary/Theft	\$140 (2-radio cassette players)	
/AR	05/18/87	87-07507	Att. Burglary/Conspiracy to Commit Burglary		\$50 (rear door)
IT	07/30/87	87-11150	Theft	\$125 (bike)	
SU	05/22/87	87-07682	Vehicle Burglary/Theft/Criminal Damage	\$605 (speakers & tools)	\$50 (rear cover)
SU	05/22/87	87-07683	Vehicle Burglary/Theft	\$950 (stereo)	\$50
SU	05/25/87	87-07850	Possession of Burglary Tools		
MT	05/22/87	87-07685	Burglary/Theft	\$300 (speakers & equalizer)	
MT	05/22/87	87-07697	Theft/Criminal Damage to Property	\$100 (equalizer)	\$100 (window hinges)
SU	08/14/87	87-11978	Possession of Stolen Property/ Assist outside agency	\$825 (bike)	
SU	12/06/87	87-17617	Burglary/Theft	\$10 (electrical cord)	
A	01/26/89	88-17376	Theft	\$370 (tires & lug nuts)	
J/AR	12/06/88	88-17509	Burglary/Theft/Criminal Damage	unk amt (stereo equip)	\$50
SU	04/30/89	89-05924	Theft	\$90 (car bra)	
SU	05/19/89	89-06900	Burglary/Theft	\$1,552 (stereo, food)	
SU	05/24/89	89-07101	Theft	\$80 (car bra)	
SU	05/24/89	89-07120	Criminal Damage to Property		\$15 (ignition frame)
MT	05/25/89	89-07166	Burglary/Theft	\$2,580 (clothes)	
A	07/04/89	89-09364	Burglary/Theft/Criminal Damage	\$1,000 + (cancorder, stereo, etc)	\$50 (back door window)

DOB: 10/14/71

UN	03/17/85	85-04155	Theft	\$120 (2 bikes)	
SU	01/15/87	87-00687	Theft	\$273 (currency)	
SU	02/09/87	87-02085	Theft	\$80 (currency)	
MT	05/22/87	87-07682	Vehicle Burglary/Theft/Criminal	\$605 (speakers & tools)	\$50 (rear cover)
SU	05/22/87	87-07685	Burglary/Theft	\$300 (speakers & equalizer)	
SU	05/22/87	87-07697	Theft/Criminal Damage to Property	\$100 (equalizer)	\$100 (window hinges)
MT	11/17/87	87-16815	Burglary/Theft	unk amt (credit cards, misc items)	
J/AR	04/29/89	89-05908	Theft/Damage to Property	\$3,350 (1984 Tempo, cassette radio)	\$600 (vehicle damage)
SU	04/30/89	89-05924	Theft	\$90 (car bra)	
J/AR	04/30/89	89-05926	Theft	\$281 (2-car bras)	
MT	05/19/89	89-06900	Burglary/Theft	\$1,552 (stereo, food)	
J/AR	07/04/89	89-09364	Burglary/Theft/Criminal Damage	\$1,000 + (cancorder, stereo, etc)	\$50 (back door window)

(3-21-90am)

I 10/20

CASE # TYPE TOTAL PROPERTY STOLEN TOTAL PROPERTY DAMAGE

DOB: 01/28/71

34	84-06999	Theft	\$11 (check)	
34	84-07177	Theft	\$110 (bike)	
34	84-08005	Burglary/Theft	\$150 (bike, cassette player)	
34	84-09134	Burglary/Theft	\$21 (candy)	\$150 (aluminum door)
84	84-11824	Theft	\$.62¢ (bottle of soda)	
84	84-20568	Theft	\$70 (bike)	
84	84-21317	Burglary	\$8,047 (fur coat, jewelry)	
84	84-21404	Burglary		
85	85-01541	Theft	\$5 (money)	
86	86-08483	Theft	\$80 (bike)	
86	86-11458	Theft	\$200 (bike)	
86	86-11901	Burglary	\$1,438 (jewelry, food)	\$75 (broken glass)
86	86-12009	Burglary	\$212 (rifle, pistol, children's toys)	\$10 (door)
86	86-12086	Theft	\$4 (necklace)	
86	86-12837	Vehicle Theft	\$1,400 (Trans Am & trailer)	
87	87-06436	Burglary/Theft	\$4,200 (1986 Harley)	
87	87-07375	Theft	\$128 (money)	
87	87-07682	Vehicle Burglary/Theft/Criminal Damage	\$605 (speakers & tools)	\$50 (rear cover)
87	87-07683	Vehicle Burglary	\$950 (stereo)	
87	87-07685	Vehicle Burglary	\$300 (speakers & equalizer)	witch)
87	87-07697	Theft/Criminal Damage to Property	\$100 (equalizer)	\$100 (window hinges)
87	87-07850	Possession of Burglary Tools		
89	89-02125	Theft	unk amt (man's gold ring)	ism door)
89	89-04426	Theft	\$8 +	
89	89-05924	Theft	\$90 (car bra)	
89	89-06854	Theft of Service	\$4 (cab fare)	
89	89-06900	Burglary/non-residence	\$1,552 (stereo, food)	door lock
89	89-07101	Theft	\$80 (car bra)	
89	89-07120	Vehicle Theft, Att.		
89	89-07130	In reference w/ #89-05924		
89	89-07166	Burglary/Theft	\$2,580 (clothes)	
89	89-07509	Burglary/Criminal Damage		\$150 (door)

DOB: 11/07/76

1/89	89-00672	Theft	\$10 (Pen & pencil set)	
3/89	89-05908	Theft/Damage to Property	\$3,350 (1984 Tempo, cassette radio)	\$600 (vehicle damage)

(3-21-90am)
I 10/20

DATE	CASE #	TYPE	TOTAL PROPERTY STOLEN	TOTAL PROPERTY DAMAGE
DOB: 09/15/71				
WT 09/07/84	84-15678	Burglary (witness)	\$40 (rod & reels)	
J/AR 04/25/85	85-06672	Theft	\$60 (portable radio)	
UN 05/28/85	85-08736	Attempted Theft	\$10.98 (toys)	
J/AR 05/14/86	86-07163	Theft	\$6 (wham-o Hacky Sack)	
SU 05/17/86	86-07358	Damage to Property		\$125 (pick-up)
UN 08/03/86	86-11904	Burglary/Theft	\$500 (Go-cart, mini-bike)	
SU 03/31/87	87-04808	Burglary/Theft/Damage to Property	\$221 (13" TV, tapes)	\$25 (glass door)
J/AR 05/14/87	87-07257	Burglary/Theft/Damage to Property	\$35 (pennies, fire extinguisher)	\$70 (glass door)
J/AR 05/14/87	87-07258	Att. Burglary/Damage to Property Unlawful Trespassing		\$50 (glass door)
J/AR 05/14/87	87-07259	Att. Burglary/Damage to Property Unlawful Trespassing		\$50 (glass door)
J/AR 05/14/87	87-07275	Burglary/Theft/Damage to Property	\$55 (cassette player, coins)	\$60 (window)
SU 06/08/87	87-08551	Damage to Property		\$25 (fiberglass roofing)
J/AR 10/22/87	87-15551	Theft	\$16 (clothing)	
SU 11/13/87	87-16642	Burglary/Theft	\$230 (purse, money, credit cards)	
SU 11/20/87	87-16948	Att. Burglary/Criminal Damage		\$100 (window pane)
MT 12/08/87	87-17710	Burglary/Damage to Property		\$60 (window)
DC 02/10/89	89-01954	Damage to Property (discovered crime)		\$100 (window)
MT 02/23/89	89-02571	Burglary/Theft/Damage to Property	\$7 + (speakers, tray)	unk amt
MT 04/06/89	89-04724	Burglary/Theft	\$70 (pizza, candy, drill, watches)	
MT	89-07934	(can't locate case at this time)		
J/AR 06/18/89	89-08504	Burglary/Theft/Damage to Coin Operated Machines	\$10,100 (1986 CoIt, car stereo)	\$450 (pop & candy machines)
SU 06/29/89	89-09062	Burglary/Theft/Damage to Property	\$211 + (misc items)	\$200 (front window)

DOB: 05/09/75

SU 05/17/86	86-07358	Damage to Property		\$125 (pick-up)
SU 06/29/89	89-09062	Burglary/Theft/Damage to Property	\$211 + (misc items)	\$200 (front window)

DOB: 06/22/69

MT 04/19/87	87-05814	Burglary/Theft/Criminal Damage	\$2,255 (VCRs, stereo Equipment)	\$100 (door)
SU 01/23/89	89-01153	Theft	\$17 (Liquor)	\$1,600 (glass window)
SU 01/31/89	89-01487	Criminal Damage to Property/ Attempted Burglary		unk amt (phone wires)
A 02/23/89	89-02565	Damage to Property		
MT 05/19/89	89-06900	Burglary/Theft	\$1,552 (stereo, food)	
MT	89-05235	(can't locate case at this time)		

(3-21-90am)

I 12/20

DATE	CASE #	TYPE	TOTAL PROPERTY STOLEN	TOTAL PROPERTY DAMAGE
DOB: 11/03/73				
SU	09/06/86	86-14278	Theft	\$.40¢ (bags of chips)
J/AR	12/03/88	88-17376	Theft	\$370 (tires & lug nuts)
SU	12/24/88	88-18335	Theft	\$12 (carton of Marlboro cigs)
SU	01/23/89	89-01153	Theft	\$17 (Liquor)
SU	01/31/89	89-01487	Criminal Damage to Property/ Attempted Burglary	\$1,600 (glass window)
MT	02/23/89	89-02565	Criminal Damage to Property	unk amt
J/AR	04/29/89	89-05908	Theft/Damage to Property	\$600 (vehicle damage)
SU	04/30/89	89-05924	Theft	\$3,350 (1984 Tempo, cassette radio)
SU	05/25/89	89-07101	Theft	\$90 (car bra)
SU	05/24/89	89-07120	Criminal Damage to Property	\$80 (car bra)
MT	05/24/89	89-07130	In reference w/ #89-05924	\$15 (ignition frame)
SU	05/19/89	89-06900	Burglary/Theft	\$1,552 (stereo, food)
MT	05/25/89	89-07166	Burglary/Theft	\$2,580 (clothes)
J/AR	05/31/89	89-07509	Burglary/Criminal Damage	\$150 (door)
MT	07/04/89	89-9364	Burglary/Theft/Criminal Damage	\$1,000 + (camcorder, stereo, etc)
SU	05/30/89	89-07488	Theft	\$200 (bike)

DOB: 01/23/70

J/AR	03/10/86	86-03793	Theft	\$2 (bike inner tube)
SU	06/06/86	86-08483	Theft	\$80 (bike)
J/AR	06/01/86	86-16041	Burglary/Theft	\$140 (bike)
MT	12/03/86	86-19075	Burglary/Theft	\$100 (cassette stereo)
J/AR	02/15/87	87-02450	Theft	\$1,000 (1976 Volkwagon Rabbit)
J/AR	02/18/87	87-02626	Possession of Stolen Property	\$400 (Yamaha motorcycle)
SU	05/15/87	87-07305	Vehicle Theft	\$10,330 (1984 Honda, misc. items)
J/AR	05/23/87	87-07711	Burglary/Theft	\$5 (key ring)

DOB: 07/24/68

SU	02/25/89	86-02974	Damage to Coin Operated Machine	\$75 (coins)	\$40 (jukebox)
SU	08/11/86	86-12449	Burglary/Theft	\$746 (stereo equip)	
A	01/24/87	87-01082	Theft	\$55 (food)	
SU	07/09/87	87-10075	Theft/Damage to Coin Operated Machine	\$8 (coins - quarters)	\$100 (coin machine)
A	08/02/87	87-11323	Burglary/Theft/Damage to Property	\$900 (2- TVs, jewelry)	\$150 (screen door)
MT	02/14/88	88-01943	Theft (mentioned)	\$739 (2-TVs, VCR, radio)	
MT	07/09/88	88-09552	Theft (mentioned)	\$200 (bike)	
SU	08/18/88	88-11699	Theft (unfounded)	\$50 (bike)	
SU	08/31/88	88-12478	Theft (unfounded)	unk amt (cigarettes)	
SU	09/05/88	88-12772	Burglary/Theft	\$400 (stereo system)	
A	03/27/89	89-04138	Att. Burglary/Damage to Property		\$500 (plate glass window)

(3-21-90am) I 13/20

<u>DATE</u>	<u>CASE #</u>	<u>TYPE</u>	<u>TOTAL PROPERTY STOLEN</u>	<u>TOTAL PROPERTY DAMAGE</u>
DOB: 11/06/71				
MT 06/29/87	87-09531	Theft	\$100 (money)	
J/AR 02/15/88	88-01981	Burglary/Theft/Criminal Damage	\$680 (radar detector, tapes)	\$150 (vehicle damage)
J/AR 02/15/88	88-01982	Burglary/Theft/Criminal Damage	\$170 (radar detector)	
J/AR 02/15/88	88-01986	Burglary/Theft/Criminal Damage	\$80 (radar detector)	
SU 02/15/88	88-01994	Theft	\$530 (skill saw/hammer drill)	
J/AR 02/20/88	88-02243	Burglary/Theft/Criminal Damage	\$150 (radar detector)	\$150 (vehicle window)
J/AR 02/21/88	88-02267	Burglary/Theft/Criminal Damage	unk amt (radar detector)	\$150 (vehicle damage)
MT 02/27/88	88-02523	Possession of Burglary Tools		
J/AR 02/27/88	88-02525	Burglary/Theft/Criminal Damage	\$120 (radar detector)	\$100 (window)
J/AR 02/27/88	88-02526	Burglary/Theft/Criminal Damage	unk amt (radar detector)	
J/AR 02/27/88	88-02528	Burglary/Theft/Criminal Damage	\$80 (radar detector)	\$50 (vehicle window)
J/AR 02/27/88	88-02529	Burglary/Theft/Criminal Damage	\$200 (radar detector, mirror)	\$125 (window)
J/AR 02/27/88	88-02531	Burglary/Theft/Criminal Damage	\$200 (radar detector)	
J/AR 02/27/88	88-02532	Burglary/Theft/Criminal Damage	\$70 (radar detector)	

DOB: 01/26/71				
SU 04/05/89	89-04675	Theft	\$200 (diamond ring)	
A 04/29/89	89-05908	Theft/Damage to Property	\$3,350 (1984 Tempo, cassette radio)	\$600 (vehicle damage)
SU 04/30/89	89-05924	Theft	\$90 (car bra)	
SU 05/19/89	89-06900	Burglary/Theft	\$1,552 (stereo, food)	
SU 05/24/89	89-07101	Theft	\$80 (car bra)	
MT 05/24/89	89-07120	Criminal Damage to Property		\$15 (ignition frame)
MT 05/25/89	89-07166	Burglary/Theft	\$2,580 (clothes)	
A 05/31/89	89-07509	Burglary/Criminal Damage		\$150 (door)

DOB: 05/29/70				
SU 02/13/88	88-01904	Damage to Property		unknown (lawns)
WT 06/05/88	88-07677	Damage to Property (witness)		\$250 (car damage)
SU 10/08/88	88-14592	Opening, Damaging Coin Operated Machines/Theft	\$3 (5 -cans of soda)	\$20 (pop machine)
SU 10/09/88	88-14595	Opening, Damaging Coin Operated Machines/Theft	\$40-\$50 (soda)	unk amt
MT 10/31/88	88-15664	Burglary/Theft (mentioned)	\$1,140 (radar detector, T-tops, equalizer)	
WT 12/03/88	88-17419	Theft (witness)	\$750 (ring)	
SU 06/12/89	89-08134	Burglary/Theft/Criminal Damage	\$75 (stereo speakers)	unk amt
A 06/16/89	89-08364	Theft	\$3,762.39 (4-VCRs, 2-camcorders)	

(3-21-90am)

I 14/20



Geary County Sheriff's Dept.

(Attachment G)

826 N. Franklin Street
Junction City, KS 66441
(913) 762 - 2323

William (Bill) Deppish
SHERIFF

August 30, 1989

Mr. Chris Biggs
Geary County Attorney
Geary County Courthouse
120 East 8th St.
Junction City, Kansas, 66441

Dear Chris:

As you know, as the Administrator of the Geary County Detention Center, I am prohibited from holding alleged juvenile offenders in this Center except for a six hour period for "booking, processing, identification, and to be questioned". This order is by the "Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. S5601 etc. seq.".

As you are also aware, Junction City/Geary County have experienced an increase in recent months of the alleged juvenile offenders and therefore we have a problem of where to house the juvenile offenders until court appearances or placement in juvenile detention centers or other court ordered facilities.

Therefore, I feel we need a joint effort between the Geary County Attorneys Office, the Junction City Police Department, and the Geary County Sheriff's Department, along with assistance from the State of Kansas Department of Social and Rehabilitation Services to develop a program of juvenile jail alternatives with an immediate need in assistance in out of county non-jail placement and transportation costs.

I trust that sharing this information with you, will assist us in working together to plan and establish a program that will begin to solve our juvenile detention problems.

Sincerely,


William L. Deppish
Geary County Kansas, Sheriff

WLD/mw

(3-21-90am)
I 15/20

JC crime rate hike linked to juveniles

EDITOR'S NOTE: The following is the first of two parts concerning problems local law enforcement officials are having with jailing juveniles accused of committing crimes in Junction City. The second part will further explore the issue and deal with some possible solutions suggested by law enforcement officials.

By BRYAN ANDERSEN
Daily Union staff writer
Local law enforcement officials say the recent jump in the crime rate in Junction City is di-

rectly related to juvenile offenders who are arrested for crimes but never serve any jail time.

First of two parts

Because juvenile offenders cannot be housed in a detention center where adults are jailed, there is no place locally where they can be locked up after being arrested for committing a crime, said Junction City Police Chief Jerry Smith.

"We've got situations where

we've arrested three people on a Monday for 18 house burglaries," Smith said. "We're chasing them again on Tuesday Fort Riley arrests them on Wednesday. They're arrested in Manhattan for burglarizing a motorcycle shop before the weekend and we've arrested them again for five or six more burglaries less than a week later."

According to statistics kept by the Junction City Police Department, the number of burglaries in Junction City nearly doubled in the first six months of 1966.

compared to the same period last year.

There were 319 burglaries during the first half of this year, while there were 173 in 1965, according to Pat Upham, senior records keeper with the JCPD.

Usually, when a juvenile is arrested for a crime committed in Junction City, they are taken to the Geary County Detention Center to be processed, and then released into the custody of their parents within six hours, said

See Juveniles, Page 2

Juveniles

Continued From Page 1

Geary County Sheriff Bill Dep-
plich.

Smith estimates 80-85 percent of crimes against property in Junction City are being committed by 80 local youths who are arrested and then released into the custody of their parents because there is no local juvenile detention facility where they can be placed.

The majority of the crimes these youths are committing are burglaries, thefts and criminal damage to property incidents, Smith said.

"There is no place our magistrates can place them. There is no room at the inn, so to speak," Smith said. "We can't incarcerate them in the county detention facility."

Both Robert Stephan, Kansas attorney general, and Administrative District Judge William Clement have said juveniles shouldn't be placed in the Geary County Detention Center because adult prisoners are housed there, Smith said.

"We don't have any (juvenile detention) facilities in Geary County, and the nearest facility is in Saline County. They only have room for 13 juveniles at a time."

These (juveniles) are committing 10, 12, 18 burglaries, and are never spending any time (in jail). Our investigators will tell you these juveniles are laughing about it. "I don't want to talk to you, just release me to my parents, you can't do anything to me," they'll say, and it's well known."

JCPD Detective Thomas Wesolowski explained the attitude many repeat juvenile offenders have when being arrested.

"They know they are juveniles, and they know there is nowhere we can put them in Junction

City," Wesolowski said. "They sort of just smile and say 'you can't do anything to us.'"

"I know of one juvenile in particular who we arrested for burglarizing a sporting goods store, and a week later he was arrested for spray painting vehicles and breaking into other buildings."

Wesolowski said the juveniles are very "street wise."

"They probably know the Miranda decision better than some of the police officers," he said.

Smith said the problem isn't only something Junction City is wrestling with, but is a statewide concern.

Most of the crimes the youths are responsible for are burglaries and thefts of items such as car stereos and radar detectors, television sets and videocassette recorders, Smith said.

"These people are breaking into automobiles, churches, homes and schools," he said, "and they're doing it on a nightly basis. And often times, the property damages they are doing to these homes and vehicles is far greater than the property they take."

Geary County Attorney Chris Biggs addressed the problem in a recent report to the Geary County Commission.

In an interview after the presentation, Biggs said Stephan has sent him a letter addressing the issue.

"I requested an attorney general's opinion," he said. "I didn't get a formal opinion. What I got was a letter, which I guess was probably sent out to all the county attorneys."

"It basically said 'you all recognize there's a problem. We are telling you we recognize there's a problem. We can't give you any answers except to say be careful.'"

(3-21-90 am.)
I 16/20

Juvenile crime produces no-win situation

I 17/20
(3/21/90 am)

By BRYAN ANDERSEN
Daily Union staff writer

Local law enforcement officers say they are in a no-win situation when they arrest juveniles for crimes because there is no local detention facility where the youths can be jailed.

Geary County Sheriff Bill Deppish, who is in charge of the Geary County Detention Center, said in a recent interview juvenile offenders can only be held at that facility for six hours.

"By law, I can only have them here for six hours," Deppish said. "That's by federal and state regulations. The (Kansas) Legislature has enacted certain statutes that will not allow us to do it any differently than that."

But Geary County Attorney Chris Biggs said today steps are being taken to correct the problem of juvenile offenders with a several arrests for serious crimes being released without serving any time in jail.

"We are starting to file motions to certify more of these kids as adults because it's apparent the juvenile system can't deal with them," Biggs said. "We're faced with a posture where we have to protect the community."

second of two parts

"We are also seeking grant funds (through Social Rehabilitation Services), \$35,000, to help us place juveniles out-of-county. Word has apparently gotten out that we can't place them in jail. Word should now get out that that is no longer the case, and we are doing everything we can to arrange in appropriate cases (that youths be placed in an appropriate detention center.)"

Even though there is no money budgeted to do so, Biggs said Geary County has recently sent two juvenile offenders to be housed out-of-county because the

problem is so serious.

Despite the efforts being made by local officials, there are a limited number of juvenile facilities in the state where youths can be jailed.

Deppish said the nearest juvenile housing facility is in Salina which only has room for 13 youths. He said it is not a detention center because it has no locks on the doors or bars on the windows.

If a juvenile is arrested in Geary County for an extremely serious crime such as murder, Deppish said, he doesn't know exactly what will be done.

"Salina is not a jail," Deppish said. "Say we have a juvenile who has committed a first-degree murder. It is going to be up to the county attorney and up to the courts. We cannot house them here. If we sent them up to Salina, they can walk away. If the county attorney orders me to

hold him here, or gets a court order, I will not hold them, because I am liable if I hold them here. I won't even do it on a court order."

Biggs said each juvenile case is looked at individually, and in the case of a youth charged with first-degree murder, some solution would be found and the juvenile suspect would be jailed somewhere.

Deppish received a letter from Kansas Attorney General Robert Stephan on June 28, stating that "we cannot house juveniles," Deppish said.

He makes a comment at the end of the letter that, on the other hand, local governments may be held liable for juvenile offenders who are released and then subsequently go on to commit other crimes.

Junetta City Police Department Chief Jerry Smith suggested the prob-

See Juveniles, Page 2

Juveniles

Continued From Page 1

lem could be solved if those 16 years old or older were be treated as an adult, as they were in the 1960's.

Biggs said the issue of jailing youths is a problem every county in Kansas is struggling with.

"It is a statewide problem," he said. "What's going to have to happen, it's apparent to me, is larger counties are going to have to build juvenile detention centers, and are probably going to

have to provide space so smaller counties can contract with them to house their juveniles when they have a detention problem.

"Maybe something will happen in this judicial district at some point in time to have a district-wide (juvenile) detention center. But, we're not in a posture now where that's feasible. We are looking for a solution to deal with the problem we are having right now, and this grant is the best we can come up with."

Junction City boy, 15, arrested again

A 15-year-old Junction City boy, who has been arrested two times in the last three weeks for burglary, theft and criminal damage in the burglaries of two local businesses, was arrested a third time after allegedly breaking into the same businesses early today, according to Junction City Police officials.

The boy allegedly broke into the B&D Markets, 902 Grant Ave., and into Green Liquor Store, 906 Grant Ave., early today and stole about \$1,000 in merchandise, said JCPD Capt. Charles Winters, head of investigations.

He also allegedly tried to break into Woods Fina Mart, 370 Grant Avenue, at about 4 a.m. today when police arrested him and charged him with two counts of burglary and theft, and three counts of criminal damage to property, Winters said.

About \$850 in criminal damages to property reportedly occurred during the incidents today at the three businesses. Police have recovered items stolen during the burglaries, Winters said.

In addition, Winters said the boy was arrested at about 9 p.m. Wednesday in the 1300 block of North Jefferson Street and charged with possession of alcohol by a person under 21, and unlawful use of a weapon because he allegedly was in possession of a concealed knife.

After the arrest Wednesday evening, the boy was placed in a foster home but apparently was able to leave the home before the other incidents allegedly occurred.

The boy was arrested in late December, along with a 17-year-old boy, for burglaries at the B&D Markets and Green Liquor Store, according to police reports.

Both were also arrested Sunday for alleged burglaries at the same two businesses, in which over \$1,000 in property was stolen and more than \$700 in criminal damages occurred.

Geary County Attorney Chris Biggs said that Magistrate Judge John Barker this morning made a temporary order placing the juvenile in the custody of the juvenile detention facility at Salina. Because the juvenile was under custody of the Kansas Department of Social and Rehabilitative Services at the time the crime was committed, Barker also ordered that SRS pay for the costs of placing the juvenile in custody.

"My position would be that that is appropriate because he's in SRS custody and if they're not able to provide the facilities to handle him and other things allegedly happen and the result is we have to send him to a detention center, then they should foot the bill for it," Biggs said.

(3-21-90am)
I 18/20



(Attachment I)

STATE OF KANSAS

MIKE HAYDEN, Governor

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Docking State Office Building, Topeka, Kansas 66612-1570

(913) 296-3271

Flordie M. Pettis, LMSW
Area Director

August 31, 1989

WINSTON BARTON
Secretary

THELMA HUNTER GORDON
Special Assistant

TIM OWENS
General Counsel

ANN ROLLINS
Public Information
Director

Administrative
Services

J. S. DUNCAN
Commissioner

Adult Services
JAN ALLEN
Commissioner

Alcohol and Drug
Abuse Services
ANDREW O'DONOVAN
Commissioner

Income Maintenance/
Medical Services
JOHN ALQUEST
Commissioner

Mental Health/
Retardation Services
AL NEMEC
Commissioner

Rehabilitation
Services
GABE FAIMON
Commissioner

Youth Services
ROBERT BARNUM
Commissioner

P.O. Box 1027
Junction City, KS 66441
(913) 762-5445

Ms. Joyce Crandon
Assistant County Attorney
Geary County Courthouse
P.O. Box 1147
Junction City, KS 66441

Dear Joyce:

I am writing in regard to your efforts to obtain grant money to facilitate the placement of juvenile offenders in detention and Attendant Care Facilities rather than in foster homes. This agency definitely supports your efforts. As you well know, many of these youth are not appropriate for foster care. Many of our foster parents are not willing to accept these youth into their homes as they exhibit behaviors which may be detrimental to other children placed there and several foster parents have threatened to quit because of the problems they have experienced.

Obviously, a much more appropriate placement for Juvenile Offenders that cannot be maintained in their own homes would be in a detention or secure care facility.

Ruth O'Donnell, who is the coordinator of Jail Alternatives for SRS is working on these issues and has informed me that there are additional funds available for attendant care beyond the SRS grant money.

She is interested in discussing this with you and can be reached at (913) 296-6277.

(3-21-90 am)
I 19/20

Ms. Joyce Crandon
Page Two
August 31, 1989

This agency appreciates the efforts you are making in this area. Please contact me if I can be of further assistance.

Sincerely,


Debra Germann, LBSW
Social Service Supervisor


Leonard Lavis
C & Y Section Chief

DG:LL:mtc

(3-21-90 am)

I 20/20

Department of Social and Rehabilitation Services

Testimony before

Senate Judiciary

Regarding

Senate Bill 743

March 21, 1990

Robert C. Barnum
Commissioner of Youth Services
Kansas Department of Social and Rehabilitation Services
(913) 296-3284

Senate Judiciary Committee
3-21-90 amb
Attachment II page 1 of 2

Department of Social and Rehabilitation Services
Winston Barton, Secretary

Testimony in Support of S.B. 743

(Mr. Chairman), Members of the Committee, I appear today in support of Senate Bill 743, which establishes the requirement for a Juvenile Offender Sub-plan in each Community Corrections Plan and establishes a Juvenile Offender Advisory Board as part of the Corrections Advisory Board.

Background: The current Community Corrections Act makes no specific requirement for a Juvenile Offender Sub-plan. The consequence is that some plans do not address programming for juveniles.

Discussion: This bill makes a much needed change which would encourage communities to provide additional services for their juvenile offender population. The concept of addressing the needs of juvenile offenders in their community is sound and should yield benefits.

This bill has two problems I would ask you to consider: 1) it is not funded nor is implementation of the plan required; and 2) the Secretary of SRS is not in the grant approval cycle. This bill makes the Secretary of Corrections the community corrections authority for juvenile matters.

Action Required: We support the concept of this bill. I urge your support of this bill with the suggested modifications.

Winston Barton,
Secretary
Department of Social and
Rehabilitation Services
(913) 296-3271

(3-21-90 am)
II 2/2

Department of Social and Rehabilitation Services

Testimony before

Senate Judiciary Committee

Regarding

Senate Bill 741

March 21, 1990

Robert C. Barnum
Commissioner of Youth Services
Kansas Department of Social and Rehabilitation Services
(913) 296-3284

*Senate Judiciary Committee
3-21-90 am
Attachment III page 1 of 4*

Department of Social and Rehabilitation Services

Winston Barton, Secretary

Testimony in Support of Senate Bill 741

AN ACT CONCERNING JUVENILE OFFENDERS;
RELATING TO THEIR RELEASE AT AGE 21;
PROVIDING FOR A HEARING TO ALLOW THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES TO RETAIN CUSTODY.

(Mr. Chairman), Members of the Committee, I appear today in support of Senate Bill 741 which amends the release provisions of the Juvenile Offender Code for serious offenders.

Background: There has been considerable discussion during this legislative session around the appropriate disposition of very serious juvenile offenders. Several alternative proposals have been offered all of which provide mechanisms to extend the time that a youth remains out of the community.

The Kansas Juvenile Offender Code is a non-criminal code. Its preamble states that youth who are handled under that code are not to be considered to have committed a crime. The code directs that the state should provide the care, custody, guidance, control and discipline as will provide for the juvenile's rehabilitation and the protection of the community.

A Juvenile Offender is defined as a person between the ages of 10 and 18 who commits an act which would be a felony or misdemeanor if it had been committed by an adult. The Code provides two avenues to move youth from the Juvenile Code to criminal prosecution. These avenues are exclusion and certification.

(3-21-90 am)

WLB 2/4

Examples of exclusions include traffic offenses except those which could lead to incarceration; fish and game offenses; youth convicted of Aggravated Juvenile Delinquency; and youth age 16 and over with two prior felony type adjudications who have a current felony charge.

The second way to exclude a youth from the provision of the Code is through the certification procedure for youth 16 and older. This procedure requires the Court to review the case against certain criteria and decide if the youth should be tried under the Criminal Code or the Kansas Juvenile Offender Code.

Discussion: This bill provides a simple straight forward mechanism to provide judicial discretion to the length of time a youth remains out of the community under the control of the State for the commission of A or B type felony offenses. Further this bill provides the protection that no juvenile would remain beyond the maximum they would have received under a sentencing by an adult court.

The major theme of this and other bills offered on this issue is to keep Juveniles who commit the most serious offenses in custody for a period of time equal to that which an adult would be required to spend in custody. I would like to suggest the following approach that could be incorporated here or in S.B. 526:

Convict the youth of having committed a crime with all of the attention and due process safeguards of an adult offender.

Require that once convicted of a crime (A or B felony) the youthful individual would be in the custody of the Secretary of SRS in a youth center until a certain age or range of ages, such as between 16 and 18. At the agreed upon age the individual would be transferred to the Custody of the Secretary of Corrections with their release date set by the parole board.

(3-21-90 am)
III 3/4

This approach would permit both the increased sanction proposed and it would allow for all individuals to be in age appropriate custody settings. The youth center system could provide custody services up to age 21 as is done in some other states. This precludes the adult system from having to create programs for this small population of young adolescents in the adult institutions. Our current facilities are better prepared to provide such programs. When the youth attains a suitable transfer age, movement to the adult system could be accomplished.

Action Requested: We would recommend support of a bill based on these concepts.

Winston Barton
Secretary
Department of Social and
Rehabilitation Services
(913) 296-3217

(3-21-90am)
III 4/4

Department of Social and Rehabilitation Services

Testimony before

Senate Judiciary Committee

Regarding

Senate Bill 526

March 21, 1990

Robert C. Barnum
Commissioner of Youth Services
Kansas Department of Social and Rehabilitation Services
(913) 296-3284

*Senate Judiciary Committee
3-21-90 am
Attachment IV page 1 of 6*

Department Of Social and Rehabilitation Services
Winston Barton, Secretary

Testimony in Support of S.B. 526

AN ACT CONCERNING JUVENILE OFFENDERS;
RELATING TO PROSECUTION AS AN ADULT;
NOTICE TO VICTIMS OF RELEASE OR DISCHARGE
OF CERTAIN JUVENILE OFFENDERS.

(Mr. Chairman), Members of the Committee, I appear today in support of Senate Bill 526 which reduces the age for certain offenders to be prosecuted as adults under the criminal code and provides for notice to the prosecutor by a youth center prior to the release of certain juvenile offenders.

Background: The Kansas Juvenile Offender Code is a non-criminal code. Its preamble states that youth who are handled under that code are not to be considered to have committed a crime. The code directs that the state should provide the care, custody, guidance, control and discipline as will provide for the juvenile's rehabilitation and the protection of the community.

A Juvenile Offender is defined as a person between the ages of 10 and 18 who commits an act which would be a felony or misdemeanor if it had been committed by an adult. The Code provides two avenues to move youth from the Juvenile code to criminal prosecution. These avenues are exclusion and certification.

(3-21-90 am.)
IV 2/6

Examples of exclusions from the Juvenile Code include traffic offenses except those which could lead to incarceration; fish and game offenses; youth convicted of Aggravated Juvenile Delinquency; and youth age 16 and over with two prior felony type adjudications who have a Current Felony Charge.

The second way to exclude a youth from the provision of the Code is through the certification procedure for youth 16 and older. This procedure requires the Court to review the case against certain criteria and decide if the youth should be tried under the Criminal Code or the Kansas Juvenile Offender Code.

Senate Bill 526 makes changes in both of these provisions by defining 16-17 year olds charged with A & B felonies out of the Juvenile Offender Code and by making it possible for the Court to certify for criminal prosecution 14 & 15 year olds charged with A & B felonies.

This bill further provides for youth centers to notify the prosecutor 45 days in advance of the discharge of a juvenile offender who was adjudicated on the basis of an A, B, or C type felony offense. The district or county attorney would subsequently provide notice to the victim.

Discussion: The age reductions in this bill would address approximately fourteen youth each year. During fiscal year 1988 a total of fourteen (14) youth were admitted to youth centers for A & B type felony offenses. During fiscal year 1989 thirteen (13) youth were admitted for those offenses. By far the most frequent offense in the A & B felony category is aggravated robbery. The attachment to this testimony is a listing of all admissions to the state

(3-21-90 am)
IV 3/6

youth centers during fiscal years 88 and 89 by the classification of the offense as well as the specific offense for which they were committed. Once a youth is convicted of a crime under this bill, provision for his/her housing, education and protection will be needed. The youth center system could provide custody services up to an agreed upon appropriate age as is done in some other states. This precludes the adult system from having to create programs for this small population of young adolescents in the adult institutions. When the youth attain a certain age transfer to the adult system could be accomplished.

The second issue addressed in this bill is victim notification. The Youth Centers would provide notice to the prosecutor in advance of the release of youth in A, B, or C felony type offenses. We are willing to provide such notice in support of victim notification.

Action Requested: We support the State addressing the need to provide different consequences for younger offenders who commit serious violent offenses. I urge your support of this bill with the suggested modifications.

Winston Barton
Secretary
Department of Social &
Rehabilitation Services
(913) 296-3271

(3-21-90 am)
IV 4/6

YOUTH CENTER COMMITTING OFFENSES

OFFENSES	FY 1988					FY 1989				
	YCA	YCB	YCL	YCT	TOT.	YCA	YCB	YCL	YCT	TOT.
<u>A FELONIES</u>										
AGGRAVATED KIDNAPPING	0	0	0	2	2	0	0	0	1	1
FIRST DEGREE MURDER	0	0	0	4	4	0	0	0	0	0
TOTAL A FELONIES					6					1
<u>B FELONIES</u>										
AGGRAVATED ARSON	0	0	0	0	0	0	0	0	1	1
AGGRAV. CRIMINAL SODOM	1	0	0	0	1	0	0	0	1	1
AGGRAVATED ROBBERY	2	0	1	3	6	1	0	1	7	9
KIDNAPPING	0	0	0	0	0	0	0	0	1	1
RAPE	0	0	1	0	1	0	0	0	0	0
TOTAL B FELONIES					8					12
<u>C FELONIES</u>										
AGGRAVATED BATTERY	2	2	2	8	14	1	2	0	15	18
AGGRAVATED BURGLARY	1	0	1	1	3	0	0	1	4	5
ARSON	1	0	1	2	4	3	0	0	2	5
ATTEMPTED AGGR. ROBBER	1	1	0	0	2	0	0	0	0	0
ATTEMPTED RAPE	0	0	0	1	1	1	0	0	0	1
CONSPIR. TO COMM. AN A F	0	0	0	1	1	0	0	0	0	0
IND. LIBERTIES W/ A CHILD	6	2	1	7	16	5	1	1	12	19
POSS. COCAINE W/INT TO SE	0	0	0	1	1	2	2	1	8	13
ROBBERY	2	0	1	3	6	3	0	0	6	9
TOTAL C FELONIES					48					70
<u>D FELONIES</u>										
AGGRAVATED ASSAULT	3	3	0	3	9	0	2	0	2	4
AGGRAVATED INCEST	0	0	0	0	0	0	0	0	2	2
AGGRAVATED SEXUAL BATT	3	2	1	0	6	3	0	0	1	4
ATTEMPTED AGGR. BURGLA	0	0	0	1	1	0	0	0	0	0
ATTEMPTED IND. LIB. W/CHIL	0	0	0	0	0	0	0	1	0	1
ATTEMPTED ROBBERY	1	0	0	0	1	0	0	0	0	0
BURGLARY	21	4	19	61	105	21	1	15	55	92
FORGERY	0	4	0	5	9	5	5	4	1	15
TOTAL D FELONIES					131					118
<u>E FELONIES</u>										
AGGR. ESCAPE FR. CUSTOD	0	0	0	0	0	0	0	0	1	1
ATTEMPTED BURGLARY	1	0	0	1	2	0	0	0	2	2
CONSPIR. TO COMM. FELON	4	0	0	1	5	1	1	0	0	2
CRIMINAL DAM. TO PROPER	3	1	4	4	12	1	3	2	5	11
INCEST	0	0	0	2	2	0	0	0	0	0
TERRORISTIC THREAT	1	1	1	3	6	0	0	1	1	2
THEFT	19	11	14	34	78	17	7	9	41	74
UNLW. USE OF FIN. CARD	0	1	0	0	1	0	0	0	0	0
TOTAL E FELONIES					106					92
<u>TOTAL FELONIES</u>					299					293

(3-21-90 am)
IV 5/6

YOUTH CENTER COMMITTING OFFENSES

OFFENSES	FY 1988					FY 1989				
	YCA	YCB	YCL	YCT	TOT.	YCA	YCB	YCL	YCT	TOT.
<u>A MISDEMEANORS</u>										
ASSLT.ON LAW ENF.OFFICE	3	0	0	4	7	0	1	0	2	3
CRIMINAL DAM.TO PROPER	4	1	3	5	13	10	3	5	7	25
ESCAPE FROM CUSTODY	0	0	0	2	2	0	0	0	1	1
FALSELY REPORTING A CRI	0	0	0	0	0	0	1	0	0	1
HARRASSMENT BY TELEPH	0	0	0	0	0	0	1	0	0	1
OBSTRUCTING LEGAL PROC	1	7	0	0	8	0	0	0	2	2
POSS.OF DRUGS/PARAPH.	1	2	0	4	7	0	0	0	5	5
POSS.OF STOLEN PROPERT	0	0	0	0	0	1	0	0	6	7
SEXUAL BATTERY	0	0	0	0	0	1	0	0	1	2
THEFT	20	19	8	28	75	18	20	14	37	89
THEFT BY DECEPTION	1	0	0	0	1	0	0	0	0	0
UNLW.DEPR. OF PROPERTY	1	2	3	6	12	5	2	2	2	11
VEHICULAR HOMICIDE	0	0	0	1	1	0	0	0	0	0
TOTAL A MISDEMEANORS					126					147
<u>B MISDEMEANORS</u>										
BATTERY	6	10	1	22	39	8	11	1	14	34
CRIMINAL TRESSPASSING	0	3	3	3	9	1	2	2	6	11
CRUELTY TO ANIMALS	1	0	0	1	2	0	0	0	0	0
LEWD & LASCIVIOUS BEH.	0	0	0	1	1	0	0	0	2	2
PROSTITUTION	0	3	0	0	3	0	3	0	0	3
UNLW./POSS.USE OF FIREA	0	0	0	0	0	1	1	1	2	5
TOTAL B MISDEMEANORS					54					55
<u>C MISDEMEANORS</u>										
ASSAULT	4	3	0	2	9	1	2	2	3	8
DISORDERLY CONDUCT	3	4	0	4	11	4	2	0	1	7
TOTAL B MISDEMEANORS					20					15
<u>UNCLASSIF. MISDEMEANOR</u>	0	1	3	2	6	1	0	2	3	6
<u>TOTAL MISDEMEANORS</u>					206					223
<u>CONDITIONAL REL.REVOC.</u>	11	10	4	19	44	7	13	5	21	46
<u>TOTAL ADMISSIONS</u>					549					562

(3-21-90 am)
TV 6/6

SENATE BILL 742

Explanation of Balloon - due to a personal problem in the Revisors Office, the bill was incorrectly drafted and, as presented, did not meet the federal deadlines and requirements.

- A. The ballooned date changes have the effect of prohibiting the confinement of CINCs in jail as of July 1, 1990 and of all other juveniles as of July 1, 1991.
- B. P 4, Lines 24 and 25; Corrective deletion.
- C. P. 5, Line 15; P. 6, Line 38: Replaces a partial federal definition with the complete definition.
- D. P. 7, Line 3: Corrective addition to accurately define sight and sound definition.
- E. P. 7, Lines 8 - 16: Corrective language for the federal 24-hour exception for rural areas which is allowed through 1993. Adds the Saturday, Sunday and legal holiday exclusion allowed under federal law; requires only those counties using the exception to hold detention hearings within 24 hours. Same language as in H.B. 3041.
- F. P. 7, Line 36: Corrective deletion.
- G. P. 8, Lines 5-9: Corrective addition and deletion.
- H. P. 13, Line 6: Makes explicit that the Advisory Commission on Juvenile Offender Programs would oversee the expenditure of funds appropriated to the Juvenile Detention Facilities Fund for the purposes of construction or renovation under KSA 79-4803.

Robert C. Barnum
Commissioner of Youth Services

Presented on Behalf of:

Winston Barton, Secretary
Department of Social & Rehabilitation Services

Senate Judiciary Committee
3-21-90 am
Attachment V page 1 of 14

SENATE BILL No. 742

By Committee on Judiciary

2-21

AN ACT concerning juveniles; prohibiting detention in adult jails; development of alternatives to detention; amending K.S.A. 38-1632, 38-1671 and 75-5389 and K.S.A. 1989 Supp. 8-2117, 32-1040, 38-1502, 38-1602 and 38-1664 and repealing the existing sections.

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

Section 1. On and after ~~July 1, 1997~~, K.S.A. 1989 Supp. 8-2117 is hereby amended to read as follows: 8-2117. (a) Subject to the provisions of this section, a court of competent jurisdiction may hear prosecutions of traffic offenses involving any child 14 or more years of age but less than 18 years of age. The court hearing the prosecution may impose any fine authorized by law for a traffic offense, including a violation of K.S.A. 8-1567 and amendments thereto, and may order that the child be placed in a juvenile detention facility, as defined by K.S.A. 38-1602 and amendments thereto, for not more than 10 days. *If the child is less than 18 years of age, the child shall not be incarcerated in a jail as defined by K.S.A. 1989 Supp. 38-1602 and amendments thereto.* If the statute under which the child is convicted requires a revocation or suspension of driving privileges, the court shall revoke or suspend such privileges in accordance with that statute. Otherwise, the court may suspend the license of any person who is convicted of a traffic offense and who was under 18 years of age at the time of commission of the offense. Suspension of a license shall be for a period not exceeding one year, as ordered by the court. Upon suspending any license pursuant to this section, the court shall require that the license be surrendered to the court and shall transmit the license to the division of vehicles with a copy of the court order showing the time for which the license is suspended. The court may modify the time for which the license is suspended, in which case it shall notify the division of vehicles in writing of the modification. After the time period has passed for which the license is suspended, the division of vehicles shall issue an appropriate license to the person whose license had been suspended, upon successful completion of the examination required by

July 1, 1991

(3-21-90 am.)
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2/14

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V

1 K.S.A. 8-241 and amendments thereto and upon proper application
2 and payment of the required fee unless the child's driving privileges
3 have been revoked, suspended or cancelled for another cause and
4 the revocation, suspension or cancellation has not expired.

5 (b) Instead of suspending a driver's license pursuant to this sec-
6 tion, the court may place restrictions on the child's driver's privileges
7 pursuant to K.S.A. 1985 1989 Supp. 8-292 and amendments thereto.

8 (c) Instead of the penalties provided in subsections (a) and (b),
9 the court may place the child under a house arrest program, pursuant
10 to K.S.A. 21-4603b, and amendments thereto, and sentence the child
11 to the same sentence as an adult traffic offender under K.S.A. 1988
12 Supp. 8-2116, and amendments thereto.

13 (d) As used in this section, "traffic offense" means a violation of
14 the uniform act regulating traffic on highways or a violation of a city
15 ordinance or county resolution which relates to the regulation of
16 traffic on the roads, highways or streets or the operation of self-
17 propelled or nonself-propelled vehicles of any kind.

July 1, 1991

18 Sec. 2. On and after ~~July 1, 1992~~, K.S.A. 1989 Supp. 32-1040
19 is hereby amended to read as follows: 32-1040. The court hearing
20 the prosecution of any child 16 or 17 years of age who is charged
21 with a violation of any provision of the wildlife and parks laws of
22 this state or rules and regulations adopted thereunder may impose
23 any fine authorized by law for the offense, ~~but no child under 18~~
24 ~~years of age shall be incarcerated in a jail for more than 10~~
25 ~~days for such an offense. If the child is incarcerated in a jail,~~
26 ~~the child shall be in quarters separate from adult prisoners. In~~
27 ~~lieu of incarceration in a city or county jail, the court or may~~
28 ~~order that a the child be placed in a juvenile detention facility if~~
29 ~~the operator of the facility is willing to accept the child.~~

July 1, 1990

30 Sec. 3. On and after ~~July 1, 1992~~, K.S.A. 1989 Supp. 38-1502
31 is hereby amended to read as follows: 38-1502. As used in this code,
32 unless the context otherwise indicates:

33 (a) "Child in need of care" means a person less than 18 years of
34 age who:

35 (1) Is without adequate parental care, control or subsistence and
36 the condition is not due solely to the lack of financial means of the
37 child's parents or other custodian;

38 (2) is without the care or control necessary for the child's physical,
39 mental or emotional health;

40 (3) has been physically, mentally or emotionally abused or ne-
41 glected or sexually abused;

42 (4) has been placed for care or adoption in violation of law;

43 (5) has been abandoned or does not have a known living parent;

1 (6) is not attending school as required by K.S.A. 72-977 or 72-
2 1111, and amendments thereto;

3 (7) except in the case of a violation of K.S.A. 41-727 or subsection
4 (i) of K.S.A. ~~1988~~ 1989 Supp. 74-8810, and amendments thereto,
5 does an act which, when committed by a person under 18 years of
6 age, is prohibited by state law, city ordinance or county resolution
7 but which is not prohibited when done by an adult;

8 (8) while less than 10 years of age, commits any act which if
9 done by an adult would constitute the commission of a felony or
10 misdemeanor as defined by K.S.A. 21-3105 and amendments thereto;

11 (9) is willfully and voluntarily absent from the child's home with-
12 out the consent of the child's parent or other custodian; or

13 (10) is willfully and voluntarily absent at least a second time from
14 a court ordered or designated placement, or a placement pursuant
15 to court order, if the absence is without the consent of the person
16 with whom the child is placed or, if the child is placed in a facility,
17 without the consent of the person in charge of such facility or such
18 person's designee.

19 (b) "Physical, mental or emotional abuse or neglect" means the
20 infliction of physical, mental or emotional injury or the causing of
21 a deterioration of a child and may include, but shall not be limited
22 to, failing to maintain reasonable care and treatment, negligent treat-
23 ment or maltreatment or exploiting a child to the extent that the
24 child's health or emotional well-being is endangered. A parent le-
25 gitimately practicing religious beliefs who does not provide specified
26 medical treatment for a child because of religious beliefs shall not
27 for that reason be considered a negligent parent; however, this ex-
28 ception shall not preclude a court from entering an order pursuant
29 to subsection (a)(2) of K.S.A. 38-1513 and amendments thereto.

30 (c) "Sexual abuse" means any act committed with a child which
31 is described in article 35, chapter 21 of the Kansas Statutes Annotated
32 and those acts described in K.S.A. 21-3602 or 21-3603, and amend-
33 ments thereto, regardless of the age of the child.

34 (d) "Parent," when used in relation to a child or children, in-
35 cludes a guardian, conservator and every person who is by law liable
36 to maintain, care for or support the child.

37 (e) "Interested party" means the state, the petitioner, the child,
38 any parent and any person found to be an interested party pursuant
39 to K.S.A. 38-1541 and amendments thereto.

40 (f) "Law enforcement officer" means any person who by virtue
41 of office or public employment is vested by law with a duty to
42 maintain public order or to make arrests for crimes, whether that
43 duty extends to all crimes or is limited to specific crimes.

(3-21-90 am)
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(3-21-90 am)
V 5/14

1 (g) "Youth residential facility" means any home, foster home or
2 structure which provides 24-hour-a-day care for children and which
3 is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes
4 Annotated.

5 (h) "Shelter facility" means any public or private facility or home
6 other than a juvenile detention facility that may be used in accord-
7 ance with this code for the purpose of providing either temporary
8 placement for the care of children in need of care prior to the
9 issuance of a dispositional order or longer term care under a dis-
10 positional order.

11 (i) "Juvenile detention facility" means any secure public or private
12 facility used for the lawful custody of accused or adjudicated juvenile
13 offenders which, if in a city or county jail, must be in quarters
14 separate from adult prisoners must not be a jail.

15 (j) "Adult correction facility" means any public or private facility,
16 secure or nonsecure, which is used for the lawful custody of accused
17 or convicted adult criminal offenders.

18 (k) "Secure facility" means a facility which is operated or struc-
19 tured so as to ensure that all entrances and exits from the facility
20 are under the exclusive control of the staff of the facility, whether
21 or not the person being detained has freedom of movement within
22 the perimeters of the facility, or which relies on locked rooms and
23 buildings, fences or physical restraint in order to control behavior
24 of its residents. No secure facility, ~~other than a juvenile detention~~
25 ~~facility,~~ shall be in a city or county jail.

[Deletion Only]

26 (l) "Ward of the court" means a child over whom the court has
27 acquired jurisdiction by the filing of a petition pursuant to this code
28 and who continues subject to that jurisdiction until the petition is
29 dismissed or the child is discharged as provided in K.S.A. 38-1503
30 and amendments thereto.

31 (m) "Custody," whether temporary, protective or legal, means
32 the status created by court order or statute which vests in a cus-
33 todian, whether an individual or an agency, the right to physical
34 possession of the child and the right to determine placement of the
35 child, subject to restrictions placed by the court.

36 (n) "Placement" means the designation by the individual or
37 agency having custody of where and with whom the child will live.

38 (o) "Secretary" means the secretary of social and rehabilitation
39 services.

40 (p) "Relative" means a person related by blood, marriage or adop-
41 tion but, when referring to a relative of a child's parent, does not
42 include the child's other parent.

43 (q) "Court-appointed special advocate" means a responsible adult

(3-21-90 am)
VI
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1 other than an attorney guardian *ad litem* who is appointed by the
2 court to represent the best interests of a child, as provided in K.S.A.
3 38-1505a and amendments thereto, in a proceeding pursuant to this
4 code.

5 (r) "Multidisciplinary team" means a group of persons, appointed
6 by the court or by the state department of social and rehabilitation
7 services under K.S.A. ~~1988~~ 1989 Supp. 38-1523a and amendments
8 thereto, which has knowledge of the circumstances of a child in need
9 of care.

10 (s) "Jail" means:

11 (1) An adult jail or lockup; or

12 (2) a facility in the same building or on the same grounds as an
13 adult jail or lockup, unless the facility meets all applicable standards
14 and licensure requirements under law and there is (A) total sepa-
15 ration of the juvenile and adult facilities such that there can be no
16 haphazard or accidental contact between juvenile and adult residents
17 in the respective facilities; (B) total separation in all juvenile and
18 adult program activities within the facilities, including recreation,
19 education, counseling, health care, dining, sleeping, and general living
20 activities; and (C) separate juvenile and adult staff, including manage-
21 ment, security staff and direct care staff such as recreational, educa-
22 tional and counseling.

23 New Sec. 4. (a) On and after July 1, 1992, no child under 18
24 years of age shall be detained or placed in any jail pursuant to the
25 Kansas code for care of children.

26 (b) This section shall be part of and supplemental to the Kansas
27 code for care of children.

28 Sec. 5. On and after July 1, 1992, K.S.A. 1989 Supp. 38-1602
29 is hereby amended to read as follows: 38-1602. As used in this code,
30 unless the context otherwise requires:

31 (a) "Juvenile" means a person 10 or more years of age but less than
32 18 years of age.

33 (b) "Juvenile offender" means a person who does an act while a
34 juvenile which if done by an adult would constitute the commission
35 of a felony or misdemeanor as defined by K.S.A. 21-3105 and amend-
36 ments thereto or who violates the provisions of K.S.A. 41-727 or
37 subsection (i) of K.S.A. ~~1988~~ 1989 Supp. 74-8810, and amendments
38 thereto, but does not include:

39 (1) A person 14 or more years of age who commits a traffic offense
40 in violation of chapter 8 of the Kansas Statutes Annotated or any
41 city ordinance or county resolution which relates to the regulation
42 of traffic on the roads, highways or streets or the operation of self-
43 propelled or nonself-propelled vehicles of any kind;

(2) a person 16 years of age or over who commits an offense
defined in chapter 32 of the Kansas Statutes Annotated;

(3) a person 16 years of age or over who is charged with a felony
or with more than one offense of which one or more is a felony

facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.
July 1, 1990

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2 after having been adjudicated in two separate prior juvenile pro-
3 ceedings as having committed an act which would constitute a felony
4 if committed by an adult and the adjudications occurred prior to the
5 date of the commission of the new act charged;

6 (4) a person who has been prosecuted as an adult by reason of
7 subsection (b)(3) and whose prosecution results in conviction of a
8 crime;

9 (5) a person whose prosecution as an adult is authorized pursuant
10 to K.S.A. 38-1636 and amendments thereto; or

11 (6) a person who has been convicted of aggravated juvenile de-
12 linquency as defined by K.S.A. 21-3611 and amendments thereto.

13 (c) "Parent," when used in relation to a juvenile or a juvenile
14 offender, includes a guardian, conservator and every person who is
15 by law liable to maintain, care for or support the juvenile.

16 (d) "Law enforcement officer" means any person who by virtue
17 of that person's office or public employment is vested by law with
18 a duty to maintain public order or to make arrests for crimes, whether
19 that duty extends to all crimes or is limited to specific crimes.

20 (e) "Youth residential facility" means any home, foster home or
21 structure which provides twenty-four-hour-a-day care for juveniles
22 and which is licensed pursuant to article 5 of chapter 65 of the
23 Kansas Statutes Annotated.

24 (f) "Juvenile detention facility" means any secure public or private
25 facility which is used for the lawful custody of accused or adjudicated
26 juvenile offenders and which, ~~if in a city or county jail, must be
27 in quarters separate from adult prisoners must not be a jail.~~

28 (g) "State youth center" means a facility operated by the secretary
29 for juvenile offenders.

30 (h) "Warrant" means a written order by a judge of the court
31 directed to any law enforcement officer commanding the officer to
32 take into custody the juvenile named or described therein.

33 (i) "Secretary" means the secretary of social and rehabilitation
34 services.

35 (j) "Jail" means:

36 (1) An adult jail or lockup; or

37 (2) a facility in the same building as an adult jail or lockup,
38 unless the facility meets all applicable licensure requirements under
39 law and there is (A) total separation of the juvenile and adult facilities
40 such that there is no haphazard or accidental contact between the
41 residents of the respective facilities; (B) total separation of all juvenile
42 and adult program activities within the respective facilities;

facility spatial areas such that there could be no haphazard or accidental contact between
juvenile and adult residents in the respective facilities; (B) total separation in all
juvenile and adult program activities within the facilities, including recreation, educa-
tion, counseling, health care, dining, sleeping, and general living activities; and (C)
separate juvenile and adult staff, including management, security staff and direct care
staff such as recreational, educational and counseling.

43 New Sec. 6. (a) On and after July 1, 1992, no juvenile shall be
detained or placed in any jail pursuant to the Kansas juvenile of-

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1 offenders code except as provided by subsections (b) and (c).

2 (b) Upon being taken into custody, an alleged juvenile offender
3 may be temporarily detained in a jail, in quarters ~~separate~~ with sight and sound separation

4 prisoners, for the purpose of identifying and processing the juvenile
5 and transferring the juvenile to a youth residential facility or juvenile
6 detention facility. If a juvenile is detained in jail under this sub-
7 section, the juvenile shall be so detained only for the minimum time
8 necessary, not to exceed six hours, and in no case overnight. ~~unless~~
9 ~~all of the following criteria are met:~~ Through 1993, if a juvenile is detained in a jail under this subsection, the juvenile
may be detained for no more than 24 hours, excluding Saturdays, Sundays and legal
holidays, from the time the initial detention was imposed if all of the following
criteria are met:

10 (1) A detention hearing is held in accordance with K.S.A. 1989
11 Supp. 38-1632 and amendments thereto within 24 hours/after the , excluding Saturdays, Sundays and legal holidays,
12 juvenile is taken into custody and notice of such hearing, unless
13 waived, is given at least eight hours prior to the hearing;

14 (2) no part of the county where the juvenile is in custody is
15 within an area designated by the United States bureau of the census
16 as a metropolitan statistical area; standard

17 (3) there is no acceptable alternative placement for the juvenile,
18 as determined in accordance with ~~any~~ applicable criteria provided [deletion only]
19 by law; and

20 (4) the jail where the juvenile is detained has been certified by
21 the secretary of corrections to provide for sight and sound separation
22 of juveniles and incarcerated adults.

23 (c) The provisions of this section do not apply to detention of:

24 (1) A juvenile 16 years of age or over who is charged with a
25 felony or with more than one offense of which one or more is a
26 felony after having been adjudicated in two separate prior juvenile
27 proceedings as having committed an act which would constitute a
28 felony if committed by an adult and the adjudications occurred prior
29 to the date of the commission of the new act charged;

30 (2) a juvenile who has been prosecuted as an adult by reason of
31 subsection (c)(1) and whose prosecution results in conviction of a
32 crime;

33 (3) a juvenile with regard to whom a motion has been filed
34 requesting prosecution as an adult pursuant to K.S.A. 38-1636 and
35 amendments thereto; or

36 (4) a juvenile who has been/convicted of aggravated juvenile charged with or
37 delinquency as defined by K.S.A. 21-3611 and amendments thereto.

38 (d) This section shall be part of and supplemental to the Kansas
39 juvenile offenders code.

40 Sec. 7. On and after July 1, 1991, K.S.A. 38-1632 is hereby
41 amended to read as follows: 38-1632. (a) Length of detention. (1) July 1, 1991

42 Whenever an alleged juvenile offender is taken into custody and is
43 thereafter taken before the court or to a juvenile detention facility

1 youth residential facility designated by the court, the juvenile
2 shall not remain detained for more than 48 hours, excluding Sat-
3 urdays, Sundays and legal holidays, from the time the initial deten-
4 tion was imposed, unless the court determines after hearing, within
5 the forty-eight-hour period, that [insert]

further detention is necessary

6 (2) If a juvenile is detained in jail pursuant to subsection (b) of
7 section 6, the detention hearing required by this section shall be
8 held within 24 hours after the juvenile is taken into custody. ~~Further~~
9 ~~detention is necessary.~~

[deletion only]

10 (b) Waiver of detention hearing. The right of a juvenile to a
11 detention hearing may be waived if the juvenile and the attorney
12 for the juvenile consent in writing to waive the right to a detention
13 hearing and the judge approves the waiver. Whenever the right to
14 a detention hearing has been waived, the juvenile, the attorney for
15 the juvenile or the juvenile's parents may reassert the right at any
16 time not less than 48 hours prior to the time scheduled for adju-
17 dication by submitting a written request to the judge. Upon request,
18 the judge shall immediately set the time and place for the hearing,
19 which shall be held not more than 48 hours after the receipt of the
20 request excluding Saturdays, Sundays and legal holidays.

21 (c) Notice of hearing. Whenever it is determined that a detention
22 hearing is required the court shall immediately set the time and
23 place for the hearing. Except as otherwise provided by subsection
24 (b)(1) of section 6, notice of the detention hearing shall be given at
25 least 24 hours prior to the hearing, unless waived, and shall be in
26 substantially the following form:

(Name of Court)

(Caption of Case)

28 NOTICE OF DETENTION HEARING

29 TO: _____

30 (Juvenile)

31 _____

32 (Father)

33 _____

34 (Mother)

35 _____

36 (Other having custody- (Address)

37 relationship)

38 On _____, 19____,

39 (day) (date)
40 at _____ clock _____ m. there will be a hearing for the court to determine if
41 there is a need for further detention of the above named juvenile. Each parent or
42 other person having legal custody of the juvenile should be present at the hearing

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which will be held at _____

You have the right to hire an attorney to represent the above juvenile. Upon failure to hire an attorney the court will appoint an attorney for the juvenile and the juvenile, parent or other person having legal custody of the juvenile may be required to repay the court for the expense of the appointed attorney.

Date: _____, 19____ Clerk of the District Court
by _____

(Seal)

REPORT OF SERVICE

I certify that I have delivered a true copy of the above notice on the persons above named in the manner and at the times indicated below:

Name	Location of Service (other than above)	Manner of Service	Date	Time
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Date Returned: _____, 19____ (Signature)

(Title)

(d) Oral notice. When there is insufficient time to give written notice, oral notice may be given and is completed upon filing a certificate of oral notice with the clerk in substantially the following form:

(Name of Court)

(Caption of Case)

CERTIFICATE OF ORAL NOTICE OF DETENTION HEARING

I gave oral notice that the court will hold a hearing at _____ o'clock _____ m. on _____, 19____, to the persons listed, in the manner and at the times indicated below:

Name	Relationship	Date	Time	Method of Communication (in person or telephone)
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

I advised each of the above named persons that:

- (1) The hearing is to determine if the above named juvenile shall be detained;
 - (2) each parent or person having legal custody should be present at the hearing;
 - (3) they have the right to hire an attorney of their own choice for the juvenile;
 - (4) if an attorney is not hired, the court will appoint an attorney for the juvenile;
- and
- (5) the juvenile, parent or other person having custody of the juvenile may be required to repay the court for the expense of the appointed attorney.

(Signature)

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(Name Printed)

(Title)

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5 (e) *Hearing, finding, bond.* At the time set for the detention
6 hearing if no retained attorney is present to represent the juvenile,
7 the court shall appoint an attorney for the juvenile, and may recess
8 the hearing for 24 hours to obtain attendance of the attorney ap-
9 pointed *unless the juvenile is detained in jail pursuant to subsection*
10 *(b)(1) of section 6.* At the detention hearing, if the court finds the
11 juvenile is dangerous to self or others, the juvenile may be detained
12 in a juvenile detention facility or youth residential facility which the
13 court shall designate. If the court finds the juvenile is not likely to
14 appear for further proceedings, the juvenile may be detained in a
15 juvenile detention facility or youth residential facility which the court
16 shall designate or may be released upon the giving of an appearance
17 bond in an amount specified by the court and on the conditions the
18 court may impose, in accordance with the applicable provisions of
19 article 28 of chapter 22 of the Kansas Statutes Annotated. In the
20 absence of either finding, the court shall order the juvenile released
21 or placed in temporary custody as provided in subsection (f).

22 In determining whether to place a juvenile in a juvenile detention
23 facility pursuant to this subsection, the court shall consider all rel-
24 evant factors, including but not limited to the criteria listed in K.S.A.
25 38-1640 and amendments thereto. If the court orders the juvenile
26 to be detained in a juvenile detention facility, the court shall record
27 the specific findings of fact upon which the order is based.

28 If detention is ordered and the parent was not notified of the
29 hearing and did not appear and later requests a rehearing, the court
30 shall rehear the matter without unnecessary delay.

31 (f) *Temporary custody.* If the court determines that it is not
32 necessary to detain the juvenile but finds that release to the custody
33 of a parent is not in the best interests of the juvenile, the court
34 may place the juvenile in the temporary custody of a youth residential
35 facility, the secretary or some other suitable person willing to accept
36 temporary custody.

37 Sec. 8. On and after ~~July 1, 1992~~, K.S.A. 1989 Supp. 38-1664
38 is hereby amended to read as follows: 38-1664. (a) When a juvenile
39 offender has been placed in the custody of the secretary, the sec-
40 retary shall notify the court in writing of the initial placement of the
41 juvenile offender as soon as the placement has been accomplished.
42 The court shall have no power to direct a specific placement by the
43 secretary, but may make recommendations to the secretary. The

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2 secretary may place the juvenile offender in an institution operated
 3 by the secretary, a youth residential facility or a community mental
 4 health center. If the court has recommended an out-of-home place-
 5 ment, the secretary may not return the juvenile offender to the
 6 home from which removed without first notifying the court of the
 plan.

7 (b) The secretary shall not permit the juvenile offender to
 8 remain detained in any jail for more than 72 hours, excluding
 9 Saturdays, Sundays and legal holidays, after the secretary has
 10 received the written order of the court placing the juvenile
 11 offender in the custody of the secretary, except that, if the
 12 juvenile offender is to be placed in a state youth center and
 13 that placement or another appropriate placement cannot be
 14 accomplished, the offender may remain in jail for an additional
 15 period of time, not exceeding 10 days, which is specified by
 16 the secretary and approved by the court.

17 (e) (b) During the time a juvenile offender remains in the custody
 18 of the secretary, the secretary shall report to the court at least each
 19 six months as to the current living arrangement and social and mental
 20 development of the juvenile offender. If the juvenile offender is
 21 placed in foster care, the foster parent or parents shall submit to
 22 the court, at least every six months, a report in regard to the juvenile
 23 offender's adjustment, progress and condition. The department of
 24 social and rehabilitation services shall notify the foster parent or
 25 parents of the foster parents' or parent's duty to submit such report,
 26 on a form provided by the department of social and rehabilitation
 27 services, at least two weeks prior to the date when the report is
 28 due, and the name of the judge and the address of the court to
 29 which the report is to be submitted. Such report shall be confidential
 30 and shall only be reviewed by the court and the child's attorney.

31 Sec. 9. On and after ~~July 1, 1992~~, K.S.A. 38-1671 is hereby
 32 amended to read as follows: 38-1671. (a) *Actions by the court.* When
 33 a juvenile offender has been committed to a state youth center, the
 34 clerk of the court shall forthwith notify the secretary of the com-
 35 mitment and provide the secretary with a certified copy of the com-
 36 plaint, the journal entry of the adjudicatory hearing and the
 37 dispositional order. The court shall also forward those items from
 38 the social file which could relate to a rehabilitative program. If the
 39 court wishes to recommend placement of the juvenile offender in a
 40 specific state youth center, the recommendation shall be included
 in the dispositional order. After the court has received notice of the
 state youth center designated as provided in subsection (b), it shall
 be the duty of the court or the sheriff of the county to deliver the

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1 juvenile offender to the facility at the time designated by the
2 secretary.

3 (b) *Actions by the secretary.* (1) After receiving notice of com-
4 mitment as provided in subsection (a), the secretary shall give the
5 committing court notice designating the state youth center to which
6 the juvenile offender is to be admitted and the date of the admission.

7 (2) The secretary shall not permit the juvenile offender to
8 remain detained in any jail for more than 72 hours, excluding
9 Saturdays, Sundays and legal holidays, after the secretary has
10 received the written order of commitment, except that, if the
11 commitment or another appropriate placement cannot be ac-
12 complished, the offender may remain in jail for an additional
13 period of time, not exceeding 10 days, which is specified by
14 the secretary and approved by the court. Except as provided by
15 section 6, the secretary may make any temporary out-of-home place-
16 ment the secretary deems appropriate, other than placement in a
17 jail, pending placement of the juvenile offender in a state youth
18 center, and the secretary shall notify the court of that placement.

19 (c) *Transfers.* During the time a juvenile offender remains com-
20 mitted to a state youth center, the secretary may transfer the juvenile
21 offender from one state youth center to another.

22 Sec. 10. K.S.A. 75-5389 is hereby amended to read as follows:
23 75-5389. (a) The advisory commission on juvenile offender programs
24 shall hold regular quarterly meetings and such other meetings as
25 the chairperson of such commission deems advisable and in addition
26 shall meet at such other times upon the call of the director of juvenile
27 offender programs or the governor. It shall be the duty of the ad-
28 visory commission to confer, advise, and consult with the director
29 of juvenile offender programs with respect to the policies governing
30 the management and operation of all services, programs or institu-
31 tions under the jurisdiction of the commissioner. The commission
32 shall also consult with and advise the governor from time to time
33 with reference to the management, conduct and operations of in-
34 stitutions and services and programs relating to juvenile offenders.
35 A member or members of the advisory commission shall, from time
36 to time, visit each institution providing services or programs for
37 juvenile offenders for the purpose of inspecting same. Such visits
38 shall be made at such times and in such manner as the advisory
39 commission shall determine at a regular meeting thereof.

40 (b) The advisory commission shall oversee implementation of a
41 policy of eliminating detention of juveniles in adult jails and adult
42 lockups jails, as defined in K.S.A. 38-1602 and amendments thereto
43 and shall assist in the development of local or regional alternatives

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1 detention of juveniles. For this purpose, the advisory commission
 2 shall advise and consult with local governmental officials and private
 3 persons interested in developing alternatives to detention. In ad-
 4 dition, the advisory commission shall advise the secretary of social
 5 and rehabilitation services and the commissioner of youth services
 6 in detail on the expenditures of any moneys appropriated/ or oth-
 7 erwise available for developing or maintaining facilities or programs
 8 which provide alternatives to detention of juveniles and transpor-
 9 tation of juveniles to alternative detention and may apply for and
 10 accept any moneys made available for that purpose. Expenditures
 11 of such moneys shall be made in accordance with appropriation acts
 12 upon warrants of the director of accounts and reports issued pursuant
 13 to vouchers approved by the secretary of social and rehabilitation
 14 services or by a person or persons designated by the secretary. The
 15 secretary of social and rehabilitation services shall provide to the
 16 advisory commission such technical assistance as necessary to carry
 17 out the provisions of this section.

_____ , including funds appropriated under K.S.A. 79-4803 for the juvenile detention facilities fund,

18 (c) The advisory commission shall make reports on or before
 19 December 1 of each year to the governor, the commissioner of
 20 education, the secretary of social and rehabilitation services, the
 21 attorney general, the chief justice of the Kansas supreme court and
 22 the members of the legislature, and make such recommendations as
 23 it deems advisable for appropriate legislation.

24 (d) The advisory commission shall be charged with the task of
 25 making recommendations to those responsible for developing a work-
 26 ing philosophy of accountability related to juvenile offender pro-
 27 grams. The advisory commission shall study and make
 28 recommendations concerning the defining of appropriate roles of the
 29 various state agencies involved in providing programs and services
 30 to the juvenile offender and shall be responsible for reviewing any
 31 and all programs relating to services or programs for juvenile of-
 32 fenders. The advisory commission shall perform such other studies
 33 or tasks as may be assigned by the governor or specifically requested
 34 by the chief justice or the attorney general.

35 (e) For the purposes of the federal juvenile justice and delin-
 36 quency prevention act of 1974, as amended, the advisory commission
 37 on juvenile offender programs shall act as the supervisory board.

38 Sec. 11. On July 1, 1992, K.S.A. 38-1632 and 38-1671 and
 39 K.S.A. 1989 Supp. 8-2117, 32-1040, 38-1502, 38-1602 and 38-1664
 40 are hereby repealed.

41 Sec. 12. K.S.A. 75-5389 is hereby repealed.

42 Sec. 13. This act shall take effect and be in force from and after
 43 its publication in the statute book.

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