

Approved February 18, 1992
Date

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Senator Lana Oleen at
Chairperson

1:35 ~~a.m.~~/p.m. on February 3, 1992 in room 531-N of the Capitol.

~~All~~ members ~~were~~ present ~~except~~: Senators Oleen, Bogina, Doyen, Francisco, Gaines, Kanan, Moran, Strick and Vidricksen.

Committee staff present:

Julian Efird, Kansas Legislative Research Department
Fred Carman, Revisor of Statutes Office
Mary Allen, Committee Secretary

Conferees appearing before the committee:

Gary Stotts, Department of Corrections

The meeting of the Senate Committee on Governmental Organization was called to order at 1:35 p.m. by the Chairman, Senator Lana Oleen, who called on Gary Stotts, Secretary of the Department of Corrections, to continue his review of that Department.

Senate Bill 473 - Sunset law; secretary and department of corrections; continuation.

Chairman Oleen asked Secretary Stotts to state his position on the bill pending before the Legislature which would abolish all of the Community Corrections Advisory Committees. The Secretary noted that he had testified before a subcommittee of the Interim Committee on Governmental Organization/Confirmations at which time he stated that these advisory committees are really not particular to the needs of the Department of Corrections but rather are a part of the Community Corrections Act which, when it was passed, the Legislature felt were a very important ingredient to making Community Corrections programs run and accepted in the various communities. He observed that in terms of the Community Corrections Act itself there are probably advantages to advisory boards; however, if the state should abolish such boards, he advised that county commissions should establish ad hoc advisory groups. The Secretary noted that the Community Corrections field needs a meaningful discussion this Legislative Session, regardless of whether or not sentencing guidelines pass. If guidelines do pass, however, such a discussion will be necessary, he said.

Secretary Stotts presented information, which the Committee had requested at its previous meeting, concerning the Department of Corrections. He listed the committees and commissions on which the Secretary of Corrections serves and noted that he feels that it is appropriate for the Secretary to be a part of those groups. He observed that he is currently preparing his thoughts on a proposal for a Criminal Justice Council which would be designed to "network" all of the criminal justice issues and to provide a vehicle for creating task groups whose members would include local law enforcement personnel, local elected officials and local prosecutors to study those issues. He said that he is concerned because Kansas has a rather "fragmented" approach to criminal justice issues. He envisions that if sentencing guideline legislation passes a mandatory sentencing commission should be included in this proposed council.

Secretary Stotts listed the Kansas Department of Corrections' advisory boards and commissions and observed that most departmental advisory groups are citizen councils that have been established to enhance communications and relationships between correctional facilities and the communities in which they are located.

The Secretary presented information on admissions to the Labette County Correctional Conservation Camp. Further, he reported on revised inmate population projections

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION,
room 531-N, Statehouse, at 1:35 ~~a.m.~~/p.m. on February 3, 1992.

to reflect the impact of the amendments made by the Senate Judiciary Committee to SB 479, the sentencing guidelines bill and observed that the Sentencing Commission does not believe that the amendments will have any significant long term effect on the size of the inmate population; therefore, it has no plan to revise its projections. (See Attachment I for copy of Secretary Stotts' testimony.) The Secretary noted that the Department of Corrections, in cooperation with the Sentencing Commission, is currently analyzing the impact of the Senate Judiciary Committee's retroactivity amendments and will provide the results of that analysis as soon as it is completed. He provided copies of a January 24, 1992, Memorandum entitled "Fiscal Impact of SB 479 on the Kansas Department of Corrections". (Attachment II) In conclusion, Secretary Stotts reported on Community Corrections budgets, requests, recommendations and expenditures.

Chairman Oleen thanked the Secretary and requested that he present information to the sub-committee on the Sunset review of the Department of Corrections concerning (1.) The locations of the Department of Corrections' residential units which are not recommended for further funding; and (2.) The average cost for an adult in the prison system vs. the cost for a juvenile in the system.

The Committee considered bills which were assigned to it during the 1991 Legislative Session.

Senate Bill 3 - Two-year term for chair of joint committee on arts and cultural resources.

Senator Doyen moved that SB 3 be reported adversely. Senator Strick seconded the motion. The motion carried.

Senate Concurrent Resolution 1621 - Requesting legislative study of use of acid-free paper for certain state records.

Senator Bogina moved that SCR 1621 be reported adversely. Senator Doyen seconded the motion. The motion carried.

House Bill 2283 - African-american advisory committee, composition, officers, powers and duties.

Senator Bogina moved that HB 2283 be reported adversely. Senator Doyen seconded the motion. The motion carried.

House Bill 2473 - Legislative counsel, office abolished.

Senator Doyen moved that HB 2473 be reported adversely. Senator Kanan seconded the motion. The motion carried.

The meeting was adjourned by Chairman Oleen at 2:30 p.m.

GUEST LIST

NAME

REPRESENTING

Gary Stotts

Dept of Corrections

Jan Johnson

DOC

Guest list
2-3-92

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

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Joan Finney
Governor

Gary Stotts
Secretary

MEMORANDUM

To: Senator Lana Oleen, Chairperson
Senate Committee on Governmental Organization

From: Gary Stotts
Secretary of Corrections

Subject: Sunset Review Information Requests

Date: February 3, 1992

At the January 28, 1992 meeting of the Governmental Organization committee, you and other members of the committee asked for further information on several subjects. Responses to those inquiries are attached.

Please let me know if you have questions or would like additional information.

Attachments

*Senate Committee on Governmental Organization
2-3-92
Attachment I*

**Kansas Department of Corrections' Response to
Sunset Review Information Request**

Information Requested:

List of commissions and committees on which the Secretary of Corrections is a member

Response:

Kansas Sentencing Commission

Governor's Criminal Justice Advisory Commission

Advisory Committee on Juvenile Offender Programs

Commission on Children, Youth and Families

Mental Health Services Planning Council

(represented by designee Deputy Secretary Roger Werholtz)

Governor's Interagency Coordinating Committee on Substance Abuse

(represented by designee Deputy Secretary Richard Koerner)

**Kansas Department of Corrections' Response to
Sunset Review Information Request**

Information Requested:

List of Kansas Department of Corrections advisory boards and commissions

Response:

Most departmental advisory groups are citizen councils that have been established to enhance communications and relationships between correctional facilities and the communities in which they are located. The department completed a questionnaire on these groups in a survey conducted last fall by the Special Committee on Governmental Organization. The survey responses should still be on file with the Legislative Research Department; however, the department will supply copies if so desired by the committee. Advisory groups include:

- El Dorado Correctional Facility Citizen Advisory Committee
- Topeka Correctional Facility Citizen Advisory Committee
- Winfield Correctional Facility Citizen Advisory Committee
- Hutchinson Correctional Facility Advisory Board
- Larned Correctional Mental Health Facility Citizen Advisory Committee
- Ellsworth Correctional Facility Citizen Advisory Committee
- Lansing Correctional Facility Citizen Advisory Committee
- Wichita Work Release Facility Citizen Advisory Committee
- Norton Correctional Facility Citizen Advisory Committee
- Kansas Correctional Industries Advisory Committee
- Task Force on Female Offenders (originally established in conjunction with federal grant program; in process of being reduced in size and reorganized to ad hoc status)
- Community Corrections Standards Committee (meets as needed)
- Community Corrections Planning Group

**Kansas Department of Corrections' Response to
Sunset Review Information Request**

Information Requested:

Information on admissions to the Labette County Correctional
Conservation Camp

Response:

**SUMMARY DATA ON INMATE REFERRALS TO LCCC
March 25, 1991 through January 30, 1992**

Referrals	178
Accepted into program	135
Denied acceptance into program	43
Inmate population (1-31-92)	52
Accepted/no show for program	20
Removed from LCCC program	31
Graduated from LCCC program	32
Removals:	
Behavior	21
Medical	8
Escape	2
Denials:	
Crimes against persons	25
Medical/psychological	16
Excessive felonies	1
Prior incarceration	1
Waivers*:	
Crimes against persons	26
Excessive felonies	8
Age	9
Prior incarceration	1
Psychological/health	2
 Total persons with waivers.....	 40

*Some individuals have more than one waiver

Note: Numbers include 8 inmates not scheduled for admission until 2-2-92.

**Referrals to Labette County Correctional Conservation Camp
through January 30, 1992--By County**

<u>Judicial District</u>	<u>County</u>	<u>Total Referrals</u>
1st	Atchison	2
	Leavenworth	1
2nd	Jackson	4
	Jefferson	2
	Pottawatomie	3
	Wabaunsee	1
3rd	Shawnee	9
4th	Coffey	2
	Franklin	2
5th	Lyon	9
6th	Bourbon	1
7th	Douglas	1
8th	Geary	7
	Morris	1
	Dickinson	1
9th	McPherson	2
	Harvey	2
10th	Johnson	7
11th	Cherokee	2
	Crawford	3
	Labette	7
12th	Mitchell	3
	Washington	1
13th	Butler	2
14th	Montgomery	17
15th	-	0
16th	Ford	4
17th	Norton	1
18th	Sedgwick	25
19th	Cowley	1
20th	Barton	3
	Rice	2
	Ellsworth	1
21st	Riley	10
22nd	Doniphan	1
23rd	-	0
24th	Ness	3
	Pawnee	1
25th	Finney	5
26th	-	0
27th	Reno	13
28th	Saline	5
	Ottawa	1
29th	-	0
30th	Pratt	2
30th	Sumner	5
31st	Neosho	1
	Wilson	2
GRAND TOTAL		178

Note: Numbers include 8 inmates not scheduled for admission until 2-2-92.

**Kansas Department of Corrections' Response to
Sunset Review Information Request**

Information Requested:

Revised inmate population projections to reflect the impact of amendments made by the Senate Judiciary Committee to SB 479, the sentencing guidelines bill

Response:

The department has discussed the potential impact of the amendments with the director of the Kansas Sentencing Commission. The commission staff does not believe that the amendments will have a significant long-term effect on the size of the inmate population and has no plans to revise its projections.

The Senate Judiciary Committee's amendments regarding retroactive application of the guidelines will reduce the number of inmates eligible for immediate release on the effective date of the law. Any reduction in the size of the inmate population due to retroactivity is, however, temporary and will not permanently affect inmate population levels.

The department, in cooperation with the Sentencing Commission, is currently analyzing the impact of the Senate Judiciary Committee's retroactivity amendments and will provide the results of that analysis as soon as it is completed.

**Kansas Department of Corrections' Response to
Sunset Review Information Request**

Information Requested: Community Corrections Requests,
Recommendations and Expenditures

Response:

YEAR	LOCAL REQUEST	GOV.'s REC.	APPROVED BUDGET	EXPENDITURES
FY 1991	16,023,299	10,259,242	11,241,637	9,579,216
FY 1992	17,344,739	9,201,721	10,291,675	
FY 1993	17,008,518	10,750,906		

SERVICES COVERED IN BUDGET REQUESTS

FY 1991 FUNDED

- adult diversion services
- adult intensive supervision
- adult residential services
- community service work program
- education and employment services
- electronic monitoring services
- evaluation
- family training
- juvenile diversion services
- juvenile intensive supervision
- juvenile residential services
- pre-sentence investigations
- prevention programming
- surveillance services
- victim/witness services

NOT FUNDED

- funded depreciation

FY 1992 FUNDED

- adult diversion services
- adult residential programs
- community service work program
- day reporting services
- evaluation
- expansion of adult intensive supervision
- expansion of electronic monitoring services
- juvenile diversion services
- juvenile intensive supervision
- networking for computer systems
- pre-sentence investigation
- substance abuse services
- surveillance services
- victim/witness services

NOT FUNDED

funded depreciation
prevention programming
purchases of equipment and vehicles

FY 1993 FUNDED

community service work program
cost of living adjustments and merit increases for staff
education/employment services
evaluation
expansion of adult intensive supervision
expansion of day reporting services
expansion of electronic monitoring services
life skills (resource) services
pre-sentence investigation
substance abuse services
surveillance services

NOT FUNDED

adult diversion services
computer systems and networking
equipment and vehicles
expansion of adult residential programs
juvenile diversion services
juvenile intensive supervision
prevention programming
victim/witness services

FUNDED LIST - Inclusion on this list means the service or item was funded in at least one local program at some level. It does not mean that every local program requesting funding for the item received it or that funding was awarded at the level requested.

NOT FUNDED LIST - No program received funding for this service or item.

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

Landon State Office Building
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(913) 296-3317

Joan Finney
Governor

Gary Stotts
Secretary

MEMORANDUM

To: Senator Wint Winter, Jr., Chairperson
Senate Judiciary Committee

From: Gary Stotts *Gary Stotts*
Secretary of Corrections

Subject: Fiscal Impact of SB 479 on the Kansas Department of
Corrections

Date: January 24, 1992

The purpose of this memorandum is to convey the Department of Corrections' preliminary assessment of the potential impact of SB 479 on the operations of the Kansas correctional system. The information is being supplied to the House and Senate Judiciary Committees, as well as the Division of the Budget, to assist in estimating the fiscal impact of the bill.

The approach we have taken in evaluating the bill's impact is to project capital improvements, operational needs and costs of the correctional system through FY 2001 under two scenarios: 1) requirements assuming continuation of existing policy; and 2) requirements assuming enactment of SB 479. All of the estimates we have prepared are adjustments to the FY 1993 base of operations and expenditures reflected in the FY 1993 Governor's Budget Report.

The estimates we have prepared are intended to portray the relative impact of adopting sentencing guidelines as opposed to continuation of current policy. To provide this basis of comparison, we have deliberately avoided inclusion of enhancements to the system that might otherwise be warranted on their own merits during the course of the projection period. Therefore, the amounts given do not represent a blueprint for the correctional system through FY 2001 under either scenario. The fiscal comparison is based on adding appropriate increments of capacity and operating costs under the

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current policy scenario, and on subtracting or shifting costs under the sentencing guidelines scenario.

It must be emphasized that performing this analysis has required that we make many assumptions, most of which have a major impact on the outcome. The timeframe is long and the variables are complex and not highly predictable. While eventual outcomes will almost certainly vary from the ones we have projected, we nonetheless believe that the comparisons provide an indication of relative impact.

The estimates reflect impact only on the Department of Corrections and its facilities, programs and services. No attempt has been made to quantify the impact on other state agencies, local units of government or the general public.

As a final introductory comment, impacts have been calculated based on the provisions of the bill as introduced, including an effective date of July 1, 1992. The department still objects strongly, however, to that implementation date because we do not believe the retroactivity provisions can be implemented that quickly. We also have reservations about whether adequate community-based supervision resources can be in place within that limited amount of time. If the bill is amended to postpone the implementation date, fiscal impacts would need to be adjusted accordingly.

Summarized below are the key assumptions, decisions, and conclusions contained in the department's analysis.

General Comments Pertaining to Estimates in Both Scenarios

- The projection model developed for the Department of Corrections by the National Council on Crime and Delinquency (NCCD) was used by the department as the basis for projecting inmate populations through FY 2001 under the current policy scenario. The Sentencing Commission also used the NCCD model to estimate inmate population levels under the sentencing guidelines scenario. The actual inmate population to date in FY 1992, the first projection period in the model, already exceeds the FY 1992 year-end inmate population projected by the model. No adjustments have been made to either scenario to reflect experience in recent months.
- All cost estimates are presented in FY 1993 constant dollars; no attempt has been made to estimate inflationary impacts.

Scenario 1: Projected Adjustments to the Correctional System
Assuming Continuation of Current Law, Policy and Practice

- The inmate population is projected to reach 8,121 by June 30, 2001. Given current correctional capacity of 6,622, approximately 1,500 beds would need to be added to accommodate the projected population level.
- Bed expansions would be phased throughout the nine-year period, timed to meet projected need and configured to provide the department with the most flexibility in use and the greatest operational options. The earliest capacity expansion project would become operational in FY 1996, requiring appropriations beginning in FY 1994.
- Capacity needs beyond FY 2001 were not considered. At the end of the projection period, virtually all of the expanded capacity would be utilized. If new capital improvement projects are required to meet projected inmate populations beyond FY 2001, additional funds may be required during the last two years of the projection period to begin construction of those projects.
- Start-up year staffing and operations funding for expanded capacity may in fact be needed only for a partial year. However, to simplify estimation procedures, operating costs have been annualized in the estimates.
- Parole population projections were based on estimates from the NCCD model, adjusted primarily to include compact cases not included in the model.
- Based on the above, costs for constructing and equipping the additional capacity is estimated to total \$61.9 million over the nine-year period FY 1993-FY 2001. Staff, program and operating costs related to facility expansions and increased parole caseloads would require an estimated \$108.6 million in cumulative costs over the same timeframe. At the end of the projection period, annual operating costs will have increased by \$24.4 million compared to the FY 1993 base. Again, all costs are expressed in FY 1993 constant dollars.
- If current practice concerning double-celling of medium and minimum custody inmates was changed, additional capacity could be gained or capital improvement costs could be reduced by

constructing fewer units and by increasing the use of double occupancy. Feasibility of increased use of double-celling, however, would depend on circumstances unique to each living units. Moreover, any increase of capacity at an existing facility, including that achieved through double-celling, is subject to court approval per the April 1989 order. The projected increase in staff costs could be reduced somewhat if double occupancy were used. Some utility savings would also result but other operating costs would remain much the same as they are primarily population driven.

- If inmate labor is used for projects, construction costs could be reduced from the estimated amounts.
- Our bed expansion estimates include one construction project-- a new reception and diagnostic unit in Topeka--that needs to be considered in the next couple of years whether or not populations increase as projected. As presently envisioned, the project would have a capacity of 300 beds, replacing existing capacity of 227 beds, for a net increase of 73.

Scenario 2: Implementation of Sentencing Guidelines as Proposed in SB 479

- The Sentencing Commission's projections, using the NCCD model, estimate that sentencing guidelines, excluding the impact of retroactivity, would result in a relatively stable inmate population during most of the projection period--fluctuating within a fairly narrow range between approximately 5,500 and 5,700.
- The department has used the maximum projected inmate population of 5,725 (the June 30, 2001 level) as the basis for determining its capacity requirements. Using that figure, plus an operating reserve of 5 percent, the department estimates that capacity totaling 6,011 beds would be sufficient to operate the system through the projection period.
- Given the current system operating capacity of 6,622, the targeted capacity reduction used by the department was 611 beds; the group of options configured for reduction came very close to that amount, at 612 beds.

- To provide adequate lead time for closing down facility units, and for making necessary operational adjustments, the department assumed that units would be closed six months after the effective date of the bill.
- The commission's inmate population projection does not explicitly model the impact of the bill's retroactive provisions, although the commission has performed a separate estimate of the potential impact of retroactivity based on data files supplied by the department. The commission concluded that 1,200 to 1,800 inmates might become eligible for immediate release if guidelines are enacted. Because the effect of retroactivity is to accelerate release dates, retroactivity alone does not permanently reduce the size of the inmate population.

Uncertainty still exists as to the actual number of inmates who would be released upon implementation of the guidelines--that can only be determined upon individual file review and after opportunity for hearings prescribed by the bill have been met and the outcomes known. Another major unknown factor is the length of time necessary for the effects of retroactivity to be exhausted and for the inmate population to "catch up" to the projected levels.

For purposes of estimating fiscal impact, we have assumed that 1,200 inmates would be released immediately upon implementation of SB 479. Our estimates include a supplemental appropriation in FY 1992 for temporary employees and overtime to process all of the files that would need to be reviewed and to recalculate sentences prior to the effective date of the bill.

We also have estimated that three years will be required before the immediate impact of retroactivity will be largely worked out of the system.

- Because the effect of retroactivity is temporary, no permanent adjustments to facility capacity requirements were made in the estimates. Adjustments were made, however, in operating costs to reflect the reduction in average daily population.
- Retroactivity would cause an immediate surge in the parole caseload, which also would be a temporary phenomenon. Addition of 1,200 parolees to the existing caseload would make supervision more difficult since existing parole caseloads already exceed recommended levels. The department therefore has included additional staff to provide the necessary

supervision. The estimate used by the department is based on the addition of 46 new positions, which is the number currently estimated necessary to reach an average caseload of 50 cases per officer by the end of FY 1993 without guidelines.

- Cost estimates for community corrections are based on the Sentencing Commission's estimates of total probation/community corrections caseload increases if guidelines are enacted. The commission projected incremental "front-end" caseload increases, but did not distinguish between community corrections and probation cases supervised by court services officers. The department's estimates assume that 90 percent of the incremental increases in caseload would be assigned to community corrections for intensive supervision, day reporting and residential services. The department also assumed restoration of existing residential services provided by community corrections agencies but not funded in the Governor's FY 1993 recommendations.
- Based on the above, the cumulative costs to the Department of Corrections for implementation of sentencing guidelines between FY 1992 and FY 2001 are estimated at \$20.3 million over the current FY 1993 base.

Net Impact of Guidelines on the Department of Corrections

- Under both scenarios, costs to the Department of Corrections exceed the FY 1993 base of operations, services and programs.
- The net fiscal impact of SB 479 between now and the end of FY 2001 is estimated by subtracting the cumulative cost of implementing guidelines from the cumulative cost of continuing operations under current law, policy and practice.
- Based on these estimates, and given the caveats regarding the assumptions we have used, implementation of sentencing guidelines under the provisions of SB 479 would cost the Department of Corrections approximately \$150 million less in capital improvements and operating costs over the next ten years than would operations under current law. (See table below.)

Estimated Adjustment
 to
 Department of Corrections Expenditures
 FY 1992-2001
 1993 Non-Inflated Dollars (Millions)

A. Accumulated 10-Year Period, FY 1992-2001

	<u>Sentencing Guidelines</u>	<u>Current Policy</u>	<u>Net Impact</u>
Capital Improvements & Related Equipment	\$ -	\$61.9	\$ (61.9)
Facility Operations	(67.9)	100.6	(168.5)
Field Services (Parole)	14.7	8.0	6.7
Community Corrections	64.6	-	64.6
Other	8.9	-	8.9
	<hr/>	<hr/>	<hr/>
Totals	\$ 20.3	\$170.5	\$(150.2)

B. Annual Adjustment to Base

At End of Ten-Year Period, FY 1992-2001	\$ 6.2	\$24.4	\$(18.2)
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Other Issues

Trigger

Section 25 of Senate Bill 479 provides that the secretary of corrections will notify the Kansas Sentencing Commission any time the state's correctional facilities are filled to 85% or more of capacity. The commission shall then consider modifications of the sentencing guidelines grid necessary to maintain the prison population within reasonable management capacity. The proposed modifications are to be submitted to the legislature by February 1

Senator Winter
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and shall become effective unless modified or rejected by the legislature. This procedure appears to exclude the Governor from a role in approving or disapproving modifications to the guidelines. This exclusion raises a separation of powers issue which should be considered and addressed prior to enactment of the bill. Action of the legislature regarding the modifications made by the sentencing commission, whether by modifying or rejecting them, should be subject to approval or veto by the Governor, since the result of the action will clearly impact a function of the executive branch of government.

Sentencing Commission

Section 284 of the bill provides for the establishment of the Kansas Sentencing Commission. Some of the functions of the commission as set forth in the bill do not appear appropriate for a "sentencing commission" but rather appear more properly to be functions of a criminal justice policy coordinating body. Functions number (6), (8), (9), and (10) (see pages 208 and 209 of the bill) are more than sentencing or guidelines issues. These issues will be much broader and will affect all areas of the criminal justice system, thus suggesting the need for a criminal justice coordinating body.

cc: Representative Solbach, Chairperson, House Judiciary
Committee
Division of the Budget
Legislative Research Department
Ben Coates, Director, Kansas Sentencing Commission