

Approved: February 3, 1997
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Mike Harris at 10:10 a.m. on January 30, 1997 in Room 514-S of the Capitol.

All members were present except: Senator Bond (excused)

Committee staff present: Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Revisor of Statutes
Mary Blair, Committee Secretary

Conferees appearing before the committee: Nancy Lindberg, Office of Attorney General
Melissa Wangemann, Office of Secretary of State
Amelia McEntire, Wildlife and Parks
Secretary Simmons, Dept. of Corrections
Barbara Tombs, Ks. Sentencing Commission

Others attending: See attached list

Bill Introductions:

Conferee Nancy Lindberg requested amendments to the following: K.S.A. 21-3106 and 21-4403 regarding Deceptive Commercial Practices; K.S.A. 21-4623, 21-4624 and 21-4633 regarding Criminal Procedures; K.S.A. 22-3212(c) regarding discovery and K.S.A. 22-45-5 and 22-4506 regarding the Board of Indigent Defense being required to amend their Rules and Regulations to comply with federal legislation. After discussion Senator Oleen moved to introduce the bill, Senator Petty seconded. Motion carried. Ms. Lindberg also presented amendments to the statutes dealing with Crime Victims' Rights - Campus as follows: University Law Enforcement Jurisdiction - 76-726; 22-2401a; Liquor to Minors Penalties - 8-260; 21-3610; 21-3610a; 41-2615; Parolee Attending College - 223717; 21-4610 and Sex Offender Registration - 22-4901. (Attachment 1) Following discussion, Senator Harrington moved to introduce the bill, Senator Goodwin seconded. Motion carried.

Conferee Melissa Wangemann requested an amendment to K.S.A. 75-431 regarding publications of the Kansas Register. She stated current law requires keeping publications forever and recommended keeping them for a 6 month period after which they would be kept on microfilm. (Attachment 2) Senator Gilstrap moved to introduce the bill, Senator Oleen seconded. Motion carried

The Chair was called away temporarily and the meeting continued under the direction of Acting Chair Senator Schraad.

Conferee Amelia McEntire requested the amendment of 2 statutes, 32-808 and 32-1048, to reduce the impact of Attorney General Opinion 96-82. The subject of concern is the impact conservation officers face when confronted with non-wildlife offenses on government land. She provided the committee with suggested language, judges opinion, statement of request that led to the opinion, background history and charts. (Attachment 3) After discussion Senator Harrington moved to introduce the bill, Senator Gilstrap seconded. Motion carried.

Conferee Secretary Simmons briefed the committee with an overview on the current status of prison growth (inmate population growth) and reviewed with them some of the factors that lead to that. He related projections on future inmate population growth based on statistical data, gave comparisons between Kansas' rate of incarceration with that of other states, gave parole rates and probation violation rates, and related the cost and bed capacity of the Department's construction plan. (Attachment 4) Mr. Simmons answered several committee members' inquiries which ranged from: parole violations, causes of increase in growth, conditions of release and alternative sanctions to: funding for community programs, and the governor's reduced funding recommendation for this year.

Senator Harris returned to Chair the committee. He requested Conferee Tombs introduce herself and her commission's function only, due to time constraints and promised a call back.

The Chair adjourned the meeting at 10:59 a.m. The next meeting is Monday February 3, 1997

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 1-30-97

NAME	REPRESENTING
David Debenham	Attorney General
Julene Miller	" "
Nancy Lindberg	" "
Hanna P. Heimann	People's interest
Alan Steppat	PETE MCCOY & Associates
Charles Simmons	DOC
Maiga Wangemann	SOS
Julie Heim	Heim + Weir
Julie Meyer	KSC
Spuk Jones	KSC
Julia Spinkhorn	KSC
David Strohmann	Sen. Schraad
JEFF BRIDGES	DOB
Jerry Sloan	OJA
MATZ HEINZE	DoA
Martha Abegomik	Attorney General
Jane Heubel	KTLA



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ATTORNEY GENERAL

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January 30, 1997

TO: Senate Judiciary
FROM: Attorney General Carla Stovall
RE: 1997 Legislative Recommendations

1. **Deceptive Commercial Practices** - Amend K.S.A. 21-3106 and 21-4403 to increase the penalties, to extend the statute of limitations from two years to five years, and to change the definition of a deceptive commercial practice to include omission of a material fact.

2. **Criminal Procedures** - Amend K.S.A. 21-4623, 21-4624 and 21-4633 to include the attorney general along with "the county or district attorney" as making the necessary decisions in these three statutes. Also, amend K.S.A. 22-3212(c) to require reciprocal **discovery** of any evidence (reports, etc) which the defendant intends to produce at any hearing and not just at the trial. And, amend K.S.A. 22-4505 and K.S.A. 22-4506 to require the **Board of Indigent Defense** to amend their Rules and Regulations to comply with federal legislation. Kansas will need to meet four requirements:

- a. A mechanism for the "appointment, compensation, and payment of reasonable litigation expenses" for attorneys which represent inmates in capital post-conviction proceedings;
- b. Standards of competency for those attorneys;
- c. A specific procedure for the entry of an order by a court of record concerning the appointment, or non-appointment, of an attorney in these cases, including an option for the inmate to refuse scud appointment; and
- d. A prohibition against representation of the inmate by an attorney who represented him at trial or on the direct appeal.

CRIME VICTIMS' RIGHTS - CAMPUS

1. **University Law Enforcement Jurisdiction** - Amend K.S.A. 76-726 and 22-2401a to authorize agreements to expand regent universities and Washburn police jurisdiction.

Senate Judiciary
Attachment 1
1-30-97

2. **Liquor to Minors Penalties** - Amend K.S.A. 8-260 to change the penalty for possessing a false ID and using a false ID to purchase liquor. Amend K.S.A. 21-3610, 21-3610a, and 41-2615 to enhance penalties for businesses selling to minors.

3. **Parolee Attending College** - Amend K.S.A. 22-3717 and 21-4610 to require parole and probation officers to review and evaluate inmate or parolee's ability to attend college.

4. **Sex Offender Registration** - Amend K.S.A. 22-4901 et. seq. by including all murderers.

*this from
over 20 years in
standing*

REPORT OF

KANSAS ATTORNEY GENERAL
CARLA J. STOVALL

TASK FORCE

ON

***CAMPUS AWARENESS MAKES FOR
PROTECTION AND ULTIMATE SAFETY
(C.A.M.P.U.S.)***

1997

INTRODUCTION

In order to find ways to ensure that college campuses in Kansas are as safe as they can be, Attorney General Carla Stovall created the C.A.M.P.U.S. (Campus Awareness Makes for Protection and Ultimate Safety) Task Force. Attorney General Stovall's stated objective was to explore efforts which are currently being implemented on college campuses across our state to address the concern of student safety and to discuss where such efforts can be improved. The Task Force had its organizational meeting in Topeka, Kansas, on May 21, 1996. Four additional meetings were held at college campuses in Wichita, Emporia, Manhattan and Hays.

Representatives of the Regents institutions, private colleges, community colleges, as well as students and parents, shared what schools have done to provide safer campuses. Safety enhancements such as increased lighting on campus grounds, escort services, blue phones, magnetic ID entry cards for campus residential halls, security cameras and landscaping changes to provide safer paths for students have already been implemented on many campuses. Besides structural features, all campuses provide educational programs on safety, rape awareness and alcohol and drug awareness. Twenty-four hour assistance numbers and other crime prevention programs have also been developed. Additionally, campus police and security departments provide bike patrols, peer officer patrol in residential halls, 24-hour assistance, crime prevention programs, and building checks, etc.

The Task Force discussed current federal law with respect to campus crime reporting. The Federal Crime Awareness and Campus Security Act of 1990 and the Student Right-to-Know Act were passed by Congress to provide access to campus crime information. The federal law requires statistical reporting of campus crime and campus security policies. Each institution is required to prepare, publish and distribute the statistical information through appropriate publications or mailings to all current students and employees.

The Task Force acknowledges the value of statistical crime data and believes that students and parents should have access to community and campus crime information. While certainly not the exclusive remedy, the Task Force also believes that continuing educational efforts are essential in the area of crime prevention. The Task Force realizes the importance of support programs for crime victims and encourages the establishment of such programs on college campuses throughout Kansas.

Members focused their attention on and proposed various ideas to assist colleges and universities in making their campuses safer. During the final two meetings, the following recommendations were voted on and adopted by the Task Force members:

Recommendation 1:

Authorizing expansion of Regent university police and Washburn University Police jurisdiction, amending K.S.A. 76-726 and K.S.A. 22-2401A.

Regent university police expressed the concern that in certain instances, university law enforcement officers do not have authority to respond to requests for assistance from students, faculty, or university staff in surrounding areas off campus. The Task Force supported an idea presented by Darrell Masoner, Director of the Pittsburg State University Police Department and President of the Kansas Board of Regents Directors of Police, and Jim Denney, Director of the University of Kansas Police Department, that would allow expanded jurisdiction of university police departments when approved by the president of the university, the city or county commissioners, and the chief or sheriff of the local law enforcement agency.

On October 18, 1996, the Kansas Board of Regents gave its unanimous support to the initiative. The Task Force and the Attorney General applaud the Kansas Board of Regents for its favorable vote.

Draft Legislative Proposal amending K.S.A.s 76-726 and 22-2401a:

Section 1. K.S.A. 76-726 is hereby amended to read as follows:

(a) The chief executive officer of any state educational institution may employ university police officers to aid and supplement state and local law enforcement agencies. Such university police officers shall have the power and authority of law enforcement officers on: (1) Property owned or operated by the state educational institution, by a board of trustees of the state educational institution, an endowment association, an athletic association, a fraternity, sorority or other student group associated with the state educational institution; ~~and~~ (2) on the streets, property and highways immediately adjacent to the campus of the state educational institution; *and* (3) *within the city where such property is located, as necessary to protect the health, safety and welfare of students and faculty of the university, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, the circumstances requiring the extended jurisdiction, the scope of the law enforcement powers and the duration of the agreement. Any agreement entered into pursuant to this provision must be approved by the governing body of the city and/or county and chief executive officer of the state educational institution involved before it may take effect. Additionally, when there is reason to believe that a violation of a state law, a county resolution, or a city ordinance has occurred on property described in provisions (1) or (2), such officers, with appropriate notification of, and coordination with, local law enforcement agencies, may investigate and arrest persons for such a violation anywhere within the city where such property, streets and highways are located. University police officers* ~~at the university of Kansas medical center~~ *shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located. ~~and to make~~ University police officers at the university of Kansas medical center may provide emergency transportation of medical supplies and transplant organs.*

(b) In addition to enforcement of state law, county resolutions and city ordinances, university police officers shall enforce rules and regulations of the board of trustees and rules and policies of the state educational institution, whether or not violation thereof constitutes a criminal offense. Every university police officer shall, while on duty, wear and publicly display a badge of office, except that no such badge shall be required to be worn by any plainclothes investigator or departmental administrator, but any such person shall present proper credentials and identification when required in the performance of such officer's duties. In performance of any of the powers, duties and functions authorized by this act or any other law, university police officers shall have the same rights, protections and immunities afforded to other law enforcement officers.

Draft Legislative Proposal amending K.S.A. 22-2401a:

Section 1. K.S.A. 1996 Supp. 22-2401a is hereby amended to read as follows:

(1) Law enforcement officers employed by consolidated county law enforcement agencies or departments and sheriffs and their deputies may exercise their powers as law enforcement officers:

(a) Anywhere within their county; and

(b) in any other place when a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person.

(2) Law enforcement officers employed by any city may exercise their powers as law enforcement officers:

(a) Anywhere within the city limits of the city employing them and outside of such city when on property owned or under the control of such city; and

(b) in any other place when a request for assistance has been made by law enforcement officers from that place or when in fresh pursuit of a person.

(3) University police officers employed by the chief executive officer of any state educational institution or municipal university may exercise their powers as university police officers anywhere on:

(a) Property owned or operated by the state educational institution or municipal university, by a board of trustees of the state educational institution, an endowment association, an athletic association, a fraternity, sorority or other student group associated with the state educational institution or municipal university; ~~and~~

(b) The streets, property and highways immediately adjacent to the campus of the state educational institution or municipal university; and

(c) *Within the city where such property is located, as necessary to protect the health, safety and welfare of students and faculty of the university, with appropriate agreement by local law enforcement agencies. Such agreements shall include provisions defining the geographical scope of the jurisdiction conferred, the circumstances requiring the extended jurisdiction, the scope of the law enforcement powers and the duration of the agreement. Any agreement entered into pursuant to this provision must be approved by the governing body of the city and/or county and chief executive officer of the state educational institution or municipal university involved before it may take effect. Additionally, when there is reason to believe that a violation of a state law, a county resolution, or a city ordinance has occurred on property described in provisions (a) or (b), ~~this~~*

~~subsection,]~~ such officers with appropriate notification of, and coordination with, local law enforcement agencies or departments, may investigate and arrest persons for such a violation anywhere within the city where such property, streets and highways are located. Such officers also may exercise such powers in any other place when in fresh pursuit of a person. University police officers ~~[at the university of Kansas medical center]~~ shall also have authority to transport persons in custody to an appropriate facility, wherever it may be located and ~~[to make]~~ *may provide* emergency transportation of medical supplies and transplant organs.

(4) In addition to the areas where law enforcement officers may exercise their powers pursuant to subsection (2), law enforcement officers of any jurisdiction within Johnson or Sedgwick county may exercise their powers as law enforcement officers in any area within the respective county when executing a valid arrest warrant or search warrant, to the extent necessary to execute such warrants.

(5) In addition to the areas where university police officers may exercise their powers pursuant to subsection (3), university police officers may exercise the powers of law enforcement officers in any area outside their normal jurisdiction when a request for assistance has been made by law enforcement officers from the area for which assistance is requested.

(6) As used in this section:

(a) "Law enforcement officer" has the meaning ascribed thereto in K.S.A. 22-2202 and amendments thereto.

(b) "University police officers" means university police officers employed by the chief executive officer of: (1) any state educational institution under the control and supervision of the state board of regents; or (2) a municipal university.

(c) "Fresh pursuit" means pursuit, without unnecessary delay, of a person who has committed a crime, or who is reasonably suspected of having committed a crime.

Recommendation 2:

The Task Force discussed the changes made during the 1996 Kansas Legislature session that makes possession of a fictitious identification card (ID) a felony offense. Currently it is a felony to possess a fictitious ID but only a misdemeanor if a fictitious ID is used to purchase liquor. The Task Force suggests that the penalties for these laws be consistent.

The Task Force recommends graduated penalties for second and subsequent offenses of possession of a fictitious ID card. In addition to criminal penalties, community service is also highly recommended.

The Task Force also recommends that businesses that sell alcohol and cereal malt beverages to an individual who possesses a fictitious ID or who is underage should be subjected to stronger penalties than the law currently provides. Penalties should be graduated for subsequent convictions.

Draft Legislative Proposals amending K.S.A. 1996 Supp. 8-260, K.S.A. 21-3610 and K.S.A. 21-3610a:

Section 1. K.S.A. 1996 Supp. 8-260 is hereby amended to read as follows: 8-260. (a) It shall be unlawful for any person, for any purpose, to:

(1) Display or cause or permit to be displayed ~~or have in possession~~ any canceled, revoked, suspended, fictitious or fraudulently altered driver's license *with intent to defraud or induce official action.*

(2) Lend any driver's license to any other person or knowingly permit the use thereof by another.

(3) Display or represent as the person's own, any driver's license not issued to the person.

(4) Fail or refuse to surrender to the division upon its lawful demand any driver's license which has been suspended, revoked, or canceled.

(5) Use a false or fictitious name in any application for a driver's license, or any renewal or replacement thereof, or knowingly conceal a material fact, or otherwise commit a fraud in any such application.

(6) Permit any unlawful use of a driver's license issued to the person.

(7) Photograph, photostat, duplicate or in any way reproduce any driver's license or facsimile thereof in such a manner that it could be mistaken for a valid driver's license or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile unless authorized by law.

(8) Display or possess any photograph, photostat, duplicate or facsimile of a driver's license unless authorized by law.

(9) *Display or possess any canceled, revoked, suspended, fictitious or fraudulently altered driver's license.*

(a) Violation of paragraphs (2), (3), (4), (6), (7), ~~or~~ (8) or (9) of subsection (a) is a class A misdemeanor. Violation of paragraphs (1) or (5) of subsection (a) is a severity level 9, nonperson felony.

(c) It shall be unlawful for any person to:

(1) Lend any driver's license to or knowingly permit the use of any driver's license by any person under 21 years of age for use in the purchase of any alcoholic liquor.

(2) Lend any driver's license to or knowingly permit the use of any driver's license by a person under the legal age for consumption of cereal malt beverage for use in the purchase of any cereal malt beverage.

(3) Lend any driver's license, nondriver's identification card or other form of identification to aid another person in wrongfully obtaining a driver's license or replacement driver's license.

(4) Display or cause to be displayed or have in possession any fictitious or fraudulently altered driver's license by any person under 21 years of age for use in the purchase of any alcoholic liquor or cereal malt beverage.

(d) *Upon first conviction of a ~~V~~ violation of any provision of subsection (c), a person shall be guilty of a class B, nonperson misdemeanor and sentenced to not less than 100 hours of public service, and fined not less than \$200 nor more than \$500. On a second or subsequent conviction of a violation of any provision of subsection (c), a person shall be guilty of a class A nonperson misdemeanor.*

(e) The provisions of this section shall apply to any driver's license, nondriver's identification card or other form of identification whether issued under the laws of this state or issued under the laws of another state or jurisdiction.

Sec. 2. K.S.A. 21-3610 is hereby amended to read as follows: 21-3610. (a) Furnishing alcoholic liquor to a minor is directly or indirectly, selling to, buying for, giving or furnishing any alcoholic liquor to any minor.

(b) *Upon a first conviction of ~~F~~ furnishing alcoholic liquor to a minor is a person shall be guilty of a class B person misdemeanor for which the minimum fine is ~~\$200~~ \$500. On a second or subsequent conviction of furnishing alcoholic liquor to a minor, a person shall be guilty of a class A person misdemeanor for which the minimum fine is \$1,000.*

(c) As used in this section, terms have the meanings provided by K.S.A. 41-102 and amendments thereto.

(d) It shall be a defense to a prosecution under this section if: (1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit, or an employee thereof; (2) the defendant sold the alcoholic liquor to the minor with reasonable cause to believe that the minor was 21 or more years of age; and (3) to purchase the alcoholic liquor, the minor exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was 21 or more years of age.

Sec. 3. K.S.A. 21-3610a is hereby amended to read as follows: 21-3610a. (a) Furnishing cereal malt beverage to a minor is buying for or selling, giving or furnishing, whether directly or indirectly, any cereal malt beverage to any person under the legal age for consumption of cereal malt beverage.

(b) *Upon a first conviction of furnishing cereal malt beverage to a minor, a person shall be guilty of a class B person misdemeanor for which the minimum fine is ~~\$200~~ \$500. On a second or subsequent conviction of furnishing cereal malt beverage to a minor, a person shall be guilty of a class A person misdemeanor for which the minimum fine is \$1,000.*

(c) This section shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward.

(d) It shall be a defense to a prosecution under this section if: (1) the defendant is a licensed retailer, or an employee thereof; (2) the defendant sold the cereal malt beverage to the person with reasonable cause to believe that such person was of legal age for consumption of cereal malt beverage; and (3) to purchase the cereal malt beverage, the person exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document containing a photograph of the minor and purporting to establish that such person was of legal age for consumption of cereal malt beverage.

(e) As used in this section, "cereal malt beverage," "retailer" and "legal age for consumption of cereal malt beverage" have the meanings provided by K.S.A. 41-2701 and amendments thereto.

(f) This section shall be part of and supplemental to the Kansas criminal code.

Sec.4. K.S.A. 1996 Supp. 41-2615...

Recommendation 3:

Most members of the Task Force believe that for those who have been convicted of felonies, further formal education may be one factor necessary for rehabilitation. All colleges and universities endeavor to provide a safe and healthful learning environment for their students. Nevertheless, it was recognized that colleges and universities do not have access to an individual's criminal record or to his/her record in regard to any mental health treatment, alcohol /drug counseling and sex offender counseling. Faculty and advisors on campuses cannot determine whether those convicted of crimes have been rehabilitated since this information is not available to them.

The Task Force recommends that the Department of Corrections and Court Services Officers develop a procedure to closely review a parolee's or probationer's ability to achieve at the college level. A compelling factor in the review should be that of public safety. The safety of the public should be considered before directing any parolee or probationer to further his or her educational opportunities. If the public safety so demands, the probationer and parolee should also be restricted from residing near a college or university during the term of his or her supervision.

It should not be presumed that an individual who has committed a violent offense should be allowed to attend educational institutions immediately upon commencing the period of supervision.

Draft Legislative Proposals amending K.S.A. 1996 Supp. 22-3717, Sec. 1., and K.S.A. 21-4610, Sec. 2:

Section 1. K.S.A. 1996 Supp. 22-3717 is hereby amended to read as follows: 22-3717.

...

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the parole board will review the inmates proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a and amendments thereto. *In determining the conditions of parole, the board shall specifically consider whether the inmate should be able to attend secondary or post secondary educational institutions immediately upon commencing the period of supervision, or whether, in view of the crime or crimes the inmate was convicted of, the public safety demands that the inmate be restricted as one of the conditions of release from attending or residing near such an institution during the term of postrelease supervision.* The board may not advance or delay a inmate's release date. Every inmate while on postrelease supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

...

(n) Whenever the Kansas parole board orders the parole of an inmate or establishes conditions for an inmate placed on postrelease supervision, the board:

...

(2) *subject to the provisions of subsection (i) and to the extent practicable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision make progress towards or successfully complete the equivalent of a secondary education if the inmate has not previously completed such educational equivalent and is capable of doing so; and*

...

Sec. 2. K.S.A. 21-4610 is hereby amended to read as follows: 21-4610.

...

(b) The court services officer or community correctional services officer may recommend, and the court may order, the imposition of any conditions of probation, suspension or sentence or assignment to a community correctional services program...

(c) The court may impose any conditions of probation, suspension of sentence or assignment to a community correctional services program that the court deems proper, including but not limited to requiring that the defendant:

...

(e) In determining the conditions of probation, suspension of sentence or assignment to a community correctional services program, the court shall specifically consider whether the defendant should be able to attend secondary or post secondary educational institutions immediately upon commencing the period of probation, suspension of sentence or assignment to community corrections fixed by the court, or whether, in view of the crime or crimes the defendant was convicted of, the public safety demands that the defendant be restricted as one of the conditions of probation, suspension of sentence or assignment to a community correctional services program from attending or residing near such an institution during the period of probation, suspension of sentence or assignment to a community correctional services program.

Recommendation 4:

The Task Force strongly recommends that the Kansas Sex Offender Registration Act be broadened to include persons convicted of murder in addition to the crimes for which registration is now required: rape; indecent liberties; aggravated indecent liberties; criminal sodomy; aggravated criminal sodomy; indecent solicitation of a child; aggravated indecent solicitation of a child; sexual exploitation of a child; and aggravated sexual battery.

Draft Legislative Proposals amending KSA 22-4901 et seq.

Section 1. K.S.A. 22-4901 is hereby amended to read as follows: 22-4901 through 22-4910, and amendments thereto, shall be known and may be cited as the *Kansas Offender Registration Act*.

Section 2. K.S.A. 22-4902 is hereby amended to read as follows: 22-4902. As used in this act, unless the context otherwise requires:

(a) "Offender" means a sex offender as defined in subsection (b), *or a violent offender as defined in subsection (d)*.

(b) "Sex Offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c). Upon such conviction, the court shall certify that the person is a sex offender and shall include this certification in the order of commitment. Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(c) "Sexually violent crime" means:

- (1) Rape as defined in K.S.A.21-3502 and amendments thereto;
- (2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;
- (3) aggravated indecent liberties as defined in K.S.A. 21-3504 and amendments thereto;

(4) criminal sodomy as defined in subsection (a) (2) and (a) (3) of K.S.A. 21-3505 and amendments thereto;

- (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;
- (6) indecent solicitation of a child as defined by in K.S.A. 21-3510 and amendments thereto;
- (7) aggravated indecent solicitation of a child as defined by in K.S.A. 21-3511 and amendments thereto;

- (8) sexual exploitation of a child as defined by in K.S.A. 21-3516 and amendments thereto;
- (9) aggravated sexual battery as defined by in K.S.A. 21-3518 and amendments thereto;

or

(10) any conviction for a felony offense in effect any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (10), or any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent crime as defined in this section;

(11) an attempt, conspiracy of criminal solicitation, as defined in K.S.A. 21-3301a, 21-3302a or 21-3303a, and amendments thereto, of a sexually violent crime, as defined in this section; or

(12) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Violent offender" includes any person who, after the effective of this act, is convicted of any of the following crimes:

- (1) Capital murder as defined in K.S.A. 21-3439 and amendments thereto;*
- (2) Murder in the first degree as defined in K.S.A. 21-3401 and amendments thereto;*
- (3) Murder in the second degree as defined in K.S.A. 21-3402 and amendments thereto;*
- (4) Voluntary manslaughter as defined in K.S.A. 21-3403 and amendments thereto;*
- (5) Involuntary manslaughter as defined in K.S.A. 21-3404 and amendments thereto; or*
- (6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or*
- (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301a, 21-3302a, or 21-3303a and upon such conviction, the court shall certify that the person is an offender subject to the provisions of K.S.A. 22-4901 et seq. And amendments thereto and shall include this certification in the order of commitment. Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.*

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

Recommendation 5:

The Task Force enthusiastically supports the Department of Corrections' legislative initiatives to amend the Kansas Open Records Act to provide for the clarification and expansion of offender information which can be given to the public. This information would include:

- Offender identification information, including photograph, date of birth, height, weight, sex and race. Release of this information would serve to confirm identification of a specific individual while protecting other individuals who may have the same name as the offender.
- Supervisor information about offenders on parole or post-release supervision which is comparable to public information currently available for inmates, e.g. reasons for revocation, graduated sanctions imposed in lieu of revocation, level of supervision, community service obligations and conditions of release (except for substance abuse and/or sex offender treatment and/or mental health counseling).
- Release of addresses of offenders on parole or post-release supervision for offenders convicted after the effective date of this legislation.
- The Task Force also supports the Department of Corrections' efforts to provide offender information on the Internet and recommends that the information be easily accessible by county, crime or some other mechanism. Although not everyone has a computer, it was recognized that the information could still be accessible because most colleges and high schools allow students access to Internet services through educational programs. The general public can access the information through public libraries.

Recommendation 6:

Funding must be available to assist colleges in making safety enhancements on their campuses. Many schools have been given private dollars and have utilized student fees to pay for such improvements. The Task Force recommends that existing public-university and college partnerships, community support and student contributions, as well as state funds, should be available for colleges to improve campus safety.

Recommendation 7:

The Task Force supports stricter processes for obtaining professional licenses for persons with criminal histories. Funding is needed for the Kansas Bureau of Investigation (KBI) to enhance computer capabilities so that it can check the criminal background of those applying for professional licenses. The KBI, under the leadership of the Statewide Coordinating Council, is moving forward with a comprehensive long-term strategic plan to upgrade and improve computer hardware and software. The Task Force supports this goal.

The Task Force recommends that a clearinghouse be set up which would allow all licensing boards to have access to information which could include (but not be limited to) applicants who have previously applied for a professional license and been denied based upon their criminal record. The clearinghouse would also identify those persons who have had or currently have their professional licenses suspended or revoked.

Recommendation 8:

Information concerning offenders should be available to the public. To this end, the Task Force adopted a resolution that encourages the media to publish or report the release of all violent offenders from prison. The Task Force is unaware of any media organizations that publish or report those being released on parole except in high profile cases. The Task Force commends the Johnson County Sun, which is the only news publication of which Task Force members are aware, that reports registered sex offenders living in its community on a regular basis.

Recommendation 9:

Model "safety and prevention" educational programs have been developed in Kansas and other states for use on college campuses for students, faculty and staff members. The Task Force recommends that the Attorney General's Office serve as a resource center for successful model programs on safety. The Attorney General's staff would collect this information from national and state colleges and universities and make it available upon request.

Recommendation 10:

All colleges and universities should review their student residential housing security programs. Sororities and fraternities are also encouraged to review and compare their security measures. This review would include a comparison of security measures with other campuses. This should be done on a regular basis, at least yearly, to maintain quality and updated security measures.

These recommendations are not all inclusive nor should they be interpreted to mean that campuses will be safe if adopted. The Attorney General views these recommendations as a starting point in addressing the safety of college campuses in Kansas. Officials at each and every campus in Kansas should meet and review their safety policies and programs on a regular basis.

TASK FORCE MEMBERS

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APPENDIX

FEDERAL CRIME AWARENESS AND CAMPUS SECURITY ACT OF 1990

KANSAS CAMPUS CRIME
1993-1994
REPORTED TO KANSAS BUREAU
OF INVESTIGATION

**FEDERAL CRIME AWARENESS AND
CAMPUS SECURITY ACT OF 1990
20 USCA § 1092**

Disclosure of campus security policy and campus crime statistics.

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security consideration used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including--

(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies--

(i) murder;

(ii) sex offenses, forcible or nonforcible;

- (iii) robbery;
- (iv) aggravated assault;
- (v) burglary; and
- (vi) motor vehicle theft.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

(H) Statistics concerning the number of arrests for the following crimes occurring on campus:

- (i) liquor law violations;
- (ii) drug abuse violations; and
- (iii) weapons possessions.

(I) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1145g of this title.

(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

(3) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

(4) Upon the request of the Secretary, each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall submit to the Secretary a copy of the statistics required to be made available under paragraphs (1)(F) and (1)(H). The Secretary shall--

(A) review such statistics and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on campus crime statistics by September 1, 1995; and

(B) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of

campus crime.

(5)(A) For the purposes of this subsection, the term "campus" includes--

(i) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or

(ii) any building or property owned or controlled by student organizations recognized by the institution.

(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonable contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

(6) The statistics described in paragraphs (1)(f) and (1)(H) shall be completed in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act.

(7)(A) Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of Title 42 shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding--

(i) such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and

(ii) the procedures followed once a sex offense has occurred.

(B) The policy described in subparagraph (A) shall address the following areas:

(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

(ii) Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.

(iii) procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

(iv) Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that--

(I) the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

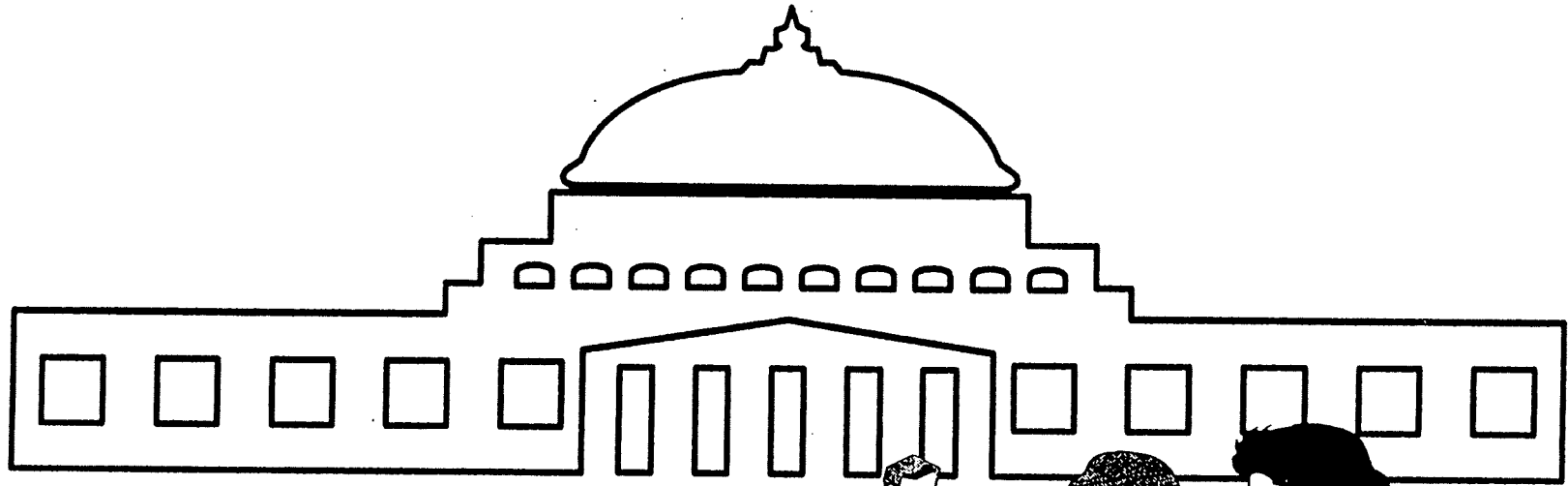
(II) both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

(v) Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

(vii) Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so required by the victim and if such changes are reasonably available.

(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.



**KANSAS
CAMPUS
CRIME
93-94**



98-1

— INTRODUCTION —

On October 22, 1990, Congress passed the Student Right-to-Know and Campus Security Act. Considered a consumer rights statute, the Act requires colleges and universities to report graduation rates of all students as well as those of student athletes. In addition, the institutions must report certain campus crime statistics and campus security procedures.

In the spring of 1991, the Kansas Bureau of Investigation (KBI), formed a committee of law enforcement and other government personnel to act as advisors in the redesign of the Kansas Incident Based Reporting System (KIBRS). The major focus of the redesign was to incorporate the requirements of the National Incident Based Reporting System (NIBRS) into the state system. At the same time crime data specific to the needs and requirements of federal acts, state mandates, researchers, and various state and local agencies could also be incorporated into KIBRS. A representative from the State Board of Education was selected as a member of the committee in order to set standards for the collection of crime data from Kansas colleges, both private and state operated.

Because the seven state regents institutions had certified police departments, they had been active participants in the previous KIBRS and state Uniform Crime Reporting Program (UCR). As a result, these agencies had been reporting the offenses and arrest categories required under the act for many years. The issue was how to collect information from private colleges and community colleges that did not have a certified law enforcement agency on campus. In addition, it was noted that in some situations, at the regents institutions,

local law enforcement agencies might respond to a crime scene at a facility defined as campus under the Act instead of the campus police.

After a review of the Act and existing data collection methods, the committee made the recommendation to include a campus code field in the offense segment of the new KIBRS. A code was assigned to each educational facility required by federal mandate to submit data under the Act. Local law enforcement agencies if responding to an incident defined as occurring on a campus or while making an arrest on a campus would list the campus code for that facility in the appropriate field on the Kansas Standard Offense Report (KSOR) or the Kansas Standard Arrest/Juvenile Report (KSAJR).

The KIBRS Information and Collection Manual, provided to each law enforcement agency in the state, defines campus crime as: "... a criminal offense or arrest that occurs in, or on, any building or property owned or controlled by the educational institution; or, contiguous to or used in direct support or related to the institution's educational purposes. In addition, any offenses which occur in a building or on a property owned or controlled by student organizations recognized by the educational institution will be classified as "Campus Crime."

The data in this handout has been compiled based on the requirements of the Act to report the number of occurrences of murder, rape, robbery, aggravated assault, burglary and motor vehicle theft that occurred on campus. Arrests for liquor law violations, drug abuse violations, and weapons possessions, as required by the Act, are also listed.

1-27

**KANSAS REGENTS INSTITUTIONS
CRIME INDEX OFFENSES REPORTED BY CAMPUS POLICE DEPARTMENTS*
1993**

INSTITUTION	1993** STUDENT POPULA- TION	MURDER NON-NEGL.				AGG. ASSAULT/ BATTERY	TOTAL VIOLENT CRIME OFFENSES	BURGLARY	THEFT	MOTOR VEHICLE THEFT	TOTAL PROPERTY CRIME OFFENSES	TOTAL CRIME INDEX OFFENSES	RATE PER THOUSAND POPULATION
		MANS.	RAPE	ROBBERY									
PITTSBURG STATE	6,589	- 0 -	- 0 -	- 0 -	6	6	21	59	1	81	87	13.2	
KANSAS UNIVERSITY	26,127	- 0 -	- 0 -	2	11	13	205	385	5	595	608	23.3	
FT HAYS STATE	5,701	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	31	28	- 0 -	59	59	10.3	
EMPORIA STATE	6,090	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	39	60	- 0 -	99	99	16.3	
KANSAS STATE	20,775	- 0 -	- 0 -	- 0 -	5	5	169	208	- 0 -	377	382	19.1	
WICHITA STATE	14,892	2***	- 0 -	- 0 -	2	4	49	137	- 0 -	186	190	12.7	
K U MED CENTER	2,735	- 0 -	- 0 -	2	- 0 -	2	23	239	5	267	269	98.4	
TOTAL	82,909	2***	- 0 -	4	24	30	537	1,116	11	1,664	1,694	20.4	

* Crime Statistics from "CRIME IN KANSAS, 1993-1994", published by The Crime Data Information Center.

** Population figures from "KANSAS STATISTICAL ABSTRACT 1993-1994"; "Enrollment in Kansas Colleges and Universities Fall 1993". Population figures are based only on student enrollment.

*** Because these murders occurred on WSU campus they were counted in their statistics. However, the victims were non- student persons attending city wide Fourth of July festivities on WSU campus.

**KANSAS REGENTS INSTITUTIONS
CRIME INDEX OFFENSES REPORTED BY CAMPUS POLICE DEPARTMENTS*
1994**

INSTITUTION	1994** STUDENT POPULA- TION	MURDER NON-NEGL.				AGG. ASSAULT/ BATTERY	TOTAL VIOLENT CRIME OFFENSES	BURGLARY	THEFT	MOTOR VEHICLE THEFT	TOTAL PROPERTY CRIME OFFENSES	TOTAL CRIME INDEX OFFENSES	RATE PER THOUSAND POPULATION
		MANS.	RAPE	ROBBERY									
PITTSBURG STATE	6,377	- 0 -	1	- 0 -	3	4	27	58	- 0 -	85	89	14.0	
KANSAS UNIVERSITY	25,336	- 0 -	4	2	7	13	277	358	8	643	656	25.9	
FT HAYS STATE	5,496	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	25	24	- 0 -	49	49	8.9	
EMPORIA STATE	6,075	- 0 -	1	- 0 -	2	3	75	84	2	161	164	27.0	
KANSAS STATE	20,669	- 0 -	2	- 0 -	2	4	177	217	1	395	399	19.3	
WICHITA STATE	14,558	- 0 -	- 0 -	2	1	3	35	173	13	221	224	15.4	
KU MED CENTER	2,710	- 0 -	- 0 -	1	7	8	14	229	11	254	262	96.7	
TOTAL	81,216	- 0 -	8	5	22	35	630	1,143	35	1,808	1,843	22.6	

* Crime Statistics from "CRIME IN KANSAS, 1993-1994", published by The Crime Data Information Center.

** Population figures from "KANSAS STATISTICAL ABSTRACT 1993-1994"; "Enrollment in Kansas Colleges and Universities Fall 1994". Population figures are based only on student enrollment.

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**KANSAS REGENTS INSTITUTIONS
CRIME INDEX OFFENSES REPORTED BY LOCAL LAW ENFORCEMENT AGENCIES*
1993**

INSTITUTION	1993** STUDENT POPULA- TION	MURDER NON-NEGL.			AGG. ASSAULT/ BATTERY	TOTAL VIOLENT CRIME OFFENSES	BURGLARY	THEFT	MOTOR VEHICLE THEFT	TOTAL PROPERTY CRIME OFFENSES	TOTAL CRIME INDEX OFFENSES	RATE PER THOUSAND POPULATION
		MANS.	RAPE	ROBBERY								
PITTSBURG STATE	6,589	- 0 -	- 0 -	- 0 -	3	3	- 0 -	- 0 -	- 0 -	- 0 -	3	0.4
KANSAS UNIVERSITY	26,127	- 0 -	1	- 0 -	4	5	13	- 0 -	2	48	53	2.0
FT HAYS STATE	5,701	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	0.0
EMPORIA STATE	6,090	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	3	4	- 0 -	7	7	0.0
KANSAS STATE	20,775	- 0 -	1	- 0 -	3	4	5	4	- 0 -	9	13	0.6
WICHITA STATE***	14,892	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	0.0
K U MED CENTER	2,735	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	0.0
TOTAL	82,909	- 0 -	2	- 0 -	10	12	21	41	2	64	76	0.9

* Crime statistics from The Kansas Incident Based Reporting System (KIBRS).

** Population figures from 'KANSAS STATISTICAL ABSTRACT 1993-1994'; "Enrollment In Kansas Colleges and Universities Fall 1993". Population figures are based only on student enrollment.

*** Statistics not available from Wichita PD.

**KANSAS REGENTS INSTITUTIONS
CRIME INDEX OFFENSES REPORTED BY LOCAL LAW ENFORCEMENT AGENCIES*
1994**

INSTITUTION	1994** STUDENT POPULA- TION	MURDER NON-NEGL.			AGG. ASSAULT/ BATTERY	TOTAL VIOLENT CRIME OFFENSES	BURGLARY	THEFT	MOTOR VEHICLE THEFT	TOTAL PROPERTY CRIME OFFENSES	TOTAL CRIME INDEX OFFENSES	RATE PER THOUSAND POPULATION
		MANS.	RAPE	ROBBERY								
PITTSBURG STATE	6,377	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	1	- 0 -	- 0 -	1	1	0.1
KANSAS UNIVERSITY	25,336	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	40	24	3	67	67	2.6
FT HAYS STATE	5,496	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	0.0
EMPORIA STATE	6,075	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	0.0
KANSAS STATE	20,664	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	12	13	- 0 -	25	25	1.2
WICHITA STATE***	14,558	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	0.0
K U MED CENTER	2,710	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	0.0
TOTAL	80,096	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	53	37	3	93	93	1.1

* Crime statistics from The Kansas Incident Based Reporting System (KIBRS).

** Population figures from 'KANSAS STATISTICAL ABSTRACT 1993-1994'; "Enrollment In Kansas Colleges and Universities Fall 1994". Population figures are based only on student enrollment.

*** Statistics not available from Wichita PD.

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**OTHER FOUR-YEAR KANSAS INSTITUTIONS
CRIME INDEX OFFENSES REPORTED BY LOCAL LAW ENFORCEMENT AGENCIES*
1993**

INSTITUTION	1993** STUDENT POPULA- TION	MURDER NON-NEGL.			AGG. ASSAULT/ BATTERY	TOTAL VIOLENT CRIME OFFENSES	BURGLARY	THEFT	MOTOR VEHICLE THEFT	TOTAL PROPERTY CRIME OFFENSES	TOTAL CRIME INDEX OFFENSES	RATE PER THOUSAND POPULATION
		MANS.	RAPE	ROBBERY								
Baker University	1,851	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	5	4	- 0 -	9	9	4.9
Benedictine College	1,257	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	6	4	1	11	11	8.7
Bethany College	764	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	13	1	14	14	18.3
Bethel College	638	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	1	2	- 0 -	3	3	5.2
Kansas Wesleyan	732	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	1	1	- 0 -	2	2	2.7
McPherson College	419	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	1	- 0 -	1	1	2.4
Mid-Am Nazarene	1,434	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	1	- 0 -	1	1	0.7
Ottawa University	3,682	- 0 -	- 0 -	- 0 -	1	1	8	9	- 0 -	17	18	4.9
St Marys College	875	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	1	- 0 -	1	1	1.1
Southwestern College	651	- 0 -	- 0 -	- 0 -	1	1	6	8	- 0 -	14	15	21.5
Tabor College	434	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	1	1	- 0 -	2	2	4.6
Washburn University	6,574	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	6	15	- 0 -	21	21	3.2
TOTAL	19,311	- 0 -	- 0 -	- 0 -	2	2	34	60	2	96	98	5.0

* Crime statistics from The Kansas Incident Based Reporting System (KIBRS).

** Population figures from 'KANSAS STATISTICAL ABSTRACT 1993-1994'; "Enrollment In Kansas Colleges and Universities Fall 1993". Population figures are based only on student enrollment.

**OTHER FOUR-YEAR KANSAS INSTITUTIONS
CRIME INDEX OFFENSES REPORTED BY LOCAL LAW ENFORCEMENT AGENCIES*
1994**

INSTITUTION	1994** STUDENT POPULA- TION	MURDER NON-NEGL.			AGG. ASSAULT/ BATTERY	TOTAL VIOLENT CRIME OFFENSES	BURGLARY	THEFT	MOTOR VEHICLE THEFT	TOTAL PROPERTY CRIME OFFENSES	TOTAL CRIME INDEX OFFENSES	RATE PER THOUSAND POPULATION
		MANS.	RAPE	ROBBERY								
Baker University	1,997	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	11	10	- 0 -	21	21	10.5
Benedictine College	867	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	5	4	- 0 -	9	9	10.4
Bethany College	727	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	4	9	- 0 -	13	13	17.9
Bethel College	644	- 0 -	- 0 -	- 0 -	1	1	- 0 -	24	- 0 -	24	25	38.8
Kansas Wesleyan	719	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	1	3	- 0 -	4	4	5.6
McPherson College	453	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	5	- 0 -	5	5	11.0
Mid-Am Nazarene	1,445	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	2	- 0 -	- 0 -	2	2	1.4
Ottawa University	4,337	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	4	4	- 0 -	8	8	1.8
St Marys College	899	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	2	1	- 0 -	3	3	3.3
Southwestern College	752	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	2	3	1	6	6	8.0
Sterling College	782	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	3	2	1	6	6	7.7
Tabor College	503	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	3	4	- 0 -	7	7	13.9
Washburn University***	6,439	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	0.0
TOTAL	14,125	- 0 -	- 0 -	- 0 -	1	1	37	69	2	108	109	7.7

* Crime statistics from The Kansas Incident Based Reporting System (KIBRS).

** Population figures from 'KANSAS STATISTICAL ABSTRACT 1993-1994'; "Enrollment In Kansas Colleges and Universities Fall 1994". Population figures are based only on student enrollment.

*** Statistics not available from Topeka PD.

1-30

**TWO-YEAR KANSAS INSTITUTIONS
CRIME INDEX OFFENSES REPORTED BY LOCAL LAW ENFORCEMENT AGENCIES*
1993**

INSTITUTION	1993** STUDENT POPULA- TION	MURDER NON-NEGL.			AGG. ASSAULT/ BATTERY	TOTAL VIOLENT CRIME OFFENSES	BURGLARY	THEFT	MOTOR VEHICLE THEFT	TOTAL PROPERTY CRIME OFFENSES	TOTAL CRIME INDEX OFFENSES	RATE PER THOUSAND POPULA- TION
		MANS.	RAPE	ROBBERY								
Allen Co Comm College	1,686	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	7	1	- 0 -	8	8	4.7
Barton Co Comm College	4,661	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	6	10	- 0 -	16	16	3.4
Butler Co Comm College	7,114	- 0 -	1	- 0 -	- 0 -	1	9	13	- 0 -	22	23	3.2
Central College	313	- 0 -	1	- 0 -	- 0 -	1	2	3	- 0 -	5	6	19.2
Cloud Co Comm College	2,039	- 0 -	- 0 -	- 0 -	1	1	5	3	- 0 -	8	9	4.4
Coffeyville Comm Coll	2,016	- 0 -	- 0 -	- 0 -	1	1	8	3	- 0 -	11	12	5.9
Colby Comm College	2,071	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	1	4	- 0 -	5	5	2.4
Cowley Co Comm Coll	3,171	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	6	6	1	13	13	4.1
Dodge City Comm Coll	2,195	- 0 -	1	- 0 -	1	2	10	2	- 0 -	12	14	6.4
Ft Scott Comm College	1,740	- 0 -	- 0 -	- 0 -	1	1	10	5	- 0 -	15	16	9.2
Garden City Comm Coll	2,150	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	3	6	1	10	10	4.6
Haskell Indian Jr College	981	- 0 -	- 0 -	- 0 -	1	1	5	6	- 0 -	11	12	12.2
Highland Comm College	2,294	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	11	5	- 0 -	16	16	7.0
Hutchinson Comm Coll	3,757	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	2	4	1	7	7	1.9
Independence Comm Col	1,550	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	2	1	- 0 -	3	3	1.9
Johnson Co Comm Coll	13,428	- 0 -	- 0 -	1	- 0 -	1	18	69	2	89	90	6.7
Kansas City KS Com Col	6,063	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	1	- 0 -	1	1	0.2
Labette Comm College	2,112	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	1	1	- 0 -	2	2	0.9
Neosho Co Comm Coll	1,596	- 0 -	1	- 0 -	6	7	1	2	- 0 -	3	10	6.3
Pratt Comm College	1,181	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	6	- 0 -	6	6	5.1
Seward Comm College	1,609	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	4	2	- 0 -	6	6	3.7
TOTAL	63,727	- 0 -	4	1	11	16	111	153	5	269	285	4.4

* Crime statistics from The Kansas Incident Based Reporting System (KIBRS).

** Population figures from "KANSAS STATISTICAL ABSTRACT 1993-1994"; "Enrollment In Kansas Colleges and Universities Fall 1993". Population figures are based only on student enrollment.

**TWO-YEAR KANSAS INSTITUTIONS
CRIME INDEX OFFENSES REPORTED BY LOCAL LAW ENFORCEMENT AGENCIES*
1994**

INSTITUTION	1994** STUDENT POPULA- TION	MURDER			AGG. ASSAULT/ BATTERY	TOTAL VIOLENT CRIME OFFENSES	BURGLARY	THEFT	MOTOR VEHICLE THEFT	TOTAL PROPERTY CRIME OFFENSES	TOTAL CRIME INDEX OFFENSES	RATE PER THOUSAND POPULA- TION
		NON-NEGL MANS.	RAPE	ROBBERY								
Allen Co Comm College	1,558	-0-	-0-	-0-	-0-	-0-	9	2	-0-	11	11	7.2
Barton Co Comm College	4,567	-0-	-0-	-0-	1	1	3	13	-0-	16	17	3.7
Butler Co Comm College	7,447	-0-	-0-	-0-	-0-	-0-	5	5	1	11	11	1.5
Central College	304	-0-	-0-	-0-	-0-	-0-	3	4	-0-	7	7	23.0
Cloud Co Comm College	2,513	-0-	-0-	-0-	2	2	8	7	-0-	15	17	6.8
Coffeyville Comm Coll	2,008	-0-	-0-	-0-	-0-	-0-	9	6	-0-	15	15	7.5
Colby Comm College	2,132	-0-	-0-	-0-	-0-	-0-	2	1	-0-	3	3	1.4
Cowley Co Comm Coll	2,942	-0-	1	-0-	-0-	1	2	9	1	12	13	4.4
Dodge City Comm Coll	2,277	-0-	1	-0-	-0-	1	2	3	-0-	5	6	2.6
Ft Scott Comm College	1,694	-0-	-0-	-0-	-0-	-0-	3	1	-0-	4	4	2.4
Garden City Comm Coll	2,154	-0-	-0-	-0-	-0-	-0-	1	4	-0-	5	5	2.3
Haskell Indian Jr College	793	-0-	-0-	-0-	4***	4	7	6	-0-	13	17	21.4
Highland Comm College	2,444	-0-	-0-	-0-	1	1	6	5	-0-	11	12	4.9
Hutchinson Comm Coll	3,830	-0-	-0-	-0-	1	1	16	13	-0-	29	30	7.8
Independence Comm Col	1,730	-0-	-0-	-0-	3	3	5	3	-0-	8	11	6.4
Johnson Co Comm Coll	13,078	-0-	-0-	-0-	-0-	-0-	15	82	3	100	100	7.6
Kansas City KS Com Col	5,918	-0-	-0-	-0-	-0-	-0-	1	3	-0-	4	4	0.7
Labette Comm College	2,029	-0-	-0-	-0-	-0-	-0-	-0-	4	-0-	4	4	2.0
Neosho Co Comm Coll	1,491	-0-	-0-	-0-	-0-	-0-	5	2	-0-	7	7	4.7
Pratt Comm College	1,291	-0-	-0-	-0-	-0-	-0-	2	3	-0-	5	5	3.9
Seward Comm College	1,631	-0-	-0-	-0-	-0-	-0-	2	3	-0-	5	5	3.1
TOTAL	63,831	-0-	2	-0-	12	14	106	179	5	290	304	4.7

* Crime statistics from The Kansas Incident Based Reporting System (KIBRS).

** Population figures from 'KANSAS STATISTICAL ABSTRACT 1993-1994'; "Enrollment In Kansas Colleges and Universities Fall 1994". Population figures are based only on student enrollment.

***Three of these assaults were to Law Enforcement Officers.

1-32

**CAMPUS ACT ARRESTS
1993**

COLLEGE	DUI	LIQUOR	DRUG
PITTSBURG STATE UNIVERSITY	1	- 0 -	- 0 -
KANSAS UNIVERSITY	49	17	2
FT HAYS STATE UNIVERSITY	- 0 -	1	- 0 -
EMPORIA STATE UNIVERSITY	- 0 -	- 0 -	- 0 -
KANSAS STATE UNIVERSITY	- 0 -	- 0 -	- 0 -
KANSAS STATE UNIVERSITY	3	5	2
K U MED CENTER	1	- 0 -	1
FT SCOTT COMM COLLEGE	1	- 0 -	- 0 -
CLOUD CO COMM COLLEGE	- 0 -	1	- 0 -
HASKELL INDIAN JR COLLEGE	1	- 0 -	- 0 -
JOHNSON CO COMM COLLEGE	2	- 0 -	1
JOHNSON CO COMM COLLEGE	- 0 -	- 0 -	- 0 -
DODGE CITY COMM COLLEGE	- 0 -	- 0 -	1

**CAMPUS ACT ARRESTS
1994**

COLLEGE	DUI	LIQUOR	DRUG
KANSAS UNIVERSITY	6	- 0 -	2
KANSAS STATE UNIVERSITY	- 0 -	5	2

KIBRS can provide an even deeper analysis of campus crime occurrences. Other options include:

- 1.) Location by Premise Code - did the offense occur in a dormitory/sorority/fraternity as opposed to the campus proper?
- 2.) Was the offense the result of a Domestic Incident or Gang Related?
- 3.) What were the characteristics of the victim or offender?
- 4.) What type of weapons were involved?
- 5.) What hour or day of the week did offenses most commonly occur?
- 6.) What other types of arrests are being made on campus? And how many are the result of a warrant being served on campus?

Staff at the Crime Data Information Center (CDIC) of the KBI are available to answer these questions. Please feel free to call Monday thru Friday, between 8:00 A.M. and 5:00 P.M. (913)296-8200.

1-34

Ron Thornburgh
Secretary of State



ATT. #12 1-30-97
2nd Floor, State Capitol
300 S.W. 10th Ave.
Topeka, KS 66612-1594
(913) 296-4564

STATE OF KANSAS
BILL INTRODUCTION
KANSAS REGISTER

Mr. Chairman and Members of the Committee:

The Secretary of State respectfully requests the introduction of a bill that would amend K.S.A. 75-431 concerning the duties of the Secretary of State in publishing the Kansas Register.

The Kansas Register is the official state paper published by the Secretary of State. The Register contains all information required by law to be published in the Register, including acts of the legislature, executive orders by the governor, summaries of attorney general opinions, notices of hearings and public comment periods for administrative regulations, the Supreme Court and Court of Appeals dockets, and notices of bond sales and bond redemptions.

K.S.A. 75-431 requires that the documents delivered to the Secretary of State for publication in the Register be maintained permanently in original form or on microfilm in the Secretary of State's office. This information is published and contained in the Kansas Register, which is also saved and microfilmed on a permanent basis. The Secretary of State requests that K.S.A. 75-431 be amended to allow the Secretary of State to destroy the original document after 6 months retention. The information will not be lost or destroyed, as it is contained in the Kansas Register, which is a public record retained and made available for public inspection.

This amendment will reduce the paper that our office stores. Our office is in the process of microfilming or storing 65,000 pages of paper to comply with the law. Allowing us to recycle this paperwork instead would reduce our costs of microfilming or storing the documents and would alleviate the paperwork that will need to be moved when we move out of the Capitol.

*Senate Judiciary
attachment 2
1-30-97*

Negotiations for engineering services, 75-5801 et seq.

75-431. Same; state agencies to file certified copies of documents; filing; permanent register; documents available to public; official text of rules and regulations; secretary of state authorized to adopt rules and regulations; destruction of original copies. (a) Each agency shall file materials for publication in the Kansas register by delivering to the office of the secretary of state during normal working hours two certified copies of the document to be filed, except that rules and regulations required to be filed in the office of the secretary of state under the provisions of article 4 of chapter 77 of the Kansas Statutes Annotated shall be filed in triplicate. On receipt of a document required by this act to be published in the register, the secretary of state shall note the day and hour of filing on the certified copies. One certified copy of each filed document shall be maintained in original form ~~or on microfilm in a permanent register in the office of the secretary of state and, on filing, shall be made available immediately for public inspection during regular business hours.~~

(b) If there is a conflict, the official text of a rule and regulation is the text on file with the secretary of state, and not the text published in the register or on file with the issuing agency.

(c) The secretary of state is hereby authorized to adopt rules and regulations necessary to the effective administration of this act. Such rules and regulations may include, but are not limited to, rules prescribing paper size and the format of documents required to be published by this act. The secretary of state may refuse to accept for filing and publication any document that does not substantially conform to the promulgated rules and regulations.

(d) The secretary of state may ~~maintain on microfilm the files of information required by this act to be published in the register and, after microfilming,~~ destroy the original copies of all information submitted for publication.

History: L. 1981, ch. 324, § 2; L. 1988, ch. 366, § 25; June 1.

Add:

by the Secretary of state for six months after the document's publication in the register.

S. JUD 1-30-97 att #3



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS



Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612
913/296-2281 FAX 913/296-6953

January 24, 1997

✓ Senator Michael T. Harris
Chairman, Senate Judiciary Committee
State Capitol, Room 449-N

Representative Tim Carmody
Chairman, House Judiciary Committee
State Capitol, Room 115-S

Hand Delivered

Dear Senator Harris and Representative Carmody:

The Kansas Department of Wildlife and Parks is proposing remedial legislation for consideration by the 1997 Legislature to amend K.S.A. 32-808 and K.S.A. 32-1048 to reduce the impact of Attorney General Opinion 96-82. The Department solicited the Opinion at the urging of various conservation officers, due to several unreported decisions of Kansas District Courts that concluded that our officers did not have statutory authority to enforce DUI laws off of Department controlled land. Enclosed for your consideration is our suggested form of remedial legislation, which has been reviewed by Mary Ann Torrence of the Office of Revisor of Statutes. The language is presently being prepared in bill format. Prior drafts of the remedial legislation has already been submitted to and approved by Camille Nohe, Assistant Attorney General. We undertook a review by the Office of the Attorney General in advance of submission to you in an effort to make sure that our proposed legislation adequately addressed our concerns about the impact on enforcement authority of our employees.

I am providing a copy of Attorney General Opinion No. 96-82, and a copy of our opinion request (but without the exhibits thereto). In addition, enclosed is a memorandum dated December 9, 1996 from KDWP's Director of Law Enforcement and the Acting Director of Parks, which was directed to our employees who have law enforcement training certification. Employees, other than conservation officers, also receive such training (e.g. assistant park and wildlife area managers or park and wildlife area managers). Such memorandum had attached to it a chart describing the impact of Attorney General No. 96-82 on various statutes outside of the Chapter 32 of the Kansas statutes, which are most pertinent to the core enforcement activities typically encountered by our employees. I was principal preparer of the chart and could discuss with you the impact of the Attorney General's Opinion on enforcement of the various statutes. I believe the chart of statutory provisions illustrates the need for remedial legislation.

For your further ease of reference, I am enclosing a chronology of legislative changes to the statutory basis of the enforcement authority. This chronology was prepared by Camille Nohe, Assistant Attorney General, as a part of her preparation and due diligence for the rendering Attorney General Opinion 96-82. I think this legislative history background may be helpful to understand the particular evolution of the statutory enforcement authority.

*Senate Judiciary
Attachment 3
1-30-97*

To avoid any confusion, the Kansas Wildlife Officers Association had proposed language to Secretary Williams which paralleled and drew substantially from K.S.A. 74-2108 (the authority of the Highway Patrol). We are providing to you the language provided by the Association so you are prepared to respond to any officers or legislators, on behalf of such officers, that may bring this alternative language forward. The Department's concerns are not adequately addressed by the Association's suggestion. The Association suggested language failed to take into account an interim change to K.S.A. 32-808 addressing domestic violence concerns (the reference to K.S.A. 22-2307 was omitted). Further, the Association suggested language focused upon on K.S.A. 32-808, ignoring equally problematic K.S.A. 32-1048. Not simultaneously amending K.S.A. 32-1048 would arguably weaken the remedial aspect of an amendment solely to K.S.A. 32-808. In addition, the Department has a variety of employee positions that appropriately require completion of the required course of instruction at the Kansas law enforcement training center, and the Department's suggested language clarifies that the enforcement authority extends to all employees who have received such training. Such other positions include assistant park or wildlife area managers, and park or wildlife area managers, any of which may substitute for conservation officers and conservation officer park rangers to make sure adequate law enforcement coverage exists within an area. The Department suggested language also specifically contemplates that the secretary will establish a policy to primarily direct employees' efforts toward the statutory mission of the Department. The unreported Kansas District Court decisions cited the Department's prior Policy E-6 as limiting the statutory enforcement authority; our suggested language is intended to reduce the likelihood of such defense assertions being persuasive prospectively to courts.

We look forward to working with you in the passage of the remedial legislation and welcome any suggestions by you to the remedial legislation submitted on behalf of the Department. We request direction from you as to which Committee's schedule permits the earliest introduction. We urge introduction of such remedial legislation by such committee, as you determine. We have every interest in seeing that this remedial legislation move quickly during the session so that impacts of the Attorney General Opinion No. 96-82, are reduced to as limited period of time as possible. We are willing to compile sets of the enclosed materials for your respective committee members, if you think it will be helpful. Thank you in advance for your cooperation.

Sincerely,



Amelia J. McIntyre, Legal Counsel

cc: Secretary Steve Williams, with language changes only
Assistant Secretary Rob Manes, with language changes only
Jamie Clover Adams, Governor's Legislative Liaison, with language changes only
Brent Anderson, Counsel to the Governor, with language changes only
Camille Nohe, Assistant Attorney General, with language changes only

32-808. Wildlife and parks conservation service and conservation officers. (a) The secretary shall ~~organize a wildlife and parks conservation service and~~ employ conservation officers *and other employees, regardless of title, to exercise the law enforcement authority set forth in subsection (b) below provided that such conservation officers and other employees successfully complete the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center.* The secretary may appoint ~~permanent conservation officers and~~ employees of the department ~~as deputy conservation officers, including in the capacity as a deputy conservation officer,~~ and may appoint law enforcement officers temporarily assigned to the department pursuant to K.S.A. 74-5610 and amendments thereto, to assist ~~in the wildlife and parks conservation service enforcement of all laws of the state as more fully set forth in subsection (b) below,~~ in a manner determined by the secretary. All deputy conservation officer appointments shall be on a voluntary basis and shall expire on December 31 following the date of any such appointment.

(b) Conservation officers, deputy conservation officers, *any other department employee who has completed the course of instruction specified in subsection (a),* and any other law enforcement officers authorized to enforce the laws of the state of Kansas shall have the power and authority to:

(1) ~~Enforce all the wildlife and parks laws and statutory provisions of this Chapter 32, or the rules and regulations adopted thereunder, or any other laws of the state anywhere within the state, including but not limited to Chapter 8 of the Kansas Statutes Annotated, and amendments thereto and the rules and regulations of the secretary.~~ *The secretary shall establish a policy under which such employees primarily direct their efforts toward the protection of natural resources of this State and the provision of safe and orderly department controlled lands.* Such officers shall also have the powers of arrest set forth in K.S.A. 22-2401, and amendments thereto, and are empowered to make arrests, pursuant to K.S.A. 22-2307, and amendments thereto, as required by any policy adopted by the secretary. A conservation officer acting under authority of this subsection shall be considered an employee of the department and shall be subject to its direction, benefits and legal protection.

(2) Serve *any where in the State* warrants and subpoenas issued for the examination, investigation or trial of all offenses ~~against the wildlife and parks laws and rules and regulations of the secretary and of violations of department controlled lands and waters, of any law and of any rule and regulation of the state of Kansas.~~ **of state laws specified in subsection (b)(1) above.**

(3) Carry firearms or weapons, concealed or otherwise, in the performance of their duties but only if the officer has completed the required course of instruction for law enforcement officers at the law enforcement training center, unless otherwise qualified pursuant to K.S.A. 74-5608a and amendments thereto.

DRAFT - revised 1/24/97

32-1048. Arrest; *jurisdiction*; appearance before court. *Any department employee who has successfully completed the required course of instruction for law enforcement officers approved by the Kansas law enforcement training center, Conservation officers and deputy conservation officers in the wildlife and parks conservation service and any other law enforcement officer authorized to enforce the laws of this state, shall have the power to arrest; without warrants and with warrants at any place in the state of Kansas, any person or persons found violating any of the wildlife and parks laws of this state, or the rules and regulations adopted thereunder, without warrants, and with warrants where not found violating such state laws and rules and regulations, pursuant to the authority granted in K.S.A. 32-808, as may be amended, and to bring such persons forthwith before the nearest proper judge of the district court of the county within which such violation took place for trial.*

C:\OFFICE\WPWIN\WPDOCS\BILLS\97\32-1048.DFT

31f



State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

October 16, 1996

MAIN PHONE: (913) 296-2215
FAX: 296-6296
TTY: 291-3767

ATTORNEY GENERAL OPINION NO. 96- 82

Amelia McIntyre, Legal Counsel
Kansas Department of Wildlife and Parks
900 S.W. Jackson, Suite 502
Topeka, Kansas 66612

Re: Wildlife, Parks and Recreation--Department of Wildlife and Parks--
Organization and Powers; Wildlife and Parks Conservation Service and
Conservation Officers; Territorial Limits of Law Enforcement Authority

Synopsis: The territorial authority of wildlife conservation officers to arrest persons found violating wildlife and parks laws is state-wide. In contrast, the territorial extent of wildlife conservation officers' authority to arrest persons found violating other laws of the state is not statutorily specified. Given this absence of authority, a wildlife conservation officer's arrest authority for other laws of the state must be understood to be limited to the territories of which he is an officer, i.e. the territories operated and controlled by the secretary of wildlife and parks. Cited herein: K.S.A. 19-2858; 22-2401a, as amended by L. 1996, ch. 224, § 8; 22-2403, as amended by L. 1996, ch. 214, § 30; 22-3707; 32-807; 32-808; 32-1048; 74-2108; 75-712; K.S.A. 1995 Supp. 75-4503; L. 1976, ch. 145, § 156; L. 1977, ch. 270, § 1; L. 1985, ch. 252, § 1; L. 1989, ch. 118, § 10; L. 1989, ch. 118, § 134; L. 1993, ch. 150, § 1.

* * *

Dear Ms. McIntyre:

As legal counsel for the Kansas department of wildlife and parks, you pose two related questions which pertain to the territorial limits of a department conservation officer's law enforcement authority. You first ask whether conservation officers employed by the

department have statutory authority based upon K.S.A. 32-808 to enforce traffic laws or infractions, or other non-wildlife laws, rules and regulations of the state of Kansas, on lands not controlled by the department.

You indicate that your questions are prompted by several unreported Kansas district court decisions granting defense motions to dismiss driving under the influence charges because the arrests were made by department conservation officers outside department controlled lands.

Conservation Officers' Authority to Arrest

In order to reach your questions, a partial review of the legislative history concerning wildlife and parks department conservation officers' arrest authority is in order. In 1985 the director (of the then Kansas fish and game commission) was mandated to organize a wildlife conservation service and to employ wildlife conservation officers and deputy conservation officers. (From 1921 until 1939 such persons were known as game wardens, deputy wardens and county wardens under the authority of the governor. From 1939 until 1943 such persons were known as county game protectors and local preserve protectors under the authority of the forestry, fish and game commission. From 1943 until 1982 such persons were known as state game protectors under the authority of the forestry, fish and game commission. From 1982 until 1985 such persons were known as state game protectors under the authority of the fish and game commission.) These wildlife conservation officers had the power and authority to enforce all the laws of the state relating to state parks, recreational and game management areas, game, fish, furbearers, wild birds and wild animals and the rules and regulations of the Kansas fish and game commission relative thereto. L. 1985, ch. 252, § 1. A separate procedural statute (which was not amended in 1985) authorized state game protectors and preserve protectors to "arrest, at any place in the state of Kansas" anyone who violated any of the forestry, fish and game laws of the state, or rules or regulations of the forestry, fish and game commission. L. 1976, ch. 145, § 156.

L. 1985, ch. 252, § 1 also provided that upon request, properly trained wildlife conservation officers were authorized to assist any law enforcement officer in making an arrest. In addition the wildlife conservation officers were granted the power of arrest when the conservation officer had (1) an arrest warrant, (2) probable cause to believe a person was committing or had committed a felony, (3) probable cause to believe a person was committing or had committed a misdemeanor under the circumstances specified in K.S.A. 22-2401 or (4) viewed the commission of a felony or misdemeanor. A wildlife conservation officer who made an arrest without the presence of a law enforcement officer was required to deliver the person arrested to the sheriff or chief of police in the jurisdiction where the arrest was made. L. 1985, ch. 252, § 1. The territorial limits of this grant of arrest authority were not specified.

Beginning in 1977 the director of the state park and resources authority was mandated to appoint park managers and rangers "to maintain order within the state parks." L. 1977, ch. 270, § 1. These managers and rangers were authorized to "enforce all the laws of the state" as well as the park and resource authority rules and regulations. L. 1977, ch. 270, § 1. Read together these two statutes authorized park managers and rangers to enforce traffic violations and criminal laws within state parks.

In 1989 the Kansas department of fish and game was consolidated with the state park and resources authority to form the Kansas department of wildlife and parks. At that time the arrest authority of wildlife and parks conservation officers (formerly wildlife conservation officers and park and resources managers and rangers) was altered to reflect modification necessitated by the consolidation, i.e. to enforce all the *wildlife and park* laws of the state. L. 1989, ch. 118, § 10. The procedural statute, (L. 1976, ch. 145, § 156) was also amended, authorizing the wildlife conservation officers "to arrest, at any place in the state of Kansas, any person or persons found violating any of the wildlife and parks laws of this state, or the rules and regulations adopted thereunder." L. 1989, ch. 118, § 134.

Additional arrest authority of the wildlife and parks conservation officers for non-wildlife and parks laws mirrored that of the former wildlife conservation officers by identifying the same four circumstances in which a conservation officer could make an arrest, but again without specification of the territorial limits of their arrest authority. L. 1989, ch. 118, § 10. The specific power, formerly given park managers and rangers, to enforce all the laws of the state within state parks was not included within the consolidation statutes.

In 1993 the enforcement statute (L. 1989, ch. 118, § 10) was amended, authorizing conservation officers to enforce not only all the wildlife and parks laws and regulations but also "other laws of the state, including but not limited to chapter 8 of the Kansas Statutes Annotated." L. 1993, ch. 150, § 1, now K.S.A. 32-808(b)(1). Chapter 8 of the Kansas Statutes Annotated is titled "Automobiles and Other Vehicles" and includes a section on serious traffic offenses such as reckless driving and driving under the influence of alcohol or drugs:

In addition, the 1993 amendment deleted the former four circumstances in which a conservation officer could make an arrest and replaced them with the following:

"Such officers shall also have the powers of arrest set forth in K.S.A. 22-2401, and amendments thereto, and are empowered to make arrests, pursuant to K.S.A. 22-3307, and amendments thereto, as required by any policy adopted by the secretary." L. 1993, ch. 150, § 1, now K.S.A. 32-808(b)(1).

K.S.A. 22-2401 sets forth the circumstances in which a law enforcement officer may make an arrest. K.S.A. 22-3307 requires all Kansas law enforcement agencies to adopt written policies regarding domestic violence calls. Thus K.S.A. 32-808(b)(1) now clearly specifies

when a conservation officer may make an arrest. Your questions, however, relate to **where** a conservation officer may make an arrest.

Territorial Limits of Conservation Officer's Authority to Arrest

The issue of where a conservation officer may exercise arrest authority is statutorily addressed only partially. As indicated above, in relation to persons violating wildlife and parks laws and regulations, conservation officers are authorized to arrest "at any place in the state of Kansas." K.S.A. 32-1048. However, this statute, as with its predecessor versions, is silent regarding the territorial limits of a conservation officer's power to arrest persons for violation of other than wildlife and parks laws and regulations. Are conservation officers authorized to arrest persons for violation of "other laws of the state" at any place in Kansas or only on department controlled or managed lands and waters?

In relation to the jurisdiction of law enforcement officers, the territorial limits and exceptions to those limits are statutorily specified. (See K.S.A. 22-2401a, as amended by L. 1996, ch. 224, § 8 regarding law enforcement officers employed by consolidated county law enforcement agencies, departments or any city, sheriffs and their deputies, university police officers, law enforcement officers of any jurisdiction within Johnson or Sedgwick county; K.S.A. 74-2108 regarding highway patrol; K.S.A. 1995 Supp. 75-4503 regarding capitol area security patrol; K.S.A. 19-2858 regarding deputized employees for enforcement of county park regulations; K.S.A. 75-712 regarding members of the Kansas bureau of investigation.)

Given the absence of a statute which specifies the territorial limits of a wildlife conservation officer's authority to arrest for violation of "other laws of the state," we must reach a conclusion based on general principles derived from what little applicable case law exists. We are thus led through the annals of Kansas jurisprudence to the case of **Morrell v. Ingle**, 23 Kan. 32 (1879) which may be cited for the general doctrine that:

"[t]he powers of any officer are limited to the territory of which he is an officer. He who affirms the existence of powers beyond such limits must show a grant of such powers; it is not enough to show that there is no express denial of them." 23 Kan at 36.

This general principle expressed in **Morrell** was cited and followed in **Torson v. Baehni**, 134 Kan. 186 (1931) and in **Dunfield v. School District 72 in Coffey County**, 138 Kan. 800 (1934). A more contemporary case, **State v. Shienle**, 218 Kan. 637 (1976) expresses essentially the same principle in holding that a police officer acting within his official capacity cannot make an arrest outside the jurisdiction from which his authority is derived. **Shienle** was favorably cited in the even more recent case of **State v. Miller**, 257 Kan. 844 (1995).

The territorial extent of the authority of wildlife conservation officers to arrest persons found violating wildlife and parks laws is state-wide. In contrast, the territorial authority of wildlife conservation officers to arrest person found violating other laws of the state is not statutorily specified. Given such an absence, a wildlife conservation officer's arrest authority for other laws of the state must be understood to be limited to the territories of which he is an officer, *i.e.* the territories operated and controlled by the secretary of wildlife and parks. The territories which the secretary of wildlife and parks is authorized to "operate and control" are the "state parks, state lakes, recreational grounds, wildlife areas and sanctuaries, fish hatcheries, natural areas, historic sites and other lands, waters and facilities under the jurisdiction and control of the secretary. . . ." K.S.A. 32-807(h).

The current version of the conservation officers enforcement statute, K.S.A. 32-808(b)(1), was introduced as 1993 house bill no. 2488. Minutes of the house judiciary committee on February 25, 1993 reflect chairman O'Neal's explanation "that this bill was filed to correct an oversight in the reorganization of Wildlife and Parks which took away conservation officers' law enforcement powers." As seen from the discussion above, the only power "taken away" in the consolidation process was the former authority of park managers and rangers to enforce all the laws of the state within state parks. Testimony of conferees who appeared before the House judiciary subcommittee bolster our conclusion and validate that this was the specific arrest power which 1993 H.B. 2488 was designed to replace:

"Existing law does not allow for the enforcement of traffic infractions *on Wildlife and Parks managed properties*. . . . Total enforcement of laws *on department managed lands* is necessary to provide public safety. . . . Arrests for crimes other than Chapter 32 violations *on department managed lands* must be turned over to other law enforcement organizations under current law. . . . The Department is charged with management *of certain lands and waters* for the public use and enjoyment. Public safety while using and enjoying *those areas* must be a primary concern of the Department." (Emphasis added.) Testimony presented to House judiciary subcommittee by Kansas department of wildlife and parks, February 23, 1993 and to Senate committee on energy and natural resources, March 19, 1993.

"The recodification process overlooked an important point of law which is needed by the Kansas Department of Wildlife and Parks. Traffic crimes had been reclassified as 'infractions' prior to 1989. This meant traffic enforcement *on state parks and wildlife areas* could not longer be conducted since the Wildlife Conservation Officers only had authority to enforce violations of criminal law, not traffic infractions. This has caused a safety problem for the public who use *these areas* and placed an undo [sic] burden on other law enforcement agencies. Other law enforcement agencies such as county sheriff departments and the Kansas Highway Patrol have been responsible for the traffic enforcement *on the parks and wildlife*

areas because Conservation Officers no longer had legal authority for this responsibility." (Emphasis added.) Testimony presented to House judiciary subcommittee by Kansas peace officers' association, February 23, 1993 and to Senate committee on energy and natural resources, March 19, 1993.

Additionally, minutes of the senate committee on energy and natural resources for March 24, 1993, which indicate that there were "questions concerning the enforcement of criminal law and it was noted this would be only **on park land**" support our conclusion.

Kansas Department of Wildlife and Parks Policy No. E-6

On April 29, 1993 Theodore D. Ensley, then secretary of the Kansas department of wildlife and parks issued Policy No. E-6 on the subject of traffic enforcement which in pertinent part provided:

"Traffic laws and infractions may be enforced on Department managed properties. Such enforcement shall be a duty of all department law enforcement personnel who are certified through the Kansas Law Enforcement Training Center.

Department Law Enforcement Personnel shall not enforce traffic laws or infractions on non-department lands, except: when there is a clear and present danger to life."

You next ask whether this policy limits the broader statutory authority otherwise vested in conservation officers. As seen from the above discussion and conclusion, in our opinion department conservation officers do not have any authority to enforce traffic infractions on non-department lands. As with other law enforcement officers, once outside the territorial limits of their jurisdiction, absent application of the fresh pursuit doctrine or a call for assistance from another officer, such law enforcement officer's authority to arrest is that of a private citizen. His actions will be considered lawful if the circumstances attending would authorize a private person to make the arrest. **State v. Shienle**, 218 Kan. 637 (1976). K.S.A. 22-2403, as amended by L. 1996, ch. 214, § 30, authorizes a private person to make an arrest when:

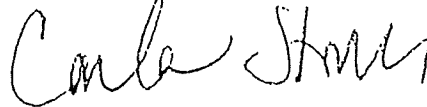
"(1) a felony has been or is being committed and the person making the arrest has probably cause to believe that the arrested person is guilty thereof; or

"(2) any crime, **other than a traffic infraction**, has been or is being committed by the arrested person in the view of the person making the arrest." (Emphasis added.)

Amelia McIntyre
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Thus in response to your question, in relation to traffic infractions the policy does not "limit the broader statutory authority otherwise vested in conservation officers," but rather impermissibly expands such officers authority beyond statutory limits. In relation to "traffic laws" which are not traffic infractions (such as driving under the influence), the policy is flawed because it is premised on the erroneous assumption that conservation officers have authority as law enforcement officers to arrest persons instead of the more limited arrest authority granted to private persons.

Very truly yours,



CARLA J. STOVALL
Attorney General of Kansas



Camille Nohe
Assistant Attorney General

CJS:JLM:CN:jm



STATE OF KANSAS
DEPARTMENT OF WILDLIFE & PARKS

Office of the Secretary
900 SW Jackson, Suite 502
Topeka, KS 66612
913/296-2281 FAX 913/296-6953



July 9, 1996

Carla J. Stovall
Attorney General of Kansas
301 S.W. 10th Avenue
Topeka, Kansas 66612-1597

Re: Request for Written Opinion of the Attorney General

Dear Attorney General Stovall:

The Kansas Department of Wildlife and Parks (the "Department") requests the written opinion of the Attorney General on two related questions of law that, based on information and belief, are not currently pending or scheduled for determination by the courts.

Question: Do conservation officers employed by the Department have statutory authority based upon K.S.A. 32-808 to enforce traffic laws or infractions, or other non-wildlife laws, rules and regulations of the State of Kansas, on lands not controlled by the Department?

Sub-question: Does the Department's Policy No. E-6, effective 4/29/93 (restricting departmental enforcement of traffic laws or infractions on non-department lands to instances presenting a clear and present danger to life) limit the broader statutory authority otherwise vested in conservation officers?

This opinion request is prompted by several unreported decisions by various Kansas district courts granting motions to dismiss filed by defense counsel representing individuals arrested for operating a motor vehicle under the influence of alcohol; such arrests were made off of Department controlled lands. Defense counsel cited to the Policy as restricting the conservation officer's statutory arrest powers, and that position was adopted by the district courts in two counties. In one such incident, the vehicle was parked and defense counsel questioned whether such circumstance created a clear and present danger (the perceived restrictive terms used in the Policy). Further, this request is based upon discussions with State Representative Sheila Hochhauser about the uncertainty arising from these unreported decisions and its potential impact on the legislative initiatives that may be deemed necessary by both the Department and the Kansas State Office of MADD (Mothers Against Drunk Driving). For that reason, this opinion request should be construed to be a concurrent request on behalf of State Representative Sheila Hochhauser.

3-12

DISCUSSION

1. Legislative History

In 1993, the Kansas Legislature approved legislation amending K.S.A. 32-808. In relevant part, the amendment included:

K.S.A. 32-808(b) ...Conservation officers, deputy conservation officers and any other law enforcement officers authorized to enforce the laws of the state of Kansas shall have the power and authority to:

(1) Enforce all the wildlife and parks laws *and other laws of the state, including but not limited to chapter 8 of the Kansas Statutes Annotated, and amendments thereto, ... Such officers shall also have the powers of arrest set forth in K.S.A. 22-2401, and amendments thereto, and are empowered to make arrests, pursuant to K.S.A. 22-2307, and amendments thereto, as required by any policy adopted by the secretary. ...*

(2) Serve warrants and subpoenas issued for the examination, investigation or trial of all offenses against the wildlife and parks laws and rules and regulations of the secretary *and of violations of department controlled lands and waters, of any law and of any rule and regulation of the state of Kansas.*

(Italics indicate language added to the statute as part of the amendment.) Materials representing the research by this office into the legislative history of this amendment are enclosed with this letter, and are discussed below.

The copy of House Bill No. 2488 as introduced and considered on referral by the House Judiciary Committee (which is attached as Exhibit 1) includes a supplemental note prepared by the Legislative Research Department. Although it does not represent legislative intent, the note does characterize House Bill No. 2488 as "expanding" the authority of the Department conservation officers. In addition, the note says that "these officers will have all the arrest powers that other law enforcement officers have according to K.S.A. 22-2401 and K.S.A. 22-2307." The only practical change in the bill as it was adopted, after this note, was a correction in subpart one changing the K.S.A. 22-2404 reference to a correct reference to K.S.A. 22-2401.

In the minutes of the House Judiciary Committee meeting of February 25, 1993, Chairman O'Neal explained that the bill was filed to correct an oversight that had taken away conservation officers' law enforcement powers during the reorganization of Wildlife and Parks. (See Exhibit 2 attached for reference).

Some of the attachments to these minutes, which appear to be written statements of testimony presented to the House Judiciary Committee, suggest an inference that the language of the amendment applied specifically to infractions on Department controlled land. In the regard, the Kansas Peace Officers' Association testimony, in the third sentence of the third paragraph, states "[t]his meant traffic enforcement on state parks and wildlife areas could no longer be conducted since Wildlife Conservation Officers only had authority to enforce violations of criminal law, not traffic infractions." (Emphasis added.) In addition, the second paragraph of testimony provided by the Department refers to the enforcement of laws on department lands in two different contexts. These statements infer that the correction to the statute was targeted at traffic violations on department lands. Further, three out of the four examples given in the Department's testimony describe criminal actions on Department controlled lands for which the Department was requesting expanded enforcement authority.

Only 14 days after the passage of the amendment to K.S.A. 32-808, the Secretary to the Department issued Department Policy No. E-6. (See Exhibit 3 attached for reference). The second paragraph of such Policy states:

Department Law Enforcement Personnel shall not enforce traffic laws or infractions on non-department lands, except: when there is a clear and present danger to life.

Based upon our inquiries with Darrell Montei, former legislative liaison at the time of the amendment of K.S.A. 32-808, the wording and timing of the adoption of the Policy was a direct response to concerns expressed by various members of the legislature that they did not want conservation officers to become primarily traffic enforcement officers. Further, such legislators strongly felt that wildlife related violations throughout the State, and non-wildlife offenses on Department controlled lands should remain the dominant enforcement emphasis of conservation officers. The Department's management believed at the time of the issuance of the Policy, and the present management of the Department believes that such an emphasis is appropriate. The Department has limited personnel resources to apply to investigation and enforcement of wildlife related violations throughout the State and non-wildlife violations within Department controlled lands. Although the Department understood that amendment of K.S.A. 32-808 expanded authority for their conservation officers off of Department lands, the Policy was adopted at the discretion of Department as a management tool of limited personnel resources available for investigation and enforcement of various statutory violations. A recent re-evaluation of such Policy by the Department's present management has determined there is a continued necessity for such Policy to set priorities for our officers' enforcement activities.

2. Case Law

A case law search for the time period during and after the implementation of this expanded

July 9, 1996

Letter to Carla J. Stovall

authority found no cases directly addressing this issue. However, the Kansas Court of Appeals in State v. Heiskell, 896 P.2d 1106 (Kan. App. 1995) did affirm the conviction on drug charges of a man arrested by a Department conservation officer. The conservation officer followed a vehicle suspected of illegal turkey poaching, and appears to have made the eventual arrest off of Department controlled land. The appeal did not include a challenge to the conservation officer's authority to make the arrest. The officer's investigation was prompted by suspected violation of a wildlife violation, even if the eventual arrest was off of Department controlled land and involving a non-wildlife law. Therefore, the case does not directly address the question presented.

Further legal analysis of the issues being presented in this opinion request are provided in three pleadings filed in State of Kansas vs. Wade Byron Showalter, Case No. 95 TR 03216, Division III, in the District Court of Reno County, Kansas. Defense counsel filed a Motion to Suppress and/or Dismiss (Exhibit 4) and Memorandum in support of such Motion (Exhibit 5), and the Assistant Reno County Attorney responded with a State's Memorandum (Exhibit 6). The District Court granted the Motion, and the Reno County Attorney declined to appeal the matter. Please note that the legislative background cited in the defense counsel's memorandum was drawn heavily from my letter directed to the Assistant Reno County Attorney, dated October 5, 1995, (Exhibit 7), which was provided by the prosecution to defense counsel as a part of discovery. Based upon my inquiry of Law Enforcement Director Kevin Couillard, no other matter in which this defense has been raised is presently pending. We believe there may be a narrow window before this defense is once again asserted in some other matter.

3. Attorney General Opinions

Attorney General Opinion No. 94-5, dated January 21, 1994, addressed a similar question of law. In that opinion, the Attorney General determined that county park rangers (as distinguished from conservation officers employed by the State pursuant to K.S.A. 32-808, who are assigned to state parks and who are commonly referred to as park rangers) deputized by the county sheriff have full authority to enforce the laws inside the county park grounds, but they have no enforcement authority outside the limits of the park and any recreational areas. Attorney General Opinion No. 94-5. However, the statute enabling the deputization in that case provide explicitly that "the deputy sheriffs herein created shall have no enforcement authority outside the limits of the park and any recreational areas..." K.S.A. 19-2858. The question of law considered in such opinion is in no way parallel to this question.

DEPARTMENT CONCLUSION

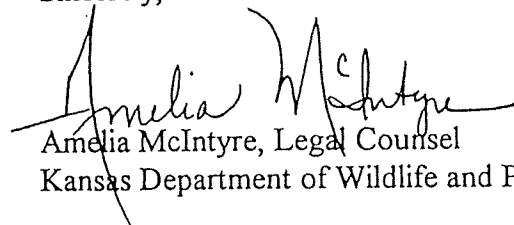
Based on this research, the conclusion on the Department is that K.S.A. 32-808 does not restrict conservation officers' authority to enforce the laws of the State of Kansas off of Department controlled land. We further conclude that Department Policy No. E-6 can not supersede the statutory authority derived from K.S.A. 32-808, but merely reflects managerial

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discretion to focus enforcement activities for non-wildlife violations off of Department controlled lands to cases posing a clear and present danger to life. Violation of the Department's Policy may subject a conservation officer to disciplinary proceedings, in appropriate circumstances, but should not be a basis for setting aside or invalidating an arrest. Enforcement of traffic laws by conservation officers off of Department controlled land would not violate K.S.A. 32-808, notwithstanding the existence of the Policy.

If the opinion rendered by you does not concur with our conclusion, the Department would like to be in a position to implement any policy changes in the near future, or seek legislative changes, to continue to enable the Department to effectively utilize the Department's limited number of personnel for its primary mission to "protect, provide and improve outdoor recreation and natural resources in this state and to plan and provide for the wise management and use of the state's natural resources" (See K.S.A. 32-702), but not to the exclusion of responding to non-wildlife traffic violations observed by our officers during the course of their primary duties.

Sincerely,



Amelia McIntyre, Legal Counsel
Kansas Department of Wildlife and Parks

cc: State Representative Sheila Hochhauser
Secretary Steve Williams
Kevin Couillard, Director of Law Enforcement
Max Sutherland, State Administrator, Kansas MADD

The following is a proposed change in K.S.A. 32-808. This change is needed to correct the absence of territorial jurisdiction for Conservation Officers.

32-808 Wildlife and parks conservation service and conservation officers. (a) The secretary shall organize a wildlife and parks conservation service and employ conservation officers. The secretary may appoint permanent officers and employees of the department as deputy conservation officers, and may appoint law enforcement officers temporarily assigned to the department pursuant to K.S.A. 74-5610 and amendments thereto, to assist the wildlife and parks conservation service in a manner determined by the secretary. All deputy conservation officer appointments shall be on a voluntary basis and shall expire on December 31 following the date of any such appointment.

(b) Conservation officers, deputy conservation officers and any other law enforcement officers authorized to enforce the laws of the state of Kansas shall have the power and authority to:

(1) Enforce all the wildlife and parks laws and other laws of the state, including but not limited to chapter 8 of the Kansas Statutes Annotated, and amendments thereto, and the rules and regulations of the secretary. INSERT (Vested with the power and authority of peace, police and law enforcement officers anywhere within this state irrespective of county lines.) Such officers shall also have the powers of arrest set forth in K.S.A. 22-2401, and amendments thereto, as required by any policy adopted by the secretary. A conservation officer acting under the authority of this subsection shall be considered an employee of the department and shall be subject to its direction, benefits and legal protection.

(2) serve warrants and subpoenas issued for the examination, investigation or trial of all offenses against the wildlife and parks laws and rules and regulations of the secretary and of violations of department controlled lands and waters, of any law and of any rule of the state of Kansas.

(3) Carry firearms or weapons, concealed or otherwise, in the performance of their duties but only if the officer has completed the required course of instruction for law enforcement officers at the law enforcement training center, unless otherwise qualified pursuant to K.S.A. 74-5608a and amendments thereto.

with legislative coordinating council; ment functions for bureau of emer-medical services. (a) The principal func-the Kansas highway patrol shall be nent of the traffic and other laws of e r ; to highways, vehicles and of v es except as otherwise pro- this subsection (a). The superintend members of the highway patrol in ing their duties under this act shall dges and uniforms of office. The su- dent may designate members to per- curity duties for public officials and ties as directed by the superintendent. erintendent may perform duties under whether or not wearing a badge and . Such members may serve without and without open display of badges. and employees of the bureau of emer-medical services shall not wear badges forms of office.

n addition to the duties otherwise pre- by law, the superintendent of the high- rol shall supervise and manage the rea security patrol. In the supervision agement of the duties of the capitol urity patrol in and around the state building, the superintendent of the patrol shall advise with the legislative ting council.

n addition to other duties, the super- t of the highway patrol shall provide ng, purchasing and related manage- nctions for the bureau of emergency services of the Kansas highway patrol be provided by law and shall perform nctions and duties pertaining to emer-medical services as may be specified by

y: L. 1972, ch. 291, § 1; L. 1976, § 1; L. 1984, ch. 244, § 22; L. 1985, § 1; April 25.

and Practice Aids:
s 90 et seq.
highways § 144 et seq.

CASE ANNOTATIONS

ing under 74-2105 et seq. grants patrol capacity be sued. *Hopkins v. State*, 237 K. 601, 606, 311 (1985).

106. Duty assignments of highway and capitol area security patrol; limi- The superintendent of the Kansas

the highway patrol and capitol area security patrol consistent with the intent of this act and the act of which this section is amendatory.

History: L. 1972, ch. 291, § 2; L. 1976, ch. 394, § 2; July 1.

74-2107. Rules and regulations for conduct of highway patrol and capitol area security patrol. The superintendent of the state highway patrol is hereby authorized and empowered to make all necessary rules and regulations for the conduct of the members of the state highway patrol and the capitol area security patrol not otherwise prescribed by law.

History: L. 1937, ch. 330, § 9; L. 1976, ch. 394, § 3; July 1.

74-2108. Police powers of patrol members; enforcement of laws relating to motor carriers; authority to inspect. (a) The superintendent and members of the Kansas highway patrol are hereby vested with the power and authority of peace, police and law enforcement officers anywhere within this state irrespective of county lines.

(b) In addition to the general power and authority prescribed by subsection (a), the superintendent and members of the Kansas highway patrol are hereby authorized and directed to execute and enforce the laws of this state relating to public and private motor carriers of passengers or property, including any rules and regulations relating to such laws, and shall have the power and authority to require the driver of any motor vehicle owned or operated by any such carrier to stop and submit such vehicle to an inspection to determine compliance with such laws and rules and regulations.

History: L. 1972, ch. 291, § 3; L. 1974, ch. 328, § 1; L. 1988, ch. 266, § 16; July 1.

CASE ANNOTATIONS

1. A warrantless search for the purpose of inspecting any records or documents required to be maintained and kept in a truck cab, and to check required safety equipment, is not unreasonable. *State v. Williams*, 8 K.A.2d 14, 20, 22, 648 P.2d 1156 (1982).

2. Discussed in holding spot check weight inspections (8-1910) constitutionally permissible. *State v. Moore*, 237 K. 523, 528, 701 P.2d 684 (1985).

74-2109. Arrested person taken before court. Any person arrested by a member of the patrol shall forthwith be taken by such patrolman before a court having jurisdiction of the crime whereof such person arrested is

signals and directions of patrol members. It shall be the duty of the operator or driver of any vehicle, pedestrian or rider of any animal traveling upon the highways of the state to stop on signal by any member of the patrol and to obey all reasonable signals and directions in order that traffic may move with safety and dispatch.

History: L. 1937, ch. 330, § 11; L. 1972, ch. 291, § 5; July 1.

74-2111. Uniforms, equipment and supplies. The superintendent shall prescribe a distinctive style of uniform for members of the patrol, to be made of such material and of such color as he shall specify and such uniforms shall be purchased at such times as the superintendent shall require. The members of the patrol shall be furnished with such vehicles, uniforms, equipment, arms, ammunition, supplies and insignia of office as the superintendent may deem necessary, all of which shall remain the property of the state and be strictly accounted for by each member of the patrol.

History: L. 1937, ch. 330, § 7; L. 1947, ch. 398, § 5; L. 1953, ch. 375, § 58; L. 1972, ch. 291, § 4; July 1.

Cross References to Related Sections:

Duties of director of purchases, see 75-3738 to 75-3740.

74-2112. Topeka offices; establishment of districts and district headquarters. The secretary of transportation shall furnish suitable offices for the highway patrol in its general office building at Topeka. The superintendent shall create districts as needed for patrol purposes. The headquarters in each district shall be located at some place in the district where office facilities can be furnished said district patrol members, and wherever possible, in the facilities of the department of transportation.

History: L. 1937, ch. 330, § 12; L. 1955, ch. 347, § 4; L. 1972, ch. 291, § 6; L. 1975, ch. 427, § 237; Aug. 15.

74-2113. Patrol created; appointment and salary of superintendent and assistant superintendent; qualifications of officers and troopers; restrictions. (a) There is hereby created a Kansas highway patrol. The patrol shall consist of: (1) A superintendent, who shall have the rank of colonel and who shall have special training and qualifications for such position; (2)

77-3302 (fish and game), which was transferred to 32-808

1921 [governor to appoint fish and game warden; warden to organize a warden service and employ deputy wardens and county wardens] The warden and all deputy and county wardens shall have power to arrest, at any place in the state of Kansas, any person or persons by him or them found violating any of the fish, game, trapping, fur-dealing, or similar laws of this state, or rules or regulations herein provided for, without warrant (and with warrants where not so found violating said laws and regulations), and to bring such persons forthwith before the nearest proper magistrate of said county for trial.

1939 [commission to appoint director of the forestry, fish and game commission; director to organize a game protective service, county game protectors and local preserve protectors]: for the purpose of protecting and supervising fish and game on preserves under the jurisdiction of the forestry, fish and game commission. The game protectors, county game protectors and preserve protectors shall have the power to arrest, at any place in the state of Kansas, any person or persons by them found violating any of the fish, game, trapping, fur-dealing, or similar laws of this state, or the rules or regulations herein provided for without warrants (and with warrants where not so found violating said laws and regulations) and to bring such persons forthwith before the nearest proper magistrate of said county for trial.

1943 State game protectors, sheriffs and deputy sheriffs shall have the power and authority: (a) To enforce all the laws of the state relating to state parks, recreational areas, game, fish, fur bearers, wild birds and wild animals and the rules and regulations of the forestry, fish and game commission relative thereto; (b) to serve warrants and subpoenas issued for the examination, investigation or trial of all offenses against the laws and regulations relating to game, fish, fur bearers, wild birds and animals; (c) to carry firearms or weapons, concealed or otherwise, in the performance of their duties.

1947, 1949, 1953, 1961, 1967 [no change]

1969 [eliminated county game protectors] and in (a) added "game management areas"

1974, 1978 [no change]

1982 changed "forestry, fish and game commission" to "Kansas fish and game commission" and added to (c) "but only if the person has completed the required course of instruction for law enforcement officers at the law enforcement training center."

1985 Director to organize a wildlife conservation service and employ wildlife conservation officers, deputy wildlife conservation officers to assist the wildlife conservation service in a manner determined by the director. Deputies to receive 40 hours' internal law enforcement training.

State wildlife conservation officers, deputy wildlife conservation officers, sheriffs and

deputy sheriffs shall have the power and authority:

(1) To enforce all the laws of the state relating to state parks, recreational and game management areas, game, fish, furbearers, wild birds and wild animals and the rules and regulations of the Kansas fish and game commission relative thereto.

In addition any wildlife conservation officer who has completed the required course of instruction for law enforcement officers approved by the law enforcement training center and upon display of proper credentials may assist an officer of a law enforcement agency in the making of an arrest at the request of the agency.

Such a wildlife conservation officer may arrest a person when (A) the wildlife conservation officer has a warrant commanding that the person be arrested, (B) the wildlife conservation officer has probable cause to believe the person is committing or has committed a felony, (C) the wildlife conservation officer has probable cause to believe that the person is committing or has committed a misdemeanor under the circumstances specified in K.S.A. 22-2401 and amendments thereto, or (D) a felony or misdemeanor is being committed by the person in the wildlife conservation officer's view.

If the wildlife conservation officer makes an arrest without the presence of an officer of a law enforcement agency, the wildlife conservation officer shall cause the person arrested to be delivered to the sheriff, chief of police or their designee in the jurisdiction where the arrest is made, along with the documents and reports pertaining to the arrest and shall be available as a witness. A wildlife conservation officer acting under authority of this subsection shall be considered an employee of the Kansas fish and game commission and shall be subject to its direction, benefits and legal protection;

(2) to serve warrants and subpoenas issued for the examination, investigation or trial of all offenses against the laws and regulations relating to game, fish, furbearers, wild birds and animals; and

(3) to carry firearms or weapons concealed or otherwise, in the performance of their duties but only if the person has completed the required course of instruction for law enforcement officers at the law enforcement training center.

1989 [consolidation] Secretary to organize a wildlife and parks conservation service and employ conservation officers; may appoint law enforcement officers temporarily assigned to department to assist service in a manner determined by secretary; 40 hours' internal law enforcement training for deputy conservation officers.

Conservation officers, deputy conservation officers and any other LEO authorized to enforce the laws of the state of Kansas shall have the power and authority to:

(1) enforce all the wildlife and parks laws of the state and the rules and regulations of the secretary (remainder like 1985 except for technical changes)

(2) (same as 1985 except offenses against the "wildlife and parks" laws

(3) (same as 1985 with one technical change)

1993 Conservation officers, deputy conservations officers and any other law enforcement officers authorized to enforce the laws of the state of Kansas shall have the power and authority to:

(1) Enforce all the wildlife and parks laws and other laws of the state, including but not limited to chapter 8 of the K.S.A.s, and amendments thereto, and the rules and regulations of the secretary. Such officers shall also have the powers of arrest set forth in K.S.A. 22-2401, and amendments thereto, and are empowered to make arrests, pursuant to K.S.A. 22-2307, and amendments thereto, as required by any policy adopted by the secretary. A conservation officer acting under authority of this subsection shall be considered an employee of the department and shall be subject to its direction, benefits and legal protection.

(2) Serve warrants and subpoenas issued for the examination, investigation or trial of all offenses against the wildlife and parks laws and rules and regulations of the secretary and of violations of department controlled lands and waters, of any law and of any rule and regulation of the state of Kansas.

(3) to carry firearms or weapons concealed or otherwise, in the performance of their duties but only if the person has completed the required course of instruction for law enforcement officers at the law enforcement training center.



STATE OF KANSAS

DEPARTMENT OF WILDLIFE & PARKS

Operations Office
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Pratt, KS 67124-8174
316/672-5911 FAX 316/672-6020



Memorandum

To: Law Enforcement and Parks Regional Supervisors
Conservation Officers and Conservation Officers Park Rangers

From: Kevin Couillard, Director of Law Enforcement
Mark Johnson, Acting Director of Parks

Re: Enforcement Authority - Attorney General's Opinion Impacts

Date: December 9, 1996

The Kansas Department of Wildlife and Parks has made additional inquiries to the Office of the Attorney General's staff regarding the intended breadth of the term "wildlife laws" as used in Opinion 96-82. The Department is particularly concerned about implications for violations of statutory provisions outside of Chapter 32 of the Kansas Statutes. KDWP staff has also evaluated enforcement authorities provided in Chapter 32 as alternatives to address circumstances off of Department controlled land which officers previously cited primarily (but not exclusively) under Chapter 21. Attached is a chart intended to summarize this analysis and provide information regarding alternative enforcement avenues for offenses off of Department-controlled lands *until remedial legislation can be obtained*. The chart is in draft form, and your input to improve it should be submitted through your supervisor. Some aspects of the chart may seem elementary, but it is our intent to also utilize it (with some revision) as a tool to explain to legislators the negative impact of the current statute as interpreted in the Attorney General's Opinion.

Secretary Williams is committed to pursuing remedial legislation. KDWP's legislation recommendation will be submitted to Governor Graves the week of December 9, for his consideration. This recommendation will reflect our need for jurisdiction to include law enforcement authority off of Department operated lands for non-wildlife violations. The legislative recommendation will be discussed with Parks and Law Enforcement staff, before it is submitted to the Governor. Time frames for consideration will be short.

The goal of restoring necessary KDWP enforcement authorities will be best served by an effort to seek legislative remedies coordinated through the Office of the Secretary. It is critical that independent efforts to remedy this situation be avoided, as they will confuse the issue and divert staff attention from other important legislative fronts. If you have questions, comments, or concerns in this regard, please direct them to your supervisor. The legislative remedy may entail

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input from other law enforcement entities, which will be sought by the Office of the Secretary as appropriate. A letter writing campaign from other law enforcement entities directed to Secretary Williams and the Office of the Attorney General is not needed. Again, for clarification, jurisdictional authority is in place for Chapter 32 offenses on a state-wide basis, but the Department's officers jurisdiction for offenses not contained in Chapter 32 (or its related regulations) is limited to Department controlled properties. Our legislative proposal will be targeted at state-wide jurisdiction for offenses outside of Chapter 32 necessary for the Department's officers to effectively perform their duties. Please, if you have questions or comments, use the chain of supervision. Once the proposed form of remedial legislation has been approved by the Governor, it will be shared with all Department officers.

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Expanded Summary of Other Statutory Provisions Outside of Chapter 32
Relied upon for Effective Law Enforcement by KDWP Law Enforcement Personnel

Statutory Cite	Type of Crime	Designation of Felony or Misdemeanor	Pertinent Legislative History	Summary of Elements of Crime	Impact of Attorney General Opinion No. 96-82
21-3728	Criminal Hunting	Class C Misdemeanor	<p>* Prior Source of Law was K.S.A. 32-139, which was repealed in the 1969 Legislative Session, as Chap. 180, effective 7/1/70; such former statute would have vested jurisdiction to employees of the then Fish and Game Commission</p>	<p>A. Hunting, shooting, trapping, pursuing any bird or animal B. Without obtaining permission of owner or person in possession on either: (1) any land or nonnavigable body of water of another, <u>or</u> (2) upon or from a public road or public right-of-way that adjoins occupied or improved property</p>	<p>* Because the statutory elements of the crime make the offense most likely to occur on lands not under the control of KDWP, the possibility exists that more limited authority may be deemed to apply by virtue of Opinion; limitation is compounded by this crime being designated a misdemeanor, which could mean that the offense would have to occur <u>in the view</u> of the person making the arrest, and the enforcement authority relied upon would be K.S.A. 22-2403 (which was amended in Chapter 214, Sec. 30 of the 1996 Session laws).</p> <p>* Arguably, in part due to the prior source of the law (Chapter 32), this statutory section could be construed as a "wildlife law," for which the Opinion contemplates continuing state-wide jurisdiction. Preliminary discussions with staff of the Office of the Attorney General concurred that an interpretation of this statute as a "wildlife law," for which state-wide jurisdiction would remain, is not unreasonable.</p> <p>* Consequence if <u>not</u> deemed a "wildlife law," is significant, substantial number of citations issued by CO's are based upon this statute; most property owners (the persons intended to be protected by condition of permission) rely upon CO's to enforce such statute</p> <p>* Substantial overlap exists between K.S.A. 21-3728 and K.S.A. 32-1013 for the circumstances for hunting, etc., on private land without permission (both are class C misdemeanors), however, K.S.A. 32-1013 is applicable to more limited circumstances of where land is posted that hunting is with written permission only. K.S.A. 32-1013 cross-references to K.S.A. 21-3728 and 21-3721 (criminal trespass) described below. The existence of K.S.A. 32-1013 diminishes, but does not eliminate the need, for CO's to rely upon K.S.A. 21-3728 (particularly for shooting from public right-of-way). CO's should continue to encourage property owners that are having repeated trespassing problems to post their land with signs in conformity with the requirements of K.S.A. 32-1013.</p>

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Statutory Cite	Type of Crime	Designation of Felony or Misdemeanor	Pertinent Legislative History	Summary of Elements of Crime	Impact of Attorney General Opinion No. 96-82
18	Permitting Dangerous Animal to be at Large	Class B Misdemeanor	* No indication that formerly within sole jurisdiction of KDWP's predecessor commission; prior statutory source K.S.A. 21-415 in effect since 1868 in General Criminal Code	<ul style="list-style-type: none"> * person charged must be the owner or custodian of an animal * person must know of the dangerous or vicious propensities of animal * person must permit the animal to go at large or not exercise ordinary care to restrain the animal 	<ul style="list-style-type: none"> * Criminal activities can and customarily would occur on properties not controlled by KDWP * Statute contemplates a person must "own" or be the "custodian" of an animal before criminal liability will accrue * K.S.A. 32-701(u) broadly defines wildlife, but excludes commonly domesticated animals that are agricultural livestock (e.g. cattle, swine, sheep, goats, horses, mules and poultry) * K.S.A. 32-703 vests title to all wildlife within the state to the state <u>except</u> that held in private ownership; such privately owned wildlife is generally not directly the subject of further wildlife statutes, except possession (not ownership) of wildlife is prohibited by K.S.A. 32-1002 (a) (2) unless it is otherwise permitted by laws or regulations of KDWP * Ability to successfully assert enforcement authority in CO's for K.S.A. 21-3418 is impaired by a gap that exists by exclusion of privately owned wildlife from definition of "wildlife." An animal creating liability under K.S.A. 21-3418 could possibly be what would be considered "wildlife," but for the private ownership. Obviously domesticated animals, such as dogs or bulls, have historically been the subject of actions pursuant to K.S.A. 21-3418, but the increased presence of "exotic" animals as "pets," such as lions, tigers, bears and wolves makes it increasingly likely that CO's will be called by the public to respond to situations involving loose "exotic" animals. * Pursuant to K.A.R. 115-20-3 and 115-20-4, KDWP allows possession of "exotic" wildlife, but such animals must be confined or controlled, and not released. Such regulations could be an alternative enforcement tool in lieu of K.S.A. 21-3418, for "exotic wildlife" as defined in K.A.R. 115-20-3(d). * Arguably, the exclusion of privately owned wildlife from the definition of wildlife in K.S.A. 32-701(u) could be construed to infer that K.S.A. 21-3418 is not within the scope of a "wildlife law" under the Opinion's analysis * If the circumstances do not support a citation under K.A.R. 115-20-3 or 115-20-4, then the designation of K.S.A. 21-3418, as a misdemeanor, means that if the offense occurs off of Department controlled land then the offense would have to occur <u>in the view</u> of the person making the arrest, and enforcement authority would be derived from K.S.A. 22-2403.

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Statutory Cite	Type of Crime	Designation of Felony or Misdemeanor	Pertinent Legislative History	Summary of Elements of Crime	Impact of Attorney General Opinion No. 96-82
22	Littering	Class C Misdemeanor	* No indication that derived from statute within the sole jurisdiction of KDWP's predecessor commission or authority	* depositing any object or substance on either: (1) public street....right-of-way, park or other public place or any body of water or (2) private property without consent of owner or occupant	* CO's would have authority to enforce K.S.A. 21-3722 on any public places within KDWP's control (e.g. parks, wildlife areas, state fishing lakes, WIHA lands), but arguably would not on private property unless occur <u>in the view</u> of the person making the arrest, but enforcement authority would be derived from K.S.A. 22-2403. * Limitation arising from Opinion does not significantly impact KDWP's core mission * CO's may effectively deal with littering by virtue of K.A.R. 115-8-18 prohibiting littering on Department lands (statutory support for such Regulation derives in part from K.S.A. 32-1015(a)(3) and would also be a Class C Misdemeanor).

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Statutory Cite	Type of Crime	Designation of Felony or Misdemeanor	Pertinent Legislative History	Summary of Elements of Crime	Impact of Attorney General Opinion No. 96-82
21	Criminal Trespass	Class B nonperson Misdemeanor	Among four prior law sources for such section are former Fish and Game Commission era statutes, K.S.A. 32-139 and 32-142, which were repealed effective 7/1/70	<p>* Person must enter or remain on any land or nonnavigable body of water, structure... or watercraft</p> <p>* Person must have knowledge not authorized to enter <u>and</u></p> <p>(1) enters or remains in defiance of order on personally communicated to such person by owner, or</p> <p>(2) premises are posted or otherwise secured against entry</p>	<p>* Two prior Attorney General Opinions *80-161, applicability of criminal trespass to nonnavigable water, and 82-120, regulation of hunting and fishing on fee-patented lands within boundaries of an Indian reservation) interpreting the breadth of the statute involved KDWP's predecessor Commission, but pre-dated the statutory revisions to a CO's enforcement authority (K.S.A. 32-808) discussed in Opinion No. 96-82. Because hunting or wildlife related actions are not part of the statutory elements of K.S.A. 21-3721, there may be a reduced likelihood that a court would uphold a CO's enforcement authority of K.S.A. 21-3721, if a court was inclined to follow the analysis contained in the Opinion.</p> <p>* To the extent possible, CO's would be better served to rely upon K.S.A. 21-3728 (rather than K.S.A. 21-3721) due to the preliminary concurrence of staff of the Office of the Attorney General that CO's arguably still have state-wide jurisdiction for Criminal Hunting (K.S.A. 21-3728), however, if no proof of hunting is detected, then the better course would be to take down identifying information about the trespasser, and assist the property owner, or party in lawful possession, in filing a complaint through the County Attorney.</p> <p>* Criminal activities commonly occur on lands not under control of KDWP, therefore the possibility exists that more limited enforcement authority may apply; limitation is compounded by this crime being designated a misdemeanor, which could mean that the offense would have to occur <u>in the view</u> of the person making the arrest, and the enforcement authority relied upon would be K.S.A. 22-2403.</p> <p>*An overlap exists between K.S.A. 21-3721 and K.S.A. 32-1013 (taking wildlife without permission on land posted by written permission only) and the latter could be enforced state-wide according to the Opinion. K.S.A. 32-1013(b) provides that a licensed hunter or furharvester who enters posted land in pursuit of a wounded animal and remains upon posted land when instructed to leave by the owner (or person in lawful possession) is subject to provisions of K.S.A. 21-3721 and 21-3728 (Criminal Hunting, discussed above). Such cross-reference arguably infers that such statutes are within the jurisdiction contemplated to be enforced by CO's. However, such argument may be outweighed by the Opinion analysis.</p>

Statutory Cite	Type of Crime	Designation of Felony or Misdemeanor	Pertinent Legislative History	Summary of Elements of Crime	Impact of Attorney General Opinion No. 96-82
201	Criminal Use of Weapons	Class A nonperson misdemeanor for violations of subsections(a)(1) through (a)(5), and (a)(9), Severity level 9, nonperson felony for violations (a)6 through (a)(8)	* No indication that derived from KDWP's predecessor Commission jurisdiction	Multiple statutory elements related to primarily carrying concealed weapons; provisions more typically encountered by CO's could include: (a)(2) carrying concealed knife, with intent to use unlawfully against another; (a)(3) carrying some type of projector containing noxious liquid, gas or substance, with intent to use same unlawfully; (a)(4) carrying concealed firearm on one's person - except when on person's land or in person's abode or fixed place of business; and (a)(7) carrying shotgun with barrel less than 18 inches in length or any other weapon that will discharge automatically more than once by a single function trigger (only the last listed would be a felony)	* Impact of Opinion is reduced because of statutory exception (K.S.A. 21-4201(c)(2)) excludes from the scope of such concealed firearm statute licensed hunters or fishermen, while engaged in hunting or fishing * Independent statutory authority exists under K.S.A. 32-1003 to deal with some of the same circumstances, including K.S.A. 32-1003(d) prohibiting smoke guns, or other device, for forcing smoke or liquid into holes or dens of wildlife, making reliance upon K.S.A. 21-4201(a)(3) not as critical * Various KDWP regulations specifying legal equipment for taking wildlife (e.g. turkey, 115-4-1; antelope, 115-4-3; deer, 115-4-5; elk, 115-4-7) reduce, but do not eliminate the need to rely upon K.S.A. 21-4201 * If such illegal weapons are encountered during the course of an investigation of a wildlife related offense, and a citation is issued, then the weapons should be seized pursuant to authority in K.S.A. 32-1047. * A more difficult problem arises if no offense within Chapter 32 has occurred. K.S.A. 60-4102(a) defines "contraband" as any property the possession of which is illegal. Firearms described in K.S.A. 21-4201 (a)(7), sawed off shotguns and automatic weapons, are contraband <u>except</u> in the hands of certain statutorily described persons (<u>See</u> K.S.A. 21-4201(b) for complete listing, but it includes law enforcement personnel and numbers of the armed services while in the performance of their official duties). Ordinarily, contraband can be seized and summarily forfeited to the state, without following the Kansas Standard Asset Seizure and Forfeiture Act (<u>See</u> K.S.A. 60-4105(g)). Such Act's recognition that it is appropriate that such firearms should be summarily seized, seems to be controverted by the application of the Opinion's analysis to limit the CO's ability to seize such illegal firearms when encountered by CO's in a situation investigated, but in which no Chapter 32 offense occurred.

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Statutory Cite	Type of Crime	Designation of Felony or Misdemeanor	Pertinent Legislative History	Summary of Elements of Crime	Impact of Attorney General Opinion No. 96-82
21-4217	Criminal Discharge of a Firearm	Class C Misdemeanor	Law adopted in 1986 without predecessor statutes (if any) referenced	<p>*Closely parallels provisions and conditions of K.S.A. 21-3728 (Criminal Hunting, which is discussed above)</p> <p>* Elements are:</p> <p>A. Discharge of a firearm</p> <p>B. Without obtaining permission of owner or person in possession on either:</p> <p>(1) land or nonnavigable body of water of another, <u>or</u></p> <p>(2) upon or from public road, public road right-of-way, or <u>railroad right-of-way</u>, that adjoins land of another</p>	<p>* Criminal activities occur on lands not under the control of KDWP, plus its status as a misdemeanor, therefore the possibility exists that more limited authority may apply</p> <p>* Same concerns as expressed in discussion of K.S.A. 21-3728, but more problematic to consider "wildlife law," because no prior legislative connection to Chapter 32 series of laws and does not include any statutory element related to wildlife or hunting</p> <p>* CO's would be better served to rely upon K.S.A. 21-3728 due to its reference "shooting" (so there is some degree of overlap), rather than K.S.A. 21-4217, because arguably K.S.A. 21-3728 is more supportable as a wildlife law.</p> <p>* In incidents investigated by a CO, but ultimately, no wildlife is found to be involved, such as target practicing on land of another without permission, then there remains a gap for which CO's may not have a statutory basis to arrest based upon the Opinion's analysis. The better course for these circumstances would be to take adequate information identifying the participants, and either request assistance to effectuate the arrest from other law enforcement officers with territorial jurisdiction, or advise the property owner on how to file a complaint with the County Attorney.</p>

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Statutory Cite	Type of Crime	Designation of Felony or Misdemeanor	Pertinent Legislative History	Summary of Elements of Crime	Impact of Attorney General Opinion No. 96-82
<p>28-1-14 (implemen ting K.S.A. 65-101)</p>	<p>Rabies control in wildlife</p>	<p>No designation in Regulation</p>	<p>None</p>	<p>Prohibited acts are: * possession or sale of striped or spotted skunks, civit cats, raccoons, foxes and coyotes for purpose of keeping as a pet * removal of musk glands of skunks and civit cats for purpose of attempted domestication * immunization of skunks, coyotes, raccoons, foxes and other wildlife animals, known to be involved in transmission of rabies</p>	<p>* KDHE is statutorily empowered to enforce, and based upon advice of KDHE staff, KDHE primarily relies upon County health officials for enforcement of regulations. * Impact of Opinion is reduced by ability to rely upon K.S.A. 32-1005 (Commercialization of Wildlife), and in particular subsection (a)(4) that prohibits the purchase for "personal use" wildlife enumerated in such section, which includes furbearing animals. "Furbearing animals" is defined in K.S.A. 32-701(e) and included are grey foxes, red foxes, raccoons, spotted skunks, striped skunks, and swift foxes all of which are also subject to K.A.R. 28-1-14, but left out are coyotes. Please note civit cats listed separately by KDHE are also known as spotted skunks. * Alternatively, CO's could possibly rely upon K.S.A. 32-951 (Game Breeder Permit) for those circumstances in which furbearing animals are being raised and sold without a game breeder permit. The overlap between K.S.A. 32-951 and K.A.R. 28-1-14 applies to circumstances where furbearing animals are being sold, but there is no overlap between these two provisions when furbearing animals are being retained merely as pets and not sold. * Other components of K.S.A. 32-1005, (a)(1)(2) and (3), which more directly regulate possession of wildlife, are limited to circumstances when the activities are for profit and commercial purposes, and may be applicable to the sale of animals as intended to be covered by K.A.R. 28-1-14. * Impact of Opinion is also reduced by ability to rely upon K.S.A. 32-1002 (a)(2) (Taking or Dealing in Wildlife), which prohibits the possession of any alive wildlife, unless otherwise permitted by regulation. * Reliance upon K.S.A. 32-1004 (Possession of Wildlife) is not as strong a basis for alternative enforcement because the otherwise most pertinent subsection (a)(2) applies to possession within the state, of wildlife <u>unlawfully</u> taken outside of the state, which caveat substantially narrows the circumstances to which it applies. * The Eastern spotted skunk is listed as a threatened mammal in K.A.R. 115-15-1(b)(6) and as such can not be lawfully taken or possessed, without KDWP's prior approval.</p>

Statutory Cite	Type of Crime	Designation of Felony or Misdemeanor	Pertinent Legislative History	Summary of Elements of Crime	Impact of Attorney General Opinion No. 96-82
K.S.A. 28-1-25 (implementing K.S.A. 65-128)	Prohibition of sale of turtles and amphibious reptiles	No designation in Regulation	None	Sale or offering as a promotional consideration, amphibious reptiles (including turtles)	<p>* KDHE is statutorily empowered to enforce, and based upon advice of KDHE staff, KDHE relies upon County health officials for enforcement of regulations</p> <p>* Impact of Opinion is reduced by ability to rely upon K.S.A. 32-1005 (Commercialization of Wildlife). In particular, K.S.A. 32-701(u) includes amphibians and reptiles in the definition of "wildlife," which term is a key component of K.S.A. 32-1005. Further, K.S.A. 32-1005 (b)(9) specifically places a value on turtles, and reptiles would be covered in the catch-all clause of subsection (b)(12).</p> <p>* Impact of Opinion is further reduced by ability to rely upon K.S.A. 32-1002(a)(2).</p>
K.S.A. 21-4204	Criminal Possession of a Firearm	Could be either depending upon which subsection relied upon	None	<p>21-4204(a) describes circumstances in which possession of a firearm would be unlawful, and the most common occurrences encountered by CO's would be:</p> <ul style="list-style-type: none"> - (a)(1) possession by a person who is both an addict to and unlawful user of a controlled substances, and - possession by a person convicted felon (length of time for which the prohibition applies varies in accordance with type of felony) 	<p>* Opinion does not impair CO's ability to vigorously enforce statutory provisions on any KDWP controlled land.</p> <p>* CO's do encounter felons hunting and although CO's would have enforcement authority state-wide for any offense enumerated in Chapter 32, the Opinion may have the undesirable impact of not authorizing an arrest of a person unlawfully possessing a firearm pursuant to K.S.A. 21-4204 encountered during a field inspection. Such negative impact would be increased if a Chapter 32 offense was determined not to have occurred, because there would be no grounds to seize the firearm pursuant to K.S.A. 32-1047. Practically, the CO's recourse if a person is violating K.S.A. 21-4204, but not any provision of Chapter 32, is to call for assistance from other law enforcement personnel for the territorial jurisdiction in which the offense occurred.</p>

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**INMATE POPULATION TRENDS AND
MULTIYEAR CAPACITY EXPANSION OPTIONS**
Kansas Department of Corrections

presented to the
Senate Judiciary Committee
January 30, 1997

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Senate Judiciary
Attachment 4
1-30-97

Kansas Department of Corrections
INMATE POPULATION AND CORRECTIONAL CAPACITY

CURRENT STATUS

- The prison system is nearly full. The December 31, 1996 inmate population was 7,755, or 98.4% of the total system capacity of 7,883 beds.
- During the past two years, the inmate population has undergone a period of rapid growth. The December 31, 1996 population was nearly 1,400 greater than the December 31, 1994 population of 6,369—an increase of *more than 20%*.
- To keep pace with the increasing population, the department has been faced with challenges in providing sufficient bedspace. Since December 31, 1994, nearly 1,300 beds have been added to correctional capacity, primarily through doublecelling and other internal building conversions or renovations.

INMATE POPULATION PROJECTIONS

- The inmate population is forecast to continue to increase significantly over the next 10 years. Projections released in September 1996 by the Kansas Sentencing Commission indicate that the population will reach 9,246 by the end of FY 2006, an increase of nearly 1,500 from the December 31, 1996 level.
- Much of the increase in the inmate population will be accounted for by offenders convicted of serious crimes, reflecting recent legislative changes to increase sentences in the higher severity levels of the nondrug sentencing grid. Over the 10-year projection period, the number of inmates convicted of off-grid, severity level 1, and severity level 2 crimes is expected to increase by more than 1,000.

CAPACITY NEEDS

- The inmate population projections have prison capacity implications that need to be addressed both now and in the future.
- The growing number of inmates will exceed existing and approved additions to capacity before the end of FY 1998. On June 30, 1998 the bedspace deficit will be 102 beds, and grow each year thereafter, reaching 677 by the end of FY 2002 and 1,315 by the end of FY 2006.
- Because 94% of the inmate population is male, it is anticipated that future bedspace needs will be predominantly male. Bedspace deficits for males are projected at 86 by the end of FY 1998; 625 by the end of FY 2002; and 1,224 by the end of FY 2006. Additional capacity for housing female inmates also is needed, although the numbers are not as large, increasing from a deficit of 16 beds in FY 1998 to 91 beds in FY 2006.
- Because the projections indicate significant growth in the number of the more serious offenders, the custody mix of the population is expected to shift gradually toward the higher custody levels.

Kansas Department of Corrections
INMATE POPULATION AND CORRECTIONAL CAPACITY

MULTIYEAR CAPACITY EXPANSION PLAN

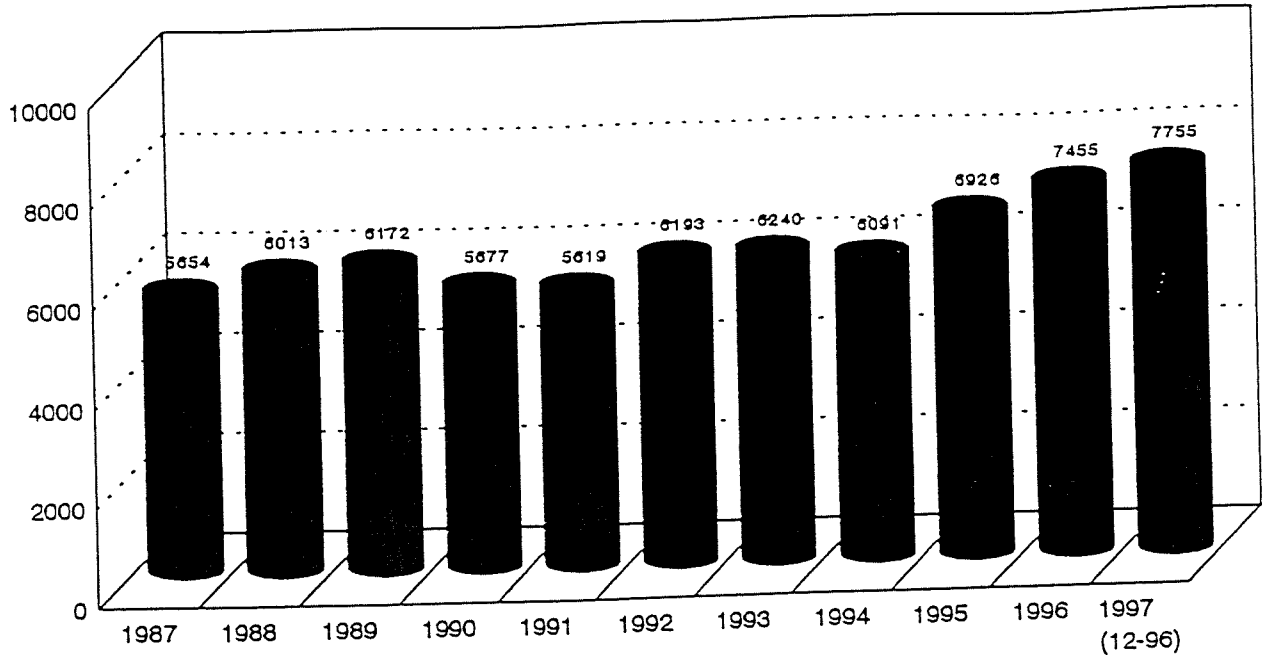
- The Department of Corrections has identified expansion options to address correctional capacity needs through FY 2006.
- Short-term capacity additions, proposed for consideration by the 1997 Legislature, include 251 beds in three projects at Lansing Correctional Facility, Winfield Correctional Facility, and Larned State Hospital. These projects do not require new construction, but some renovation is required. Renovation costs would be paid from already appropriated funds. Funding and position authorizations for staffing and other operating costs are needed.
- The remainder of the multiyear capacity expansion options require new construction. The options identified total 1,532 beds in new construction projects, in three phases, at an estimated construction cost of \$58.4 million.
- Phase 1 of the expansion plan is proposed for consideration by the 1997 Legislature. It includes: a 200-bed medium security housing unit at Norton Correctional Facility; a 200-bed medium security housing unit at Hutchinson Correctional Facility-East; and a 150-bed minimum security housing unit at El Dorado Correctional Facility. The housing units at Norton and Hutchinson each would have 100 cells, and would be doublecelled. The minimum security unit at EDCF would be dormitory-style housing.
- All Phase 1 projects are proposed to become operational during FY 1999.
- The Phase 1 projects would cost \$16.2 million to construct and \$5.4 million each year to operate (exclusive of \$540,000 in one-time costs to be incurred during the first year of operation). Eighty-six new positions would be required to staff the three new housing units.
- Phases 2 and 3 are recommended for consideration in the 1998 and 2002 legislative sessions, respectively. Projects proposed in these phases primarily involve construction of new housing units at El Dorado Correctional Facility.

RATIONALE

- The department proposes new construction because all other reasonable internal options for expanding capacity have already been implemented.
- Doublecelling and multi-occupancy housing is being utilized at all locations where it can be done safely and prudently. Single occupancy is used only in space designated as maximum security, and in a 202-bed medium security housing unit at Norton Correctional Facility.
- Doublecelling of maximum security inmates is not a sound correctional practice, and the department strongly opposes doing so. The concern is not about the level of comfort provided these inmates, but the overall security of the institutions where they are housed. Doublecelling of maximum security inmates increases the potential for disruptive behavior because of the high risk nature of this population and because of the inmate idleness which would likely result. This would also create a risk level for staff safety the department considers unacceptable.
- The department does not favor further doublecelling at Norton Correctional Facility, again because of security-related concerns. Norton is a medium security institution, primarily because of its perimeter security. Building design prohibits locking inmates at the facility in their individual rooms. Increasing the population by up to 40% through doublecelling would create serious inmate management concerns.
- In Phase 1, the department proposes new secure housing units for both Norton Correctional Facility and Hutchinson Correctional Facility-East. In both cases, these projects would increase the security posture of the facilities, since neither currently has the ability to lock inmates in individual rooms.
- The Phase 1 project at El Dorado Correctional Facility would house minimum custody inmates, who would then be available to provide some of the labor required in construction of projects proposed for Phases 2 and 3.
- All three Phase 1 projects are located at existing KDOC facilities, where infrastructure exists to support the expansion. This lowers construction and annual operating costs. The average construction cost for the three projects is \$29,432 per bed.

Chart 2

Total Inmate Population: FY 1987 - 1996 and FY 1997 To- e



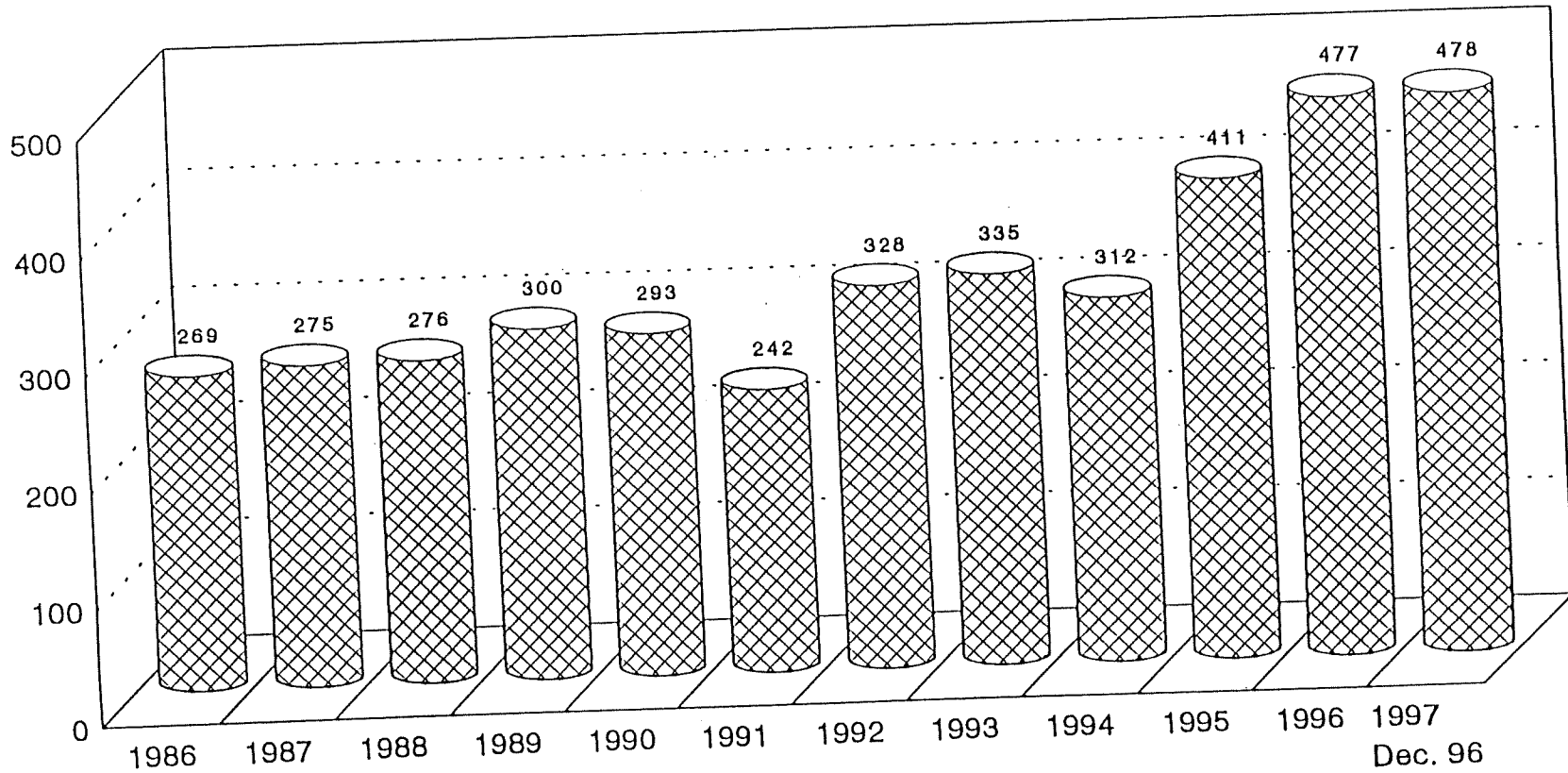
Female	275	276	300	293	242	328	335	312	411	477	478
Male	5379	5737	5872	5384	5377	5865	5905	5779	6515	6978	7277

As of June 30 each year except 1997, which is as of December 31, 1996.

- During FY 1995, the increase in the number of inmates was the largest on record—rising from 6,091 to 6,926 (+835 or 13.7%). FY 1996 brought another substantial increase—from 6,926 to 7,455 (+529 or 7.6%). The growth has continued in FY 97 to date—the population of 7,755 is 300 higher (4%) than at the end of FY 96.
- The decrease in the inmate population from FY 1989 to FY 1990 was related to the passage of Senate Bill 49, which enhanced good time provisions and resulted in "early" releases for a number of inmates.
- The decrease in inmate population during the first half of FY 1994 resulted primarily from a large number of offenders being released under the retroactive provisions of the Kansas Sentencing Guidelines Act, which took effect July 1, 1993.

Chart 3

Female Inmate Population: FY 1986 Through FY 1997 to Date*

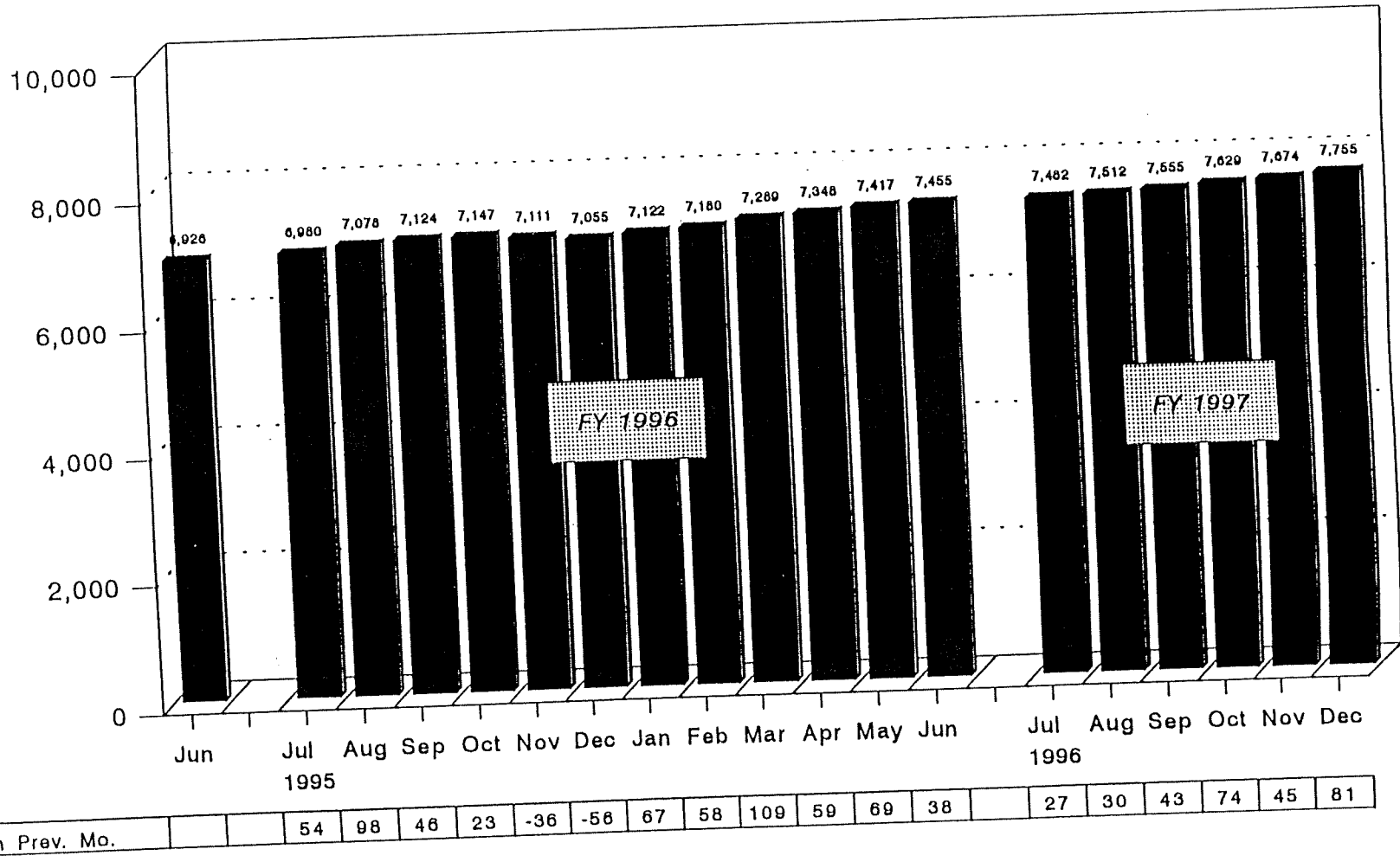


Male	4722	5379	5737	5872	5384	5377	5865	5905	5779	6515	6978	7277
Total	4991	5654	6013	6172	5677	5619	6193	6240	6091	6926	7455	7755

*Fiscal year-end Inmate population (as of June 30 each year) except for FY 1997, which is as of December 31, 1996.

Chart 4

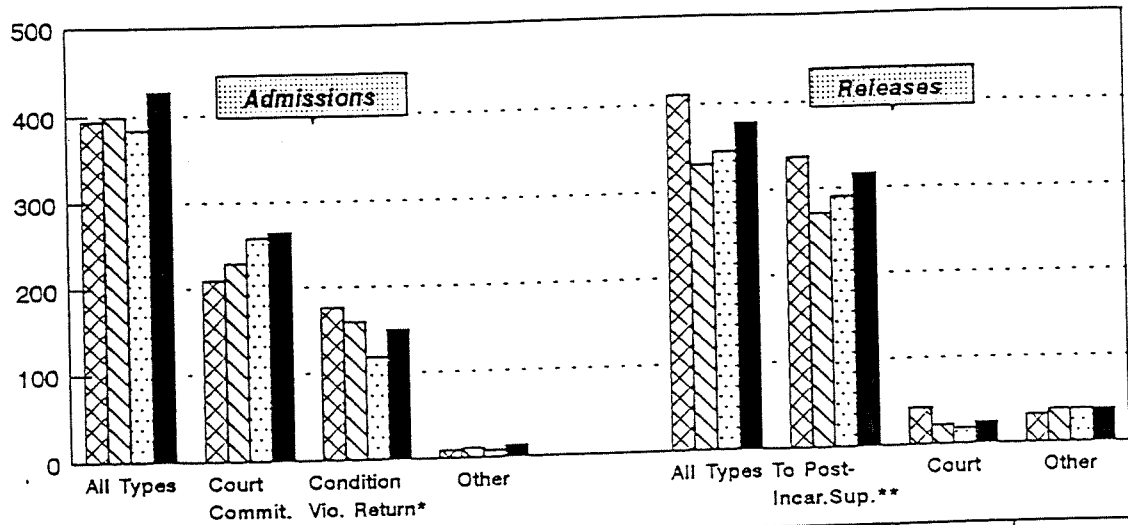
End-of-month Inmate Population: June, 1995 - December, 1996*



*Figures reflect the total inmate population (combined DOC and Non-DOC facility populations) at month-end.

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Average Number of Admissions and Releases Per Month by Major Category: FY 1994 - FY 1996, and FY 1997 To-date (Jul. - Dec., 1996)



Year	All Types	Court Commit.	Condition Vio.	Return*	All Types To Post-Incar.Sup.**	Court	Other
FY 94 Mo. Avg.	394	209	176	9	411	42	32
FY 95 Mo. Avg.	399	229	159	11	331	22	38
FY 96 Mo. Avg.	384	258	118	8	346	18	38
FY 97 Mo. Avg. (6 mo.)	427	264	150	13	378	24	38

*Return to prison for violation of the conditions of release – no new felony sentence involved.
 **Includes releases by action of the Kansas Parole Board as well as releases to post-incarceration supervision via the provisions of the Kansas Sentencing Guidelines Act.

■ Admissions

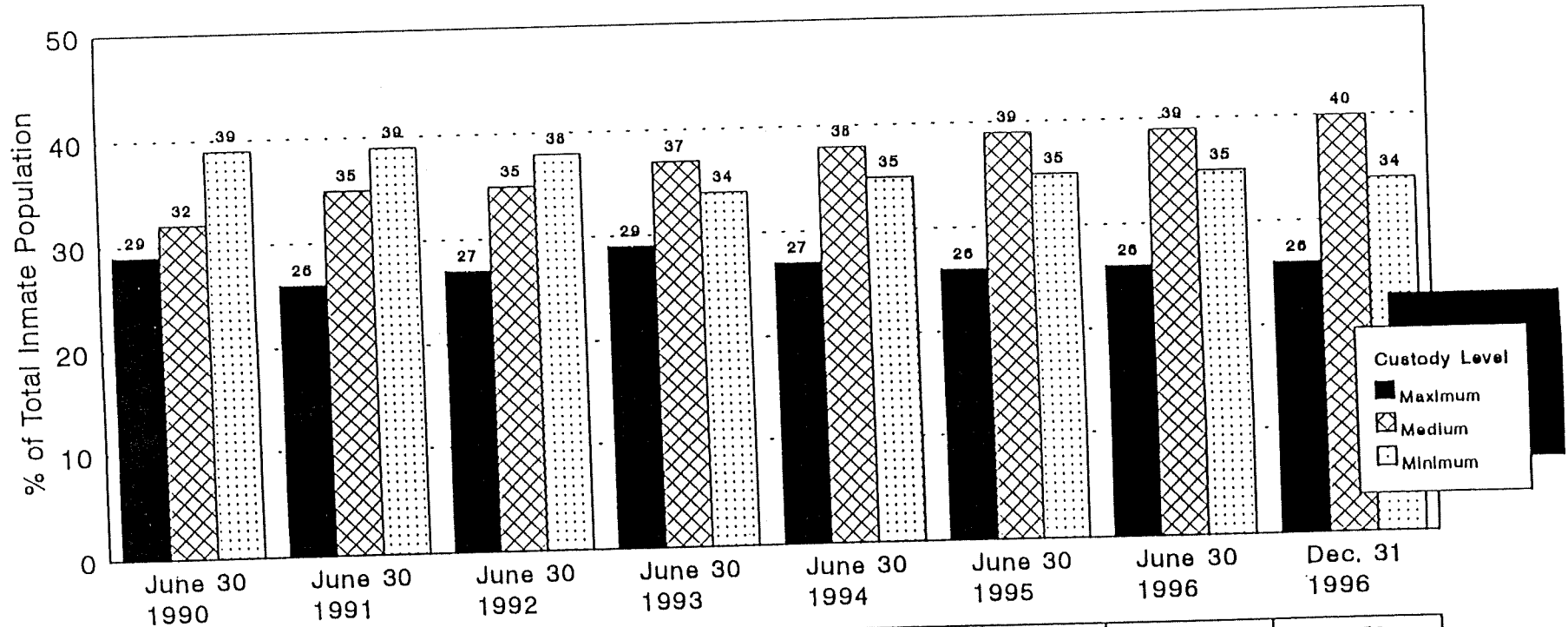
- ▶ All Types of Admission: FY 97 to date monthly average (427) is somewhat higher (7% - 11%) than any of the three previous fiscal years.
- ▶ Court Admissions: Monthly average has increased steadily since FY 94. FY 97 to date level is only slightly higher (2%) than in FY 96.
- ▶ Condition Violators: After decreasing to 159 in FY 95 and to 118 in FY 96 (from a high of 176 in FY 94), the level again has increased to 150 for FY 97 to date.

■ Releases

- ▶ All Types of Release: Releases in FY 97 to date are up somewhat -- 9% higher than in FY 96 and 14% from FY 95. The peak number of releases in FY 94 was due in part to the application of the retroactive provisions of the Kansas Sentencing Guidelines Act of 1993.
- ▶ As in previous years most releases were to post-incarceration supervision, either through action of the Kansas Parole Board (parole) or as releases to supervision via the provisions of the Kansas Sentencing Guidelines Act.
- ▶ Court-related releases were relatively few in FY 97 to date, as they have been in recent years.

Chart 6

Year-end Inmate Population by Custody Level: FY 1990 Through FY 1997 to Date*



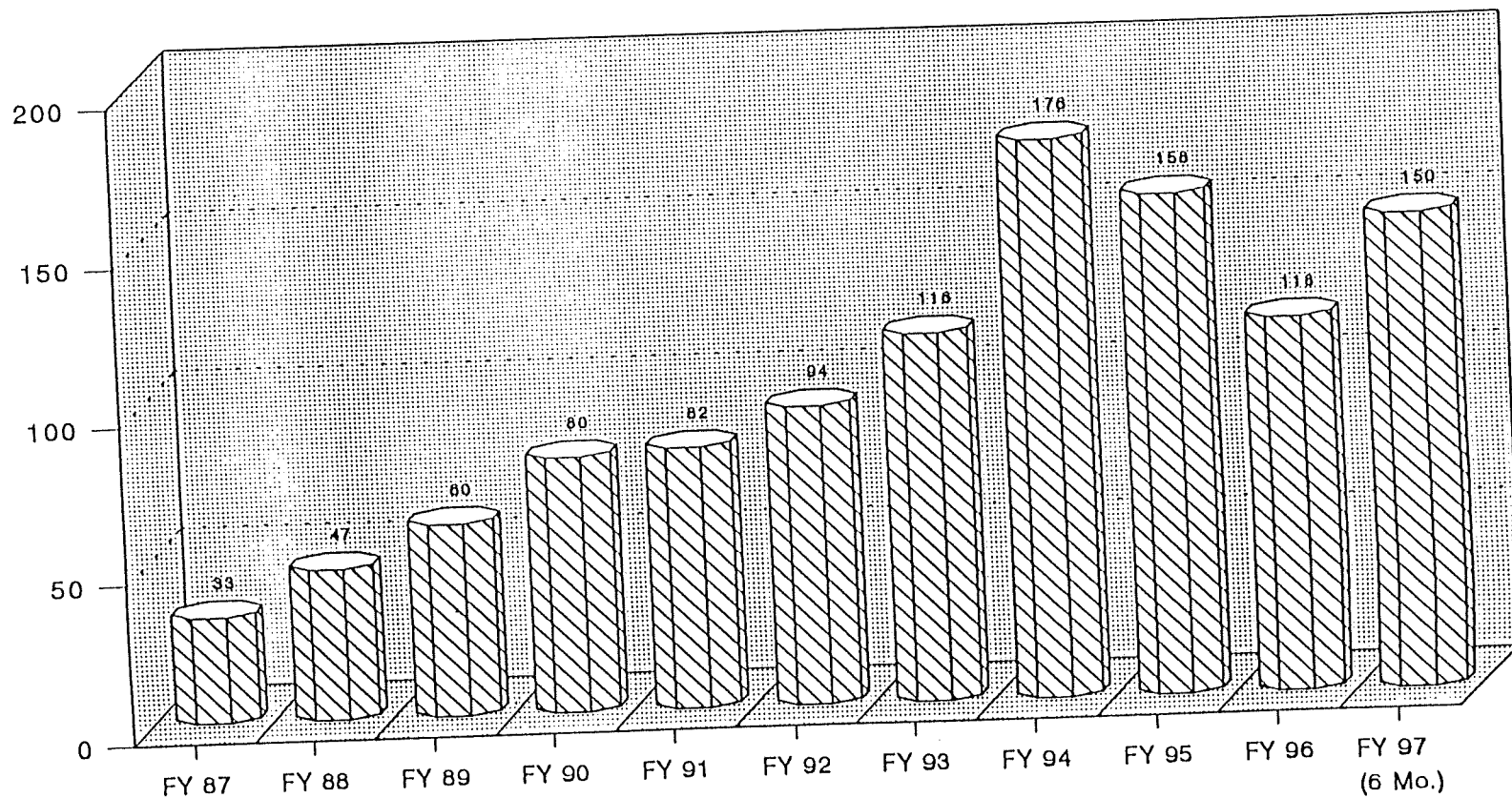
Maximum (No.)	1,648	1,439	1,654	1,813	1,650	1,845	1,911	2,058
Medium (No.)	1,789	1,966	2,175	2,283	2,341	2,689	2,932	3,095
Minimum (No.)	2,240	2,214	2,364	2,144	2,100	2,365	2,612	2,602
Total (No.)	5,677	5,619	6,193	6,240	6,091	6,926	7,455	7,755

*Maximum custody totals include unclassified and special management inmates.
Figures for FY 1997 to date reflect the December 31, 1996 distribution.

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Chart 7

Average Monthly Number of Return Admissions for Condition Violations By Year: FY 1987 - FY 1996, and FY 1997 to Date (Through December, 1996)*



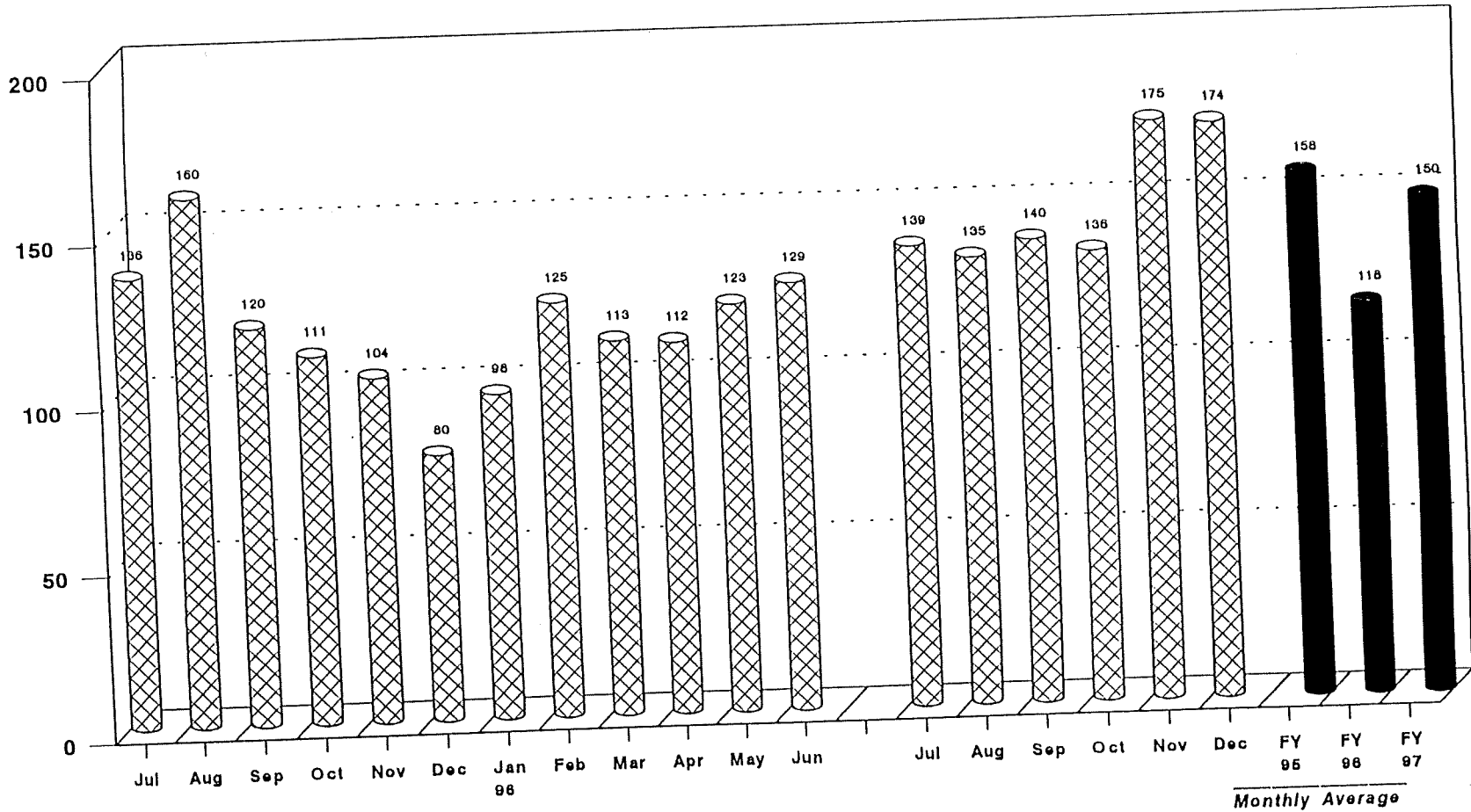
Total Vio. Adm. (Yr.)	393	564	715	954	982	1,130	1,397	2,112	1,900	1,411	899
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*Figures are based on the total number of admissions for violation of the conditions of release (no new sentence).

8-7

Chart 8

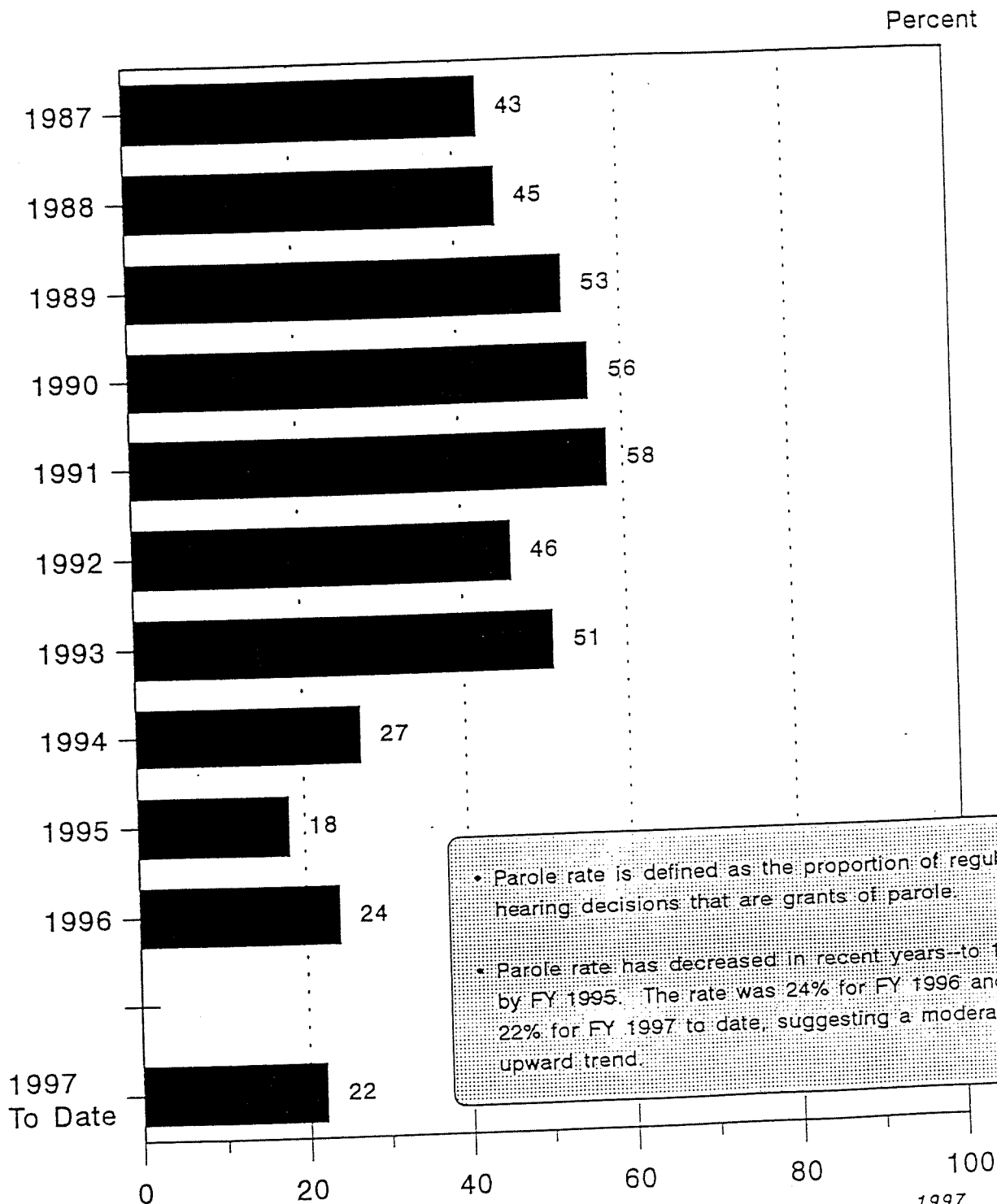
Kansas Department of Corrections
 Number of Return Admissions for Condition Violations by Month:
 FY 1996 and FY 1997 to Date (Through December, 1996)*



*Total number of admissions for violation of the conditions of release (no new sentence).

Chart 9

Parole Rate: Kansas Parole Board Decisions to Parole as a Proportion of Total Decisions, FY 1987 - 1996, and First Five Months of FY 97 (Jul. - Nov., 1997)*



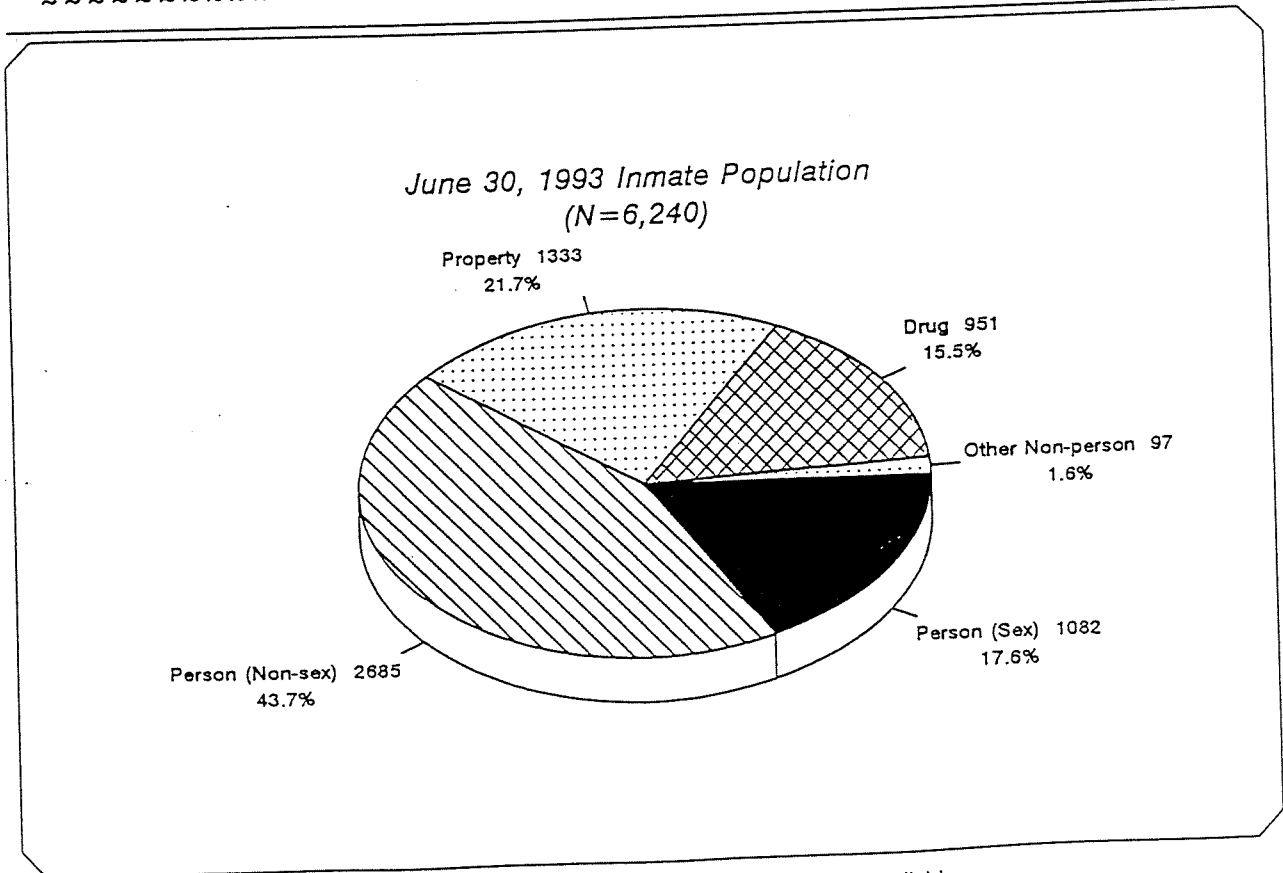
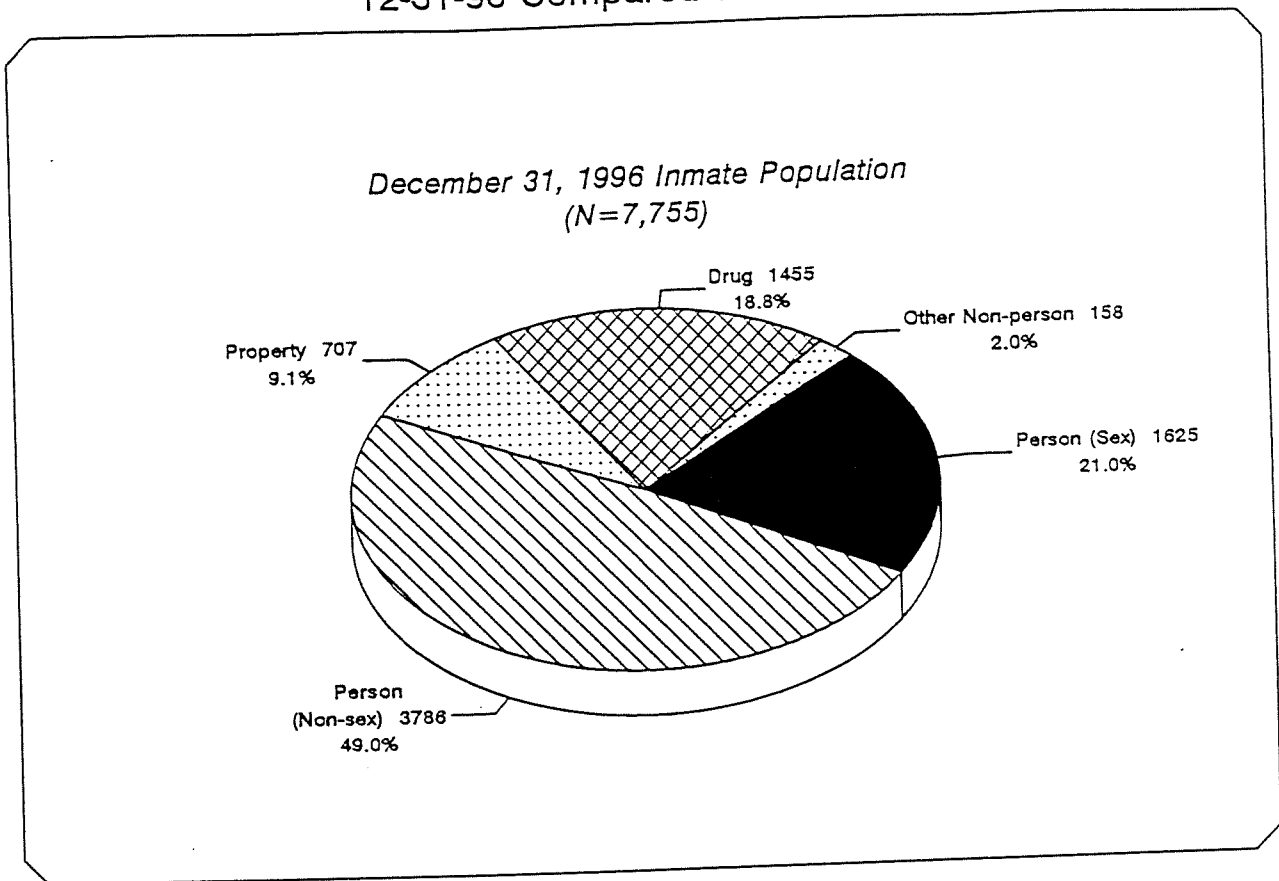
• Parole rate is defined as the proportion of regular hearing decisions that are grants of parole.

• Parole rate has decreased in recent years--to 18% by FY 1995. The rate was 24% for FY 1996 and 22% for FY 1997 to date, suggesting a moderate upward trend.

	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997 To-dt.
Decisions to Parole	1327	1765	2381	2961	2684	2210	2634	1127	649	781	277
Total Decisions	3072	3945	4457	5241	4635	4845	5139	4173	3521	3317	1263

*Information pertains to decisions resulting from regular parole hearings. Excluded are decisions from parole violation hearings, one outcome of which is the decision to "reparole," which was used more often beginning in FY 94 and in effect reduces the number of regular parole hearings.

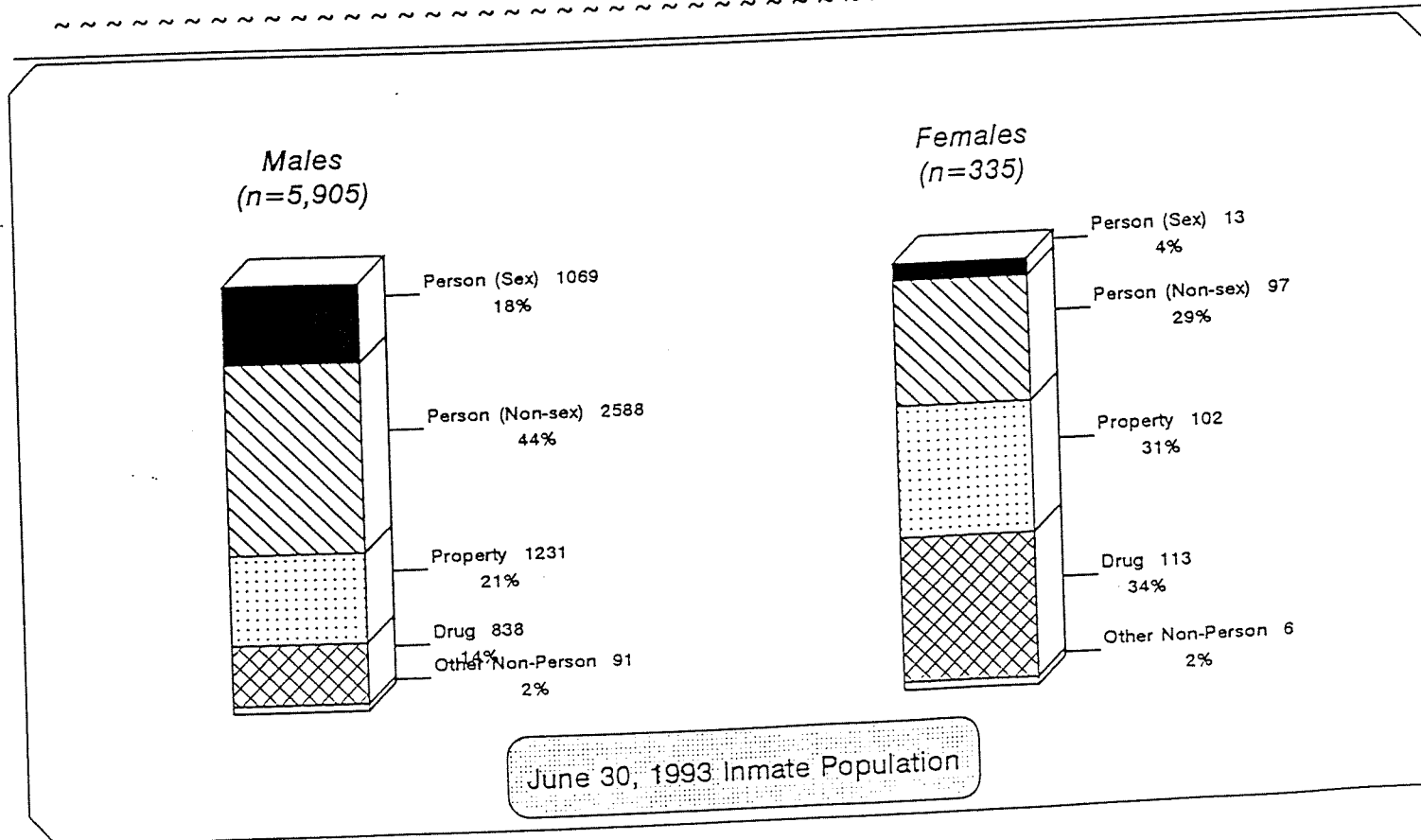
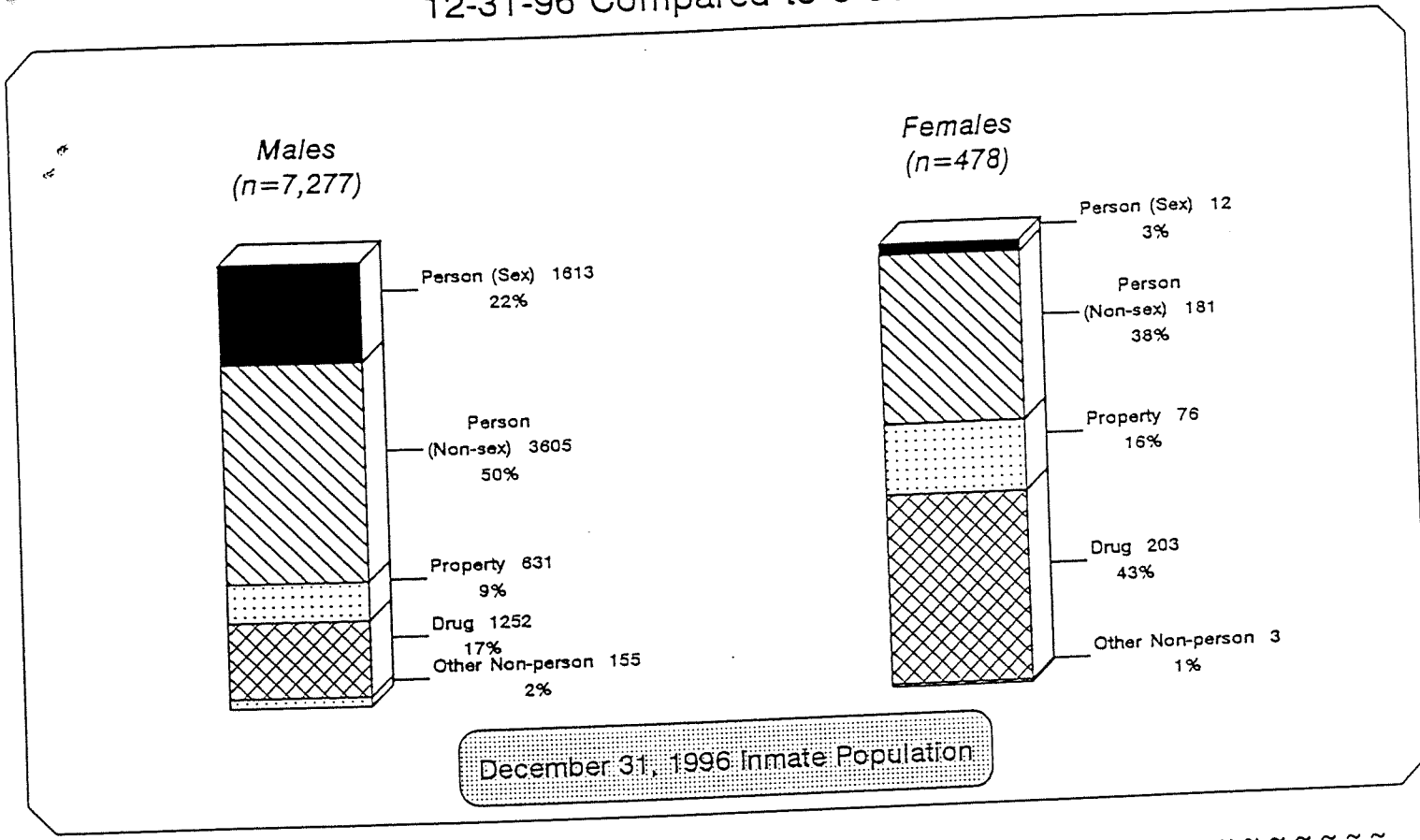
Inmate Population by Type of Crime (Overall Most Serious Offense):
12-31-96 Compared to 6-30-93*



*Overall most serious of all the active offenses for each inmate (offense information not available for 92 offenders in 1993 and for 24 offenders in 1996).

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Inmate Population by Type of Crime (Most Serious Offense) by Gender 12-31-96 Compared to 6-30-93*



*Overall most serious offense for each inmate (offense information not available for 92 offenders in 1993 and 24 offenders in 1996).

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Chart 12

Kansas Sentencing Commission FY 1997 Adult Inmate Population Update 6 Months Border Box Impact Lag

Id Group	July 1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	Total Increase	Percent Increase
Level 1	448	468	506	537	570	603	629	652	682	700	728	280	62.5%
Level 2	560	583	616	659	680	719	753	767	785	791	805	245	43.7%
Level 3	1,246	1,258	1,295	1,325	1,343	1,361	1,355	1,377	1,382	1,370	1,427	181	14.5%
Level 4	289	306	325	340	362	381	388	396	390	396	408	119	41.3%
Level 5	867	974	1,021	1,030	1,068	1,118	1,142	1,117	1,182	1,182	1,230	363	41.8%
Level 6	158	161	180	151	142	158	178	159	156	154	171	13	8.5%
Level 7	650	710	736	740	777	799	829	829	839	896	894	244	37.5%
Level 8	211	300	330	307	226	234	248	235	223	234	250	39	18.5%
Level 9	302	311	329	340	334	321	346	352	348	352	360	58	19.2%
Level 10	33	38	41	42	36	40	49	56	46	54	52	19	58.9%
Level D1	19	26	34	39	49	59	60	64	65	69	70	51	266.3%
Level D2	164	184	196	206	202	220	214	224	227	234	237	73	44.5%
Level D3	746	801	760	716	744	733	759	754	765	765	788	42	5.6%
Level D4	326	349	370	381	384	413	431	419	407	410	417	91	27.8%
Offgrid	442	480	527	576	621	672	718	762	829	880	940	498	112.7%
Conditional Violator	1,002	892	787	704	596	532	508	530	470	467	469	-533	-53.2%
TOTAL	7,463	7,841	8,033	8,093	8,134	8,360	8,607	8,694	8,798	8,954	9,246	1,783	23.9%
Drug Level Border Box Diversion Bed Savings	0	-78	-163	-198	-256	-242	-260	-280	-293	-296	-300		

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Inmate Population Projections
Monthly Monitoring Numbers
FY 1997

<u>Month/Year</u>	<u>Projection Monitoring Number</u>	<u>Actual Population</u>	<u>Difference</u>
July 1996	7463	7482	-19
August	7533	7512	21
September	7634	7555	79
October	7693	7629	64
November	7736	7674	62
December	7764	7755	9
January 1997	7759		
February	7783		
March	7791		
April	7811		
May	7846		
June	7841		

Source: Kansas Sentencing Commission, January 1997.

Population projections developed by the Kansas Sentencing Commission are produced in annual increments. Commission staff track the population monthly against the projections, but it is our understanding that these monthly tracking numbers are not official projections. Prior to January 10, 1997 the Department of Corrections did not receive monthly tracking numbers in advance, although we had occasionally received them retrospectively.

**Kansas Incarceration Rates
Compared to States with Highest and Lowest Incarceration Rates:
1987 through 1996**

In January 1997 the United States Department of Justice, Bureau of Justice Statistics, released a report indicating that the incarceration rates in the nations's federal and state prisons and local county jails, which had nearly doubled in the last decade, had begun to slow down.

The following table compares the incarceration rates during the past ten years for the jurisdiction with the highest incarceration rate (which has been Washington D.C. each year), the state with the highest rate, the state with the lowest rate, the rate for Kansas, and the national average (which includes the states, Washington D.C., and the Federal Bureau of Prisons). The table is based upon reported populations on December 31 (1987-1995) and for June 30 (1996).

Date	High (Washington D.C.)	State High	State Low	Kansas	National Average (State and Federal)
1987	897	471 (NV)	57 (ND)	229	224
1988	1,031	452 (NV)	62 (ND)	237	244
1989	1,176	475 (NV)	62 (ND)	245	260
1990	1,595	451 (SC)	74 (MN)	230	290
1991	1,643	484 (SC)	74 (MN)	235	308
1992	1,627	501 (SC)	79 (MN)	238	326
1993	1,651	503 (LA)	87 (MN)	241	343
1994	1,426	539 (TX)	80 (ND)	227	369
1995	1,437	627 (TX)	88 (ND)	251	392
1996	1,444	659 (TX)	90 (ND)	289	420
Percentage Increase	61%	39.9%	57.9%	26.2%	87.5%

Chart 15

**Prisoners Under the Jurisdiction of State or Federal Correctional Authorities
(June 30, 1996)**

<u>Jurisdiction</u>	<u>Prison Population</u>	<u>Incarceration Rate</u>	<u>Ranking</u>		<u>Population</u>	<u>Rate</u>	<u>Ranking</u>
US Total	1,164,356	420					
Federal	103,722	33					
State	1,060,634	388					
Alabama	21,495	487	45	Montana	2,182	247	16
Alaska	3,583	355	30	Nebraska	3,248	193	9
Arizona	22,143	481	42	Nevada	8,064	493	46
Arkansas	9,430	358	31	New Hampshire	2,050	177	6
California	142,814	438	39	New Jersey	27,753	347	29
Colorado	11,742	306	25	New Mexico	4,528	253	17
Connecticut	14,975	319	26	New York	68,721	379	32
Delaware	5,148	425	38	North Carolina	30,671	397	34
District of Columbia	9,763	1,444	51	North Dakota	640	90	1
Florida	64,332	448	40	Ohio	45,314	405	35
Georgia	34,808	468	41	Oklahoma	19,134	680	48
Hawaii	3,693	225	15	Oregon	8,584	221	14
Idaho	3,623	304	24	Pennsylvania	33,939	281	20
Illinois	38,373	318	27	Rhode Island	3,226	198	10
Indiana	18,582	281	19	South Dakota	2,049	279	18
Iowa	6,176	216	12	South Carolina	20,814	540	47
Kansas	7,462	289	21	Tennessee	15,634	293	22
Kentucky	12,852	325	28	Texas	129,937	659	49
Louisiana	26,873	611	50	Utah	3,643	182	8
Maine	1,486	112	3	Vermont	1,096	143	4
Maryland	22,118	413	36	Virginia	28,827	421	37
Massachusetts	11,996	178	7	Washington	12,059	218	13
Michigan	41,884	436	43	West Virginia	2,679	144	5
Minnesota	5,040	108	2	Wisconsin	12,105	209	11
Mississippi	13,785	486	44	Wyoming	1,458	301	23
Missouri	20,541	383	33				

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Chart 16

KDOC AND Non-KDOC Bedspace July 1, 1993 - December 31, 1996

<u>Bedspace</u>	<u>Male</u>	<u>Female</u>	<u>Total</u>	<u>Date</u>
<u>Bedspace</u>	<u>6235</u>	<u>376</u>	<u>6611</u>	<u>July 1, 1993</u>
TCF-CU (I-Dorm closed)	-90		-90	July 1993
TCF-RDU (9 bed expansion)	9		9	July 15, 1993
HCF-CU (79 bed D-Cellhouse expansion)	79		79	October 1993
<u>Bedspace</u>	<u>6233</u>	<u>376</u>	<u>6609</u>	<u>July 1, 1994</u>
HCF-CU (E-Dorm expansion)	10		10	July 1994
EDCF-CU (15 special use beds converted to gen. pop.)	15		15	July 1994
LCF-CU (32 three men cells converted to four men cells in "C" cellhouse)	32		32	August 1994
TCF-SU (closed)	-107		-107	August 1994
LCF-EU (R-Dorm opened)	48		48	October 1994
LCF-EU (first half of S-Dorm opened)	48		48	December 1994
LCF-EU (second half of S-Dorm opened)	48		48	January 18, 1995
TCF-CU (24 bed D-Dorm expansion)		24	24	February 13, 1995
NCF-EU (18 bed expansion)	18		18	February 15, 1995
LCF-CU (D-Cellhouse renovation)	16		16	March 15, 1995
LCF-CU (H-Unit)	48		48	April 1, 1995
EDCF-CU (U-Unit) ¹	20		20	April 21, 1995
TCF-CU (I-Max opened)		75	75	May 1, 1995
(56 female beds removed/56 male beds added at LCF-EU)	56	-56	0	May 1, 1995
(16 female eval. beds taken off-line)		-16	-16	May 1, 1995
Contract Jail Bed Reduction	-14		-14	May 1, 1995
TCF-CU (24 bed A-Dorm expansion)		24	24	May 15, 1995
LCCC (10 Non-KDOC beds)	10		10	June 1, 1995
EDCF-CU (U-Unit) ¹	20		20	June 15, 1995
EDCF-CU (D-Cellhouse, Double-Celling) ¹	64		64	June 15, 1995
EDCF-CU (U-Unit) ¹	75		75	July 1, 1995
EDCF-CU (E Cellhouse Double-Celling) ¹	128		128	July 1, 1995
TCF-CU (16 bed expansion)		16	16	July 1, 1995
HCF-CU (D-Cellhouse)	100		100	July 1, 1995

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Chart 16

	<u>6868</u>	<u>443</u>	<u>7311</u>	July 1, 1995
<u>Bedspace</u>				
Topeka Halfway House (Terminate)		-4	-4	July 25, 1995
TCF-CU (16 bed C-Dorm expansion)		16	16	September 1, 1995
LCF-EU (56 bed W-Unit expansion)	56		56	October 2, 1995
LSSH (37 Non-KDOC bed reduction)	-32	-5	-37	October 2, 1995
LCF-EU (16 bed expansion)	16		16	November 17, 1995
LCMHF (30 bed reduction-sexual predator unit) ²	-30		-30	November 17, 1995
LCMHF (14 bed minimum unit)	14		14	November 17, 1995
EDCF-CU (Double-Celling)	60		60	December 18, 1995
TCF-CU (26 I-Max Double-Celling)		26	26	December 18, 1995
ECF (48 bed minimum unit expansion)	48		48	December 18, 1995
HCF (D Cellhouse-24 bed reduction)	-24		-24	January 12, 1996
WCF (96 bed expansion)	100		100	April 15, 1996
TCF-CU (8 bed G-Dorm)		8	8	May 6, 1996
LCMHF (18 bed minimum unit expansion Jenkins Bldg.)	18		18	May 6, 1996
LCMHF (22 bed minimum unit expansion Jenkins Bldg.)	+ 22		+ 22	May 29, 1996
	<u>7212</u>	<u>484</u>	<u>7600</u>	July 1, 1996
<u>Bedspace</u>				
LCF-CU (Double-Celling M-Living Area)	96		96	July 1, 1996
LCF-CU (Double-Celling 40 beds - L-Living Area)	40		40	August 22, 1996
LCF-CU (Double-Celling 56 beds - L-Living Area)	56		56	October 1, 1996
HCF-EU (Create handicapped space)	-2		-2	October 1, 1996
WCF (5 sleepout beds)	5		5	November 1, 1996
LCF-CU (Double-Celling 18 beds in K-Unit)	18		18	November 1, 1996
LCF-CU (Double-Celling 30 beds - K - Living Area)	30		30	November 15, 1996
LCF-CU (Double-Celling 4 beds - K - Living Area) ³	40		40	December 23, 1996
	<u>7399</u>	<u>484</u>	<u>7883</u>	December 31, 1996
<u>Bedspace</u>				

Note: The average cost of capacity added since July 1, 1993 is \$5,075 per bed.

- ¹ The 115 beds at EDCF (U-Unit) and 192 beds added via double-celling (D & E Units) were added to the operating capacity over a 10 week period beginning April 21, 1995.
- ² The original LCMHF capacity of 150 is adjusted to reflect a reduction of 30 beds currently unavailable to house KDOC inmates because of the sexual predator unit operated by SRS. Once provision is made for permanent housing for sexual predators, the 30 beds will be added back to KDOC capacity.
- ³ Between July 1, 1996 and December 23, 1996, K, L, and M units were double-celled creating beds for an additional 280 inmates.

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Chart 17

KDOC Bedspace Needs, by Custody - Males

Projected Population Compared to Existing and Approved Capacity

FY	Maximum			Medium			Minimum			Total		
	Pop (6-30)	Beds	Diff	Pop (6-30)	Beds	Diff	Pop (6-30)	Beds	Diff	Pop (6-30)	Beds	Diff
Baseline	1961	2151		2983	3159		2320	2137		7166	7447	
<i>(Note: Baseline population is actual population as of December 31, 1996. Baseline capacity is existing and approved; it does not include 70 beds at LCF which are counted in operating capacity, but funding for which is still pending.)</i>												
1997	2021	2151	130	2966	3159	193	2366	2137	-229	7353	7447	94
1998	2075	2151	76	3046	3159	113	2412	2137	-275	7533	7447	-86
1999	2092	2151	59	3071	3159	88	2427	2137	-290	7590	7447	-143
2000	2103	2151	48	3087	3159	72	2438	2137	-301	7628	7447	-181
2001	2167	2151	-16	3181	3159	-22	2492	2137	-355	7840	7447	-393
2002	2237	2151	-86	3283	3159	-124	2552	2137	-415	8072	7447	-625
2003	2262	2151	-111	3320	3159	-161	2571	2137	-434	8153	7447	-706
2004	2291	2151	-140	3364	3159	-205	2596	2137	-459	8251	7447	-804
2005	2335	2151	-184	3430	3159	-271	2632	2137	-495	8397	7447	-950
2006	2417	2151	-266	3550	3159	-391	2704	2137	-567	8671	7447	-1224

1. Prophet model projections were prepared by the Kansas Sentencing Commission in September 1996. The projections are not broken down by gender or by custody. The male inmate population numbers given above assume that the proportion of males and females will remain constant at 93.8% male and 6.2% female.
2. Baseline capacity includes 118 beds at Lansing Correctional Facility that will become operational on July 1, 1997. Not included are 70 beds at LCF that have been added to capacity, but funding for which is still pending.
3. On December 31, 1996 the custody distribution among male inmates was: 27.0% maximum; 40.9% medium; and 32.1% minimum. Due to continued change in the composition of the inmate population, the custody mix is expected to shift gradually toward the higher custody levels. Based on growth projected for the number of inmates in the higher crime severity levels, the custody split projected for the net annual *increases* in the male population is as follows: 30% maximum; 44% medium; and 26% minimum. By FY 2006, the cumulative effect on the custody mix of the entire male inmate population is : 28% maximum; 41% medium; and 31% minimum.

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Chart 18

KDOC Bedspace Needs, by Custody - Females

Projected Population Compared to Existing Capacity

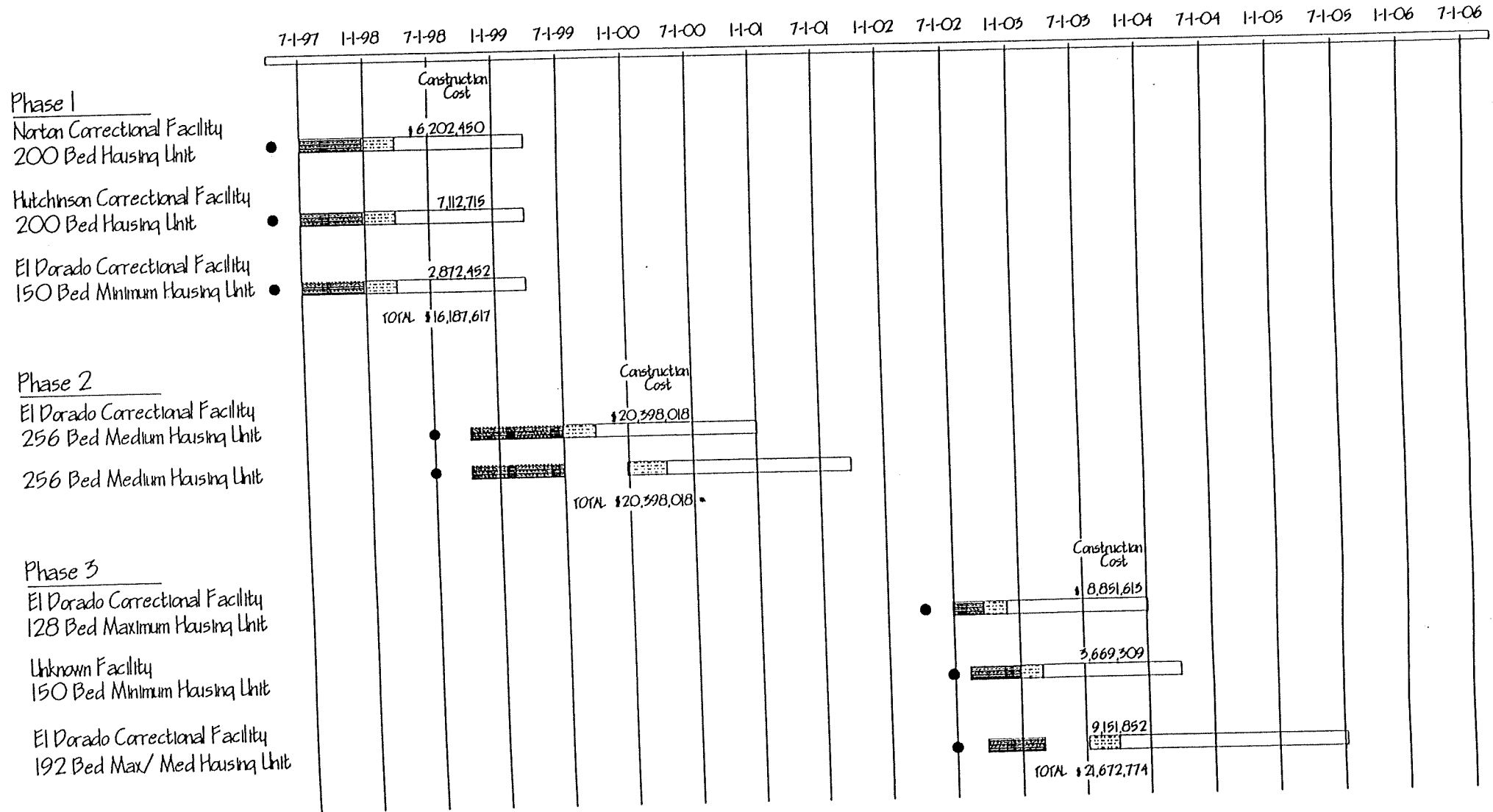
FY	Maximum			Medium			Minimum			Total		
	Pop (6-30)	Beds	Diff	Pop (6-30)	Beds	Diff	Pop (6-30)	Beds	Diff	Pop (6-30)	Beds	Diff
Baseline	90	58		119	408		269	18		478	484	
<i>(Note: Baseline population is actual population as of December 31, 1996. Baseline capacity is existing and approved.)</i>												
1997	74	58	-16	130	408	278	284	18	-266	488	484	-4
1998	75	58	-17	134	408	274	291	18	-273	500	484	-16
1999	76	58	-18	135	408	273	293	18	-275	504	484	-20
2000	76	58	-18	136	408	272	295	18	-277	507	484	-23
2001	78	58	-20	140	408	268	303	18	-285	521	484	-37
2002	80	58	-22	145	408	263	311	18	-293	536	484	-52
2003	81	58	-23	147	408	261	313	18	-295	541	484	-57
2004	82	58	-24	150	408	258	315	18	-297	547	484	-63
2005	83	58	-25	154	408	254	320	18	-302	557	484	-73
2006	85	58	-27	160	408	248	330	18	-312	575	484	-91

1. Prophet model projections were prepared by the Kansas Sentencing Commission in September 1996. The projections are not broken down by gender or by custody. The female inmate population numbers given above assume that the proportion of males and females will remain constant at 93.8% male and 6.2% female.
2. On December 31, 1996 the custody distribution among female inmates was: 18.8% maximum; 24.9% medium; and 56.3% minimum. The numbers presented above assume no change in the custody composition of the female inmate population during the projection period.

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Chart 19

KDOC Multiyear Bedspace Expansion Options - New Construction Construction Schedule



4-20-07
 Legend
 Funding Date ●
 Building Design [hatched pattern]
 Bidding [dotted pattern]
 Construction [white box]

* Project to be constructed with inmate labor.

Chart 20

CUSTODY LEVEL

BEDSPACE/ADJUSTMENT

	<u>MAXIMUM</u>	<u>MEDIUM</u>	<u>MINIMUM</u>	<u>L</u>
•Convert "D" Cellhouse to Max. Custody	+128	-256	-	-128
PROJECTED POPULATION INCREASE (FY 99)	-17	-25	-15	-57
<u>AVAILABLE BEDSPACE - 6-30-99</u>	+29	+181	+104	+314
PROJECTED POPULATION INCREASE (FY 00)	-11	-16	-11	-38
<u>AVAILABLE BEDSPACE - 6-30-00</u>	+18	+165	+93	+276
PROJECTED POPULATION INCREASE (FY 01)	-64	-94	-54	-212
PLANNED BEDSPACE INCREASE (FY 01)	-	+256	-	+256
•Add 1st Housing Unit @ EDCF	+64	-128	-	-64
•Convert Half "E" Cellhouse to Max. Custody	-	-6	-	-6
•Adjust for Off-Line Spc. Use Cells	+18	+193	+39	+250
<u>AVAILABLE BEDSPACE - 6-30-01</u>	-70	-102	-60	-232
PROJECTED POPULATION INCREASE (FY 02)	-	+256	-	+256
PLANNED BEDSPACE INCREASE (FY 02)	+64	-128	-	-64
•Add 2nd Housing Unit @ EDCF	+12	+219	-21	+210
•Convert Remaining 1/2 "E" Cellhouse to Max. Custody	-25	-37	-19	-81
<u>AVAILABLE BEDSPACE - 6-30-02</u>	-13	+182	-40	+129
PROJECTED POPULATION INCREASE (FY 03)	-29	-44	-25	-98
<u>AVAILABLE BEDSPACE - 6-30-03</u>	+128	-	-	+128
PROJECTED POPULATION INCREASE (FY 04)	-	-	+150	+150
PLANNED BEDSPACE INCREASE (FY 04)	+86	+138	+85	+309
•Add 128 Bed Maximum Unit @ EDCF	-	-	-	-
•Add 150 Bed Minimum Housing (unknown)	+86	+138	+85	+309
<u>AVAILABLE BEDSPACE - 6-30-04</u>	-44	-66	-36	-146
PROJECTED POPULATION INCREASE (FY 05)	+42	+72	+49	+163
<u>AVAILABLE BEDSPACE - 6-30-05</u>	-82	-120	-72	-274
PROJECTED POPULATION INCREASE (FY 06)	-	+128	-	+128
PLANNED BEDSPACE INCREASE (FY 06)	+64	-	-	+64
•Add 1/2 Max. 1 1/2 Med. Unit @ EDCF	+24	+80	-23	+81
<u>AVAILABLE BEDSPACE - 6-30-06</u>				

BED UTILIZATION - MALES ONLY

BEDSPACE/ADJUSTMENT	CUSTODY LEVEL			TOTAL
	MAXIMUM	MEDIUM	MINIMUM	
Bedspace - 11-1-96	2057	3135	2137	7329
Population - 10-31-96	<u>1953</u>	<u>2890</u>	<u>2323</u>	<u>7166</u>
<u>AVAILABLE BEDSPACE</u>	+104	+245	-186	+163
PLANNED BEDSPACE INCREASE (FY 97)				
•K, L, M Double-Cell (210-280)	-	+40	+30	+70
•T.C. Unit Renovation	+94	+24	-	+118
•LCMHF "J" Dorm (potential)	-	-	<u>+54</u>	<u>-54</u>
<u>AVAILABLE BEDSPACE</u>	+198	+309	-102	+405
BED UTILIZATION ADJUSTMENT				
•RDU - ADP	-30	-	-	-30
•RDU - Med./Min.	-40	+20	+20	0
•Releases @ 16/Day @ 3 Days to Fill Bed	-4	-10	-34	-48
•Open Non-KDOC Beds	-5	-5	-17	-27
•Placement of 80 Medical Minimums at EDCF - "U" Unit	-	-80	+80	0
•Med./Min. - Out of Bed for Cause (Prog, MH, Trans, Release)	-90	+20	+70	0
•Spec. Ed. Placements - LCF	-	-30	+30	0
PLANNED BEDSPACE ADJUSTMENT				
•Close TCF-WU "L" Dorm: Relocate Staff "J" Cellhouse Female Unit Expansion	-	-	<u>-30</u>	<u>-30</u>
<u>ADJUSTED BEDSPACE</u>	+29	+224	+17	+270
PROJECTED POPULATION INCREASE (11-1-96 through 6-30-97)	<u>-57 (30%)</u>	<u>-82 (44%)</u>	<u>-48 (26%)</u>	<u>-187</u>
<u>AVAILABLE BEDSPACE - 6-30-97</u>	-28	+142	-31	+83
PLANNED BEDSPACE INCREASE (FY 98)				
•"A" Dorm - WCF (Remaining 127 Beds)	-	-	+127	+127
PROJECTED POPULATION INCREASE (FY 98)	<u>-54</u>	<u>-80</u>	<u>-46</u>	<u>-180</u>
<u>AVAILABLE BEDSPACE - 6-30-98</u>	-82	+62	+50	+30
PLANNED BEDSPACE INCREASE (FY 99)				
•Add One 200 - Bed Medium Housing Unit @ NCF	-	+200	-	+200
•Add One 200 - Bed Medium Housing Unit @ HCF	-	+200	-	+200
•Add 150 - Bed Minimum Unit @ EDCF-CU	-	-	+150	+150
•Convert TCF-WU from Male to Female Housing	-	-	-81	-81

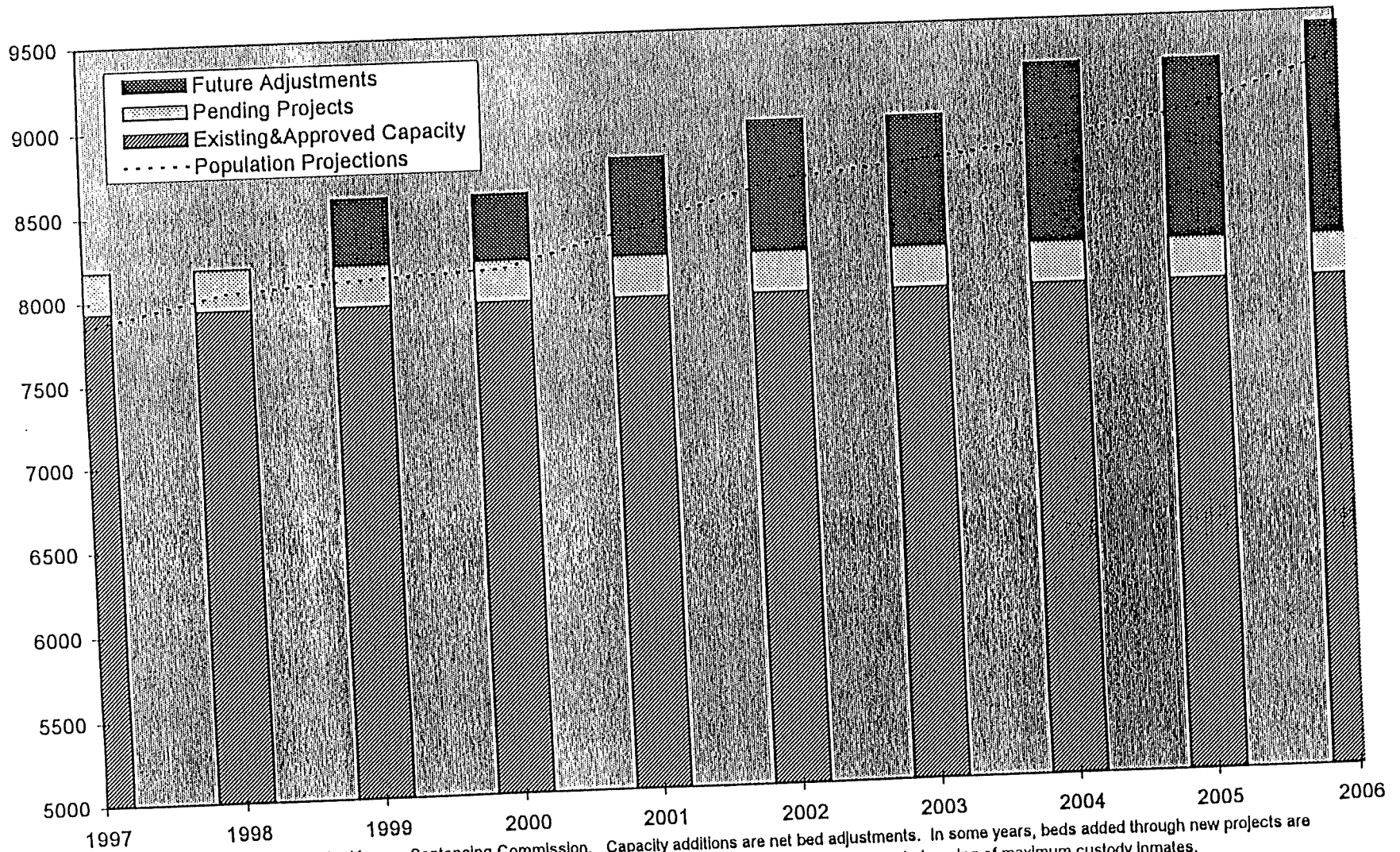
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BED UTILIZATION - FEMALES ONLY

BEDSPACE/ADJUSTMENT	CUSTODY LEVEL			TOTAL
	MAXIMUM	MEDIUM	MINIMUM	
<u>CAPACITY - 11-1-96</u>	58	408	18	+84
Inmate Population 11-1-96	<u>70</u>	<u>124</u>	<u>269</u>	<u>463</u>
<u>AVAILABLE BEDSPACE 11-1-96</u>	-12	+284	-251	+21
PROJECTED POPULATION INCREASE (FY 97)	+4	-6	-15	-25
PLANNED BEDSPACE INCREASE (FY 97)				+16
•Open 16 beds @ RDU- "J" Cellhouse	<u>+16</u>	-	-	+12
<u>AVAILABLE BEDSPACE - 6-30-97</u>	0	+278	-266	+12
PROJECTED POPULATION INCREASE (FY 98)	<u>-1</u>	<u>-4</u>	<u>-7</u>	<u>-12</u>
<u>AVAILABLE BEDSPACE - 6-30-98</u>	-1	+274	-273	0
PROJECTED POPULATION INCREASE (FY 99)	-1	-1	-2	-4
PLANNED BEDSPACE INCREASE (FY 99)				+111
•Convert TCF-WU to female	-	-	+111	+111
•Take 16 maximum beds at RDU "J" Cellhouse off-line and return 24 double bed cells at I-Max to single celled.	<u>-16/+24</u>	<u>-48</u>	-	<u>-40</u>
<u>AVAILABLE BEDSPACE - 6-30-99</u>	+6	+225	-164	+67
PROJECTED POPULATION INCREASE (FY 00)	-	-1	-2	-3
<u>AVAILABLE BEDSPACE - 6-30-00</u>	+6	+224	-166	+65
PROJECTED POPULATION INCREASE (FY 01)	<u>-2</u>	<u>-4</u>	<u>-8</u>	<u>-14</u>
<u>AVAILABLE BEDSPACE - 6-30-01</u>	+4	+220	-174	+50
PROJECTED POPULATION INCREASE (FY 02)	<u>-2</u>	<u>-5</u>	<u>-8</u>	<u>-15</u>
<u>AVAILABLE BEDSPACE - 6-30-02</u>	+2	+215	-182	+35
PROJECTED POPULATION INCREASE (FY 03)	<u>-1</u>	<u>-2</u>	<u>-2</u>	<u>-5</u>
<u>AVAILABLE BEDSPACE - 6-30-03</u>	+1	+213	-184	+30
PROJECTED POPULATION INCREASE (FY 04)	<u>-1</u>	<u>-3</u>	<u>-2</u>	<u>-6</u>
<u>AVAILABLE BEDSPACE - 6-30-04</u>	+0	+210	-186	+24
PROJECTED POPULATION INCREASE (FY 05)	<u>-1</u>	<u>-4</u>	<u>-5</u>	<u>-10</u>
<u>AVAILABLE BEDSPACE - 6-30-05</u>	-1	+206	-191	+14
PROJECTED POPULATION INCREASE (FY 06)	<u>-2</u>	<u>-6</u>	<u>-10</u>	<u>-18</u>
<u>AVAILABLE BEDSPACE - 6-30-06</u>	-3	+200	-201	-4

Chart 22

KDOC Capacity and Projected Inmate Population as of June 30 each year



Projections were prepared by the Kansas Sentencing Commission. Capacity additions are net bed adjustments. In some years, beds added through new projects are partially offset by reductions due to elimination of doublecelling at two EDCF housing units, returning their use to housing of maximum custody inmates.

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Summary of KDOC Capacity Adjustment Options, by Project

FY On-Line	Facility	Project	Description	Beds		Cost		
				#	Category	Capital	Operating	
Pending Projects								
FY 1998	LCF	Complete doublecelling at K, L, & M Units.	Capacity initially was increased by 210 beds in these units through doublecelling and recently was increased by another 70 beds. Operating funds and positions have not yet been approved for the additional 70 beds. Funding authorization : 1997 session.	70	Med/Min	--	\$356,000 (4 FTE)	
FY 1998	LCMHF	Expand occupancy of Jenkins Building at Larned State Hospital	Since May 1996, inmates have been housed on the second floor of the Jenkins Building. Larned State Hospital has determined that it has no further requirements for the remainder of the building, and the department is interested in using it for housing inmates. Additional staffing would be required. Funding authorization : 1997 session.	54	Min	Estimate in preparation Any costs would be financed from the Rehab & Repair Fund	\$573,000 (includes 11 FTE and \$39,000 in one-time costs)	
FY 1998	WCF	A Dorm	The A Dorm previously was used to house inmates but was vacated when the renovated Garland Building was occupied in April 1996. Upgrades to A Dorm's heating and plumbing systems are required, and will be financed from the department's Rehabilitation and Repair fund. Funds have not yet been approved for additional staffing. Funding authorization : 1997 session.	127	Min	\$169,060 (from Rehab & Repair Fund)	\$1,588,000 (includes 23 FTE and \$131,600 in one-time costs)	

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Summary of KDOC Capacity Adjustment Options, by Project

FY On-Line	Facility	Project	Description	Beds		Cost		
				#	Quatody	Capital	Operating	
Proposed Options								
FY 1999	TCF	Convert TCF-West to Female Housing Unit	Topeka Correctional Facility-West currently houses minimum custody males. This proposal would convert its use to meet the need for housing females. <i>[Note: An alternative to this proposal would be to construct a new 100-bed housing unit for females, to be located at TCF-Central.]</i>	-111 male; +111 female	Min	--	--	--
FY 1999	NCF	New Housing Unit	A new secure housing unit is proposed inside the existing perimeter at Norton Correctional Facility. The unit will have lockdown capability, which is not available in any of the existing housing units at NCF. The project includes a new Kansas Correctional Industries building to provide jobs for the increase in population. This project is new, and was not previously included in the department's capital improvements plan. Funding authorization : 1997 session.	200	Med	\$6,202,450 <i>Cost per bed: \$31,012</i>	\$2,047,000 (includes 30 FTE and \$144,000 in one-time costs)	
FY 1999	HCF-East	New Housing Unit	A new secure housing unit is proposed inside the existing perimeter at Hutchinson Correctional Facility-East. The unit will have lockdown capability, which is not available in any of the existing housing units at HCF-East. The project includes additional program and Kansas Correctional Industries space. This project is new, and was not previously included in the department's capital improvements plan. Funding authorization : 1997 session.	200	Med	\$7,112,715 <i>Cost per bed: \$35,564</i>	\$1,933,000 (includes 27 FTE and \$135,000 in one-time costs)	

DE-7

Chart 23

Summary of KDOC Capacity Adjustment Options, by Project

FY On-Line	Facility	Project	Description	Beds		Cost		
				#	Custody	Capital	Operating	
FY 1999	EDCF	New Minimum Security Housing Unit	<p>A new minimum security unit is proposed outside the perimeter fence at EDCF-Central, located just northwest of the existing compound. The unit would house male inmates displaced from TCF-West under the option converting use of that unit to house females. Also, males housed in this unit would be used to assist in construction of the other new units proposed for EDCF. It is proposed that this project be financed as a package with the NCF and HCF medium units proposed to come on line in FY 1999.</p> <p>Funding authorization: 1997 session.</p>	150	Min	\$2,872,452	\$1,960,000	
						<i>Cost per bed:</i> \$19,150		(includes 29 FTE and \$261,000 in one-time costs)
FY 1999	EDCF	Convert D Cellhouse to Maximum Custody	<p>This is one of the two cellhouses at El Dorado that was doublecelled in 1995 as part of the short-term capacity expansion, requiring that its designation be converted from maximum to medium. To provide sufficient maximum security space, the department proposes that it be restored to its original purpose of housing maximum security inmates.</p>	-128	Med: -256 Max: +128	--	--	
FY 2001	EDCF	New Medium Security Housing Unit	<p>This is the first of four new housing units proposed within an expanded perimeter of the El Dorado Correctional Facility -Central Unit. The housing unit would be similar to the prototype cellhouses currently at the facility, except that we believe a less costly alternative design could be used. Also, the unit will be designed to doublecell medium custody inmates. To achieve economies in construction, the department proposes financing 2 EDCF projects as a package, including this project and</p>	256	Med	\$20,398,018	\$3,164,000	
						<i>Cost per bed:</i> \$39,840		(includes 52 FTE and \$182,000 in one-time costs)
						Cost includes sitework for four units, construction for two units, and expansion of perimeter fence.		

BE-7

Summary of KDOC Capacity Adjustment Options, by Project

FY On-Line	Facility	Project	Description	Beds		Cost	
				#	Custody	Capital	Operating
			<p>the medium unit proposed to come on line in FY 2002. The cost reported here includes: two medium custody housing units, all of the sitework necessary for all four of the proposed new housing units, and expansion of the perimeter fence south of the existing unit.</p> <p>Funding authorization : 1998 session.</p>				<p>The estimate is based on the existing design. We believe the eventual cost will be lower due to use of an alternate design suitable for this custody level of inmate.</p>
FY 2001	EDCF	Convert Half of E Cellhouse to Maximum Custody	<p>This is one of two cellhouses at El Dorado that was doublecelled in 1995 as part of the short-term capacity expansion, requiring that its designation be converted from maximum to medium. To provide sufficient maximum security space, the department proposes that it be restored to its original purpose of housing maximum custody inmates. One half of the housing unit will be converted in FY 2001 and the other, in FY 2002.</p>	-64	<p>Med: -128</p> <p>Max: +64</p>	--	--
FY2002	EDCF	New Medium Security Housing Unit	<p>This is the second of four new housing units proposed within an expanded perimeter of the El Dorado Correctional Facility -Central Unit. The housing unit would be similar to the prototype cellhouses currently at the facility, except that a less costly alternative design will be used. Also, the unit will be designed to doublecell medium custody inmates.</p> <p>Funding authorization : 1998 session.</p>	256	Med	<p>Cost Included with EDCF medium unit proposed for completion in FY 2001.</p>	<p>\$3,377,000 (includes 63 FTE and \$75,000 in one-time costs)</p>
FY 2002	EDCF	Convert Second Half of E Cellhouse to Maximum Custody	<p>This is one of the two cellhouses at El Dorado that was doublecelled in 1995 as part of the</p>	-64	<p>Med: -128</p>	--	--

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Chart 23

Summary of KDOC Capacity Adjustment Options, by Project

FY On-Line	Facility	Project	Description	Beds		Cost	
				#	Custody	Capital	Operating
			short-term capacity expansion, requiring that its designation be converted from maximum to medium. To provide sufficient maximum security space, the department proposes that it be restored to its original purpose of housing maximum security inmates. The first half of the housing unit is proposed for conversion in FY 2001.		Max: + 64		
FY 2004	EDCF	New Maximum Security Housing Unit	This is the third of four new housing units proposed within an expanded perimeter of the El Dorado Correctional Facility-Central Unit. The housing unit would be similar to the prototype cellhouses currently at the facility. Funding authorization: 2002 session.	128	Max	\$8,851,613 <i>Cost per bed:</i> \$69,153	\$2,629,000 (Includes 66 FTE and \$75,000 in one-time costs)
FY 2004	--	Minimum Security Unit	A new minimum security unit is proposed at an unspecified location. Funding authorization: 2002 session.	150	Min	\$3,669,309 <i>Cost per bed:</i> \$24,462	\$1,960,000 (includes 29 FTE and \$261,000 in one-time costs)
FY 2006	EDCF	New Medium/Maximum Security Housing Unit	This is the last of the four new housing units proposed within an expanded perimeter of the El Dorado Correctional Facility-Central Unit. The housing unit would be similar to the prototype cellhouses currently at the facility. Half of the cellhouse will be used to house maximum custody inmates; the other half will be doublecelled and will house medium custody inmates. Funding authorization: 2002 session.	192	Max: 64 Med: 128	\$9,151,852 <i>Cost per bed:</i> \$47,666	\$2,426,000 (includes 46 FTE and \$75,000 in one-time costs)

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Chart 24

KDOC Capacity: Existing, Pending and Adjustment Options

	Male				Female				Total			
	Max	Med	Min	Total	Max	Med	Min	Total	Max	Med	Min	Total
Existing and Approved	2151	3159	2137	7447	58	408	18	484	2209	3567	2155	7931
Pending - FY 1998												
WCF - A Dorm			127	127						40	30	70
LCF - K, L, M Doublecelling		40	30	70							54	54
LCMHF - J Dorm			54	54								
Subtotal with Pending	<u>2151</u>	<u>3199</u>	<u>2348</u>	<u>7698</u>	<u>58</u>	<u>408</u>	<u>18</u>	<u>484</u>	<u>2209</u>	<u>3607</u>	<u>2366</u>	<u>8182</u>
Future Adjustment Options												
<u>FY 1997</u>												
TCF-West Close L Dorm			-30	-30							-30	-30
RDU - J Dorm					16			16	16			16
Subtotal with FY 1997	<u>2151</u>	<u>3199</u>	<u>2318</u>	<u>7668</u>	<u>74</u>	<u>408</u>	<u>18</u>	<u>500</u>	<u>2225</u>	<u>3607</u>	<u>2336</u>	<u>8168</u>
<u>FY 1999</u>												
EDCF Minimum Unit*			150	150						200		200
NCF - New Unit*		200		200					200			200
HCF - New Unit*		200		200							30	30
TCF-West: Females			-81	-81			111	111				
EDCF-D Cellhouse to Max	128	-256		-128					128	-256		-128
RDU J Dorm Offline					-16			-16	-16			-16
TCF- I-Max:eliminate doublecelling					24	-48		-24	24	-48		-24
Subtotal with FY1999	<u>2279</u>	<u>3343</u>	<u>2387</u>	<u>8009</u>	<u>82</u>	<u>360</u>	<u>129</u>	<u>571</u>	<u>2361</u>	<u>3703</u>	<u>2516</u>	<u>8580</u>

*New construction.

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Chart 24

KDOC Capacity: Existing, Pending and Adjustment Options

	Male				Female				Total			
	Max	Med	Min	Total	Max	Med	Min	Total	Max	Med	Min	Total
<u>FY 2001</u>												
EDCF- New Unit*		256		256						256		256
EDCF-1/2 of E to Max	64	-134		-70					64	-134		-70
Subtotal with FY2001	2343	3465	2387	8195	82	360	129	571	2425	3825	2516	8766
<u>FY 2002</u>												
EDCF- New Unit*		256		256						256		256
EDCF-1/2 of E to Max	64	-128		-64					64	-128		-64
Subtotal with FY 2002	2407	3593	2387	8387	82	360	129	571	2489	3953	2516	8958
<u>FY2004</u>												
EDCF - New Max Unit*	128			128					128			128
New Minimum Unit*			150	150							150	150
Subtotal with FY2004	2535	3593	2537	8665	82	360	129	571	2617	3953	2666	9236
<u>FY2006</u>												
EDCF-New Unit*	64	128		192					64	128		192
TOTAL	2599	3721	2537	8857	82	360	129	571	2681	4081	2666	9428

Net Increase from Existing/Approved	448	562	400	1410	24	-48	111	87	472	514	511	1497
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Notes

1. Existing and Approved Capacity includes 118 beds at Lansing Correctional Facility that will not be completed until July 1, 1997.
2. Pending projects include a 70-bed expansion at Lansing Correctional Facility's medium unit. The beds are currently in capacity, but funding approval is still pending for additional positions and operating costs.
3. An alternative to converting TCF-West to female housing is to construct a new housing unit at TCF-Central.

*New construction.

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