Approved

Date:

2/22/02

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Senator Vratil at 9:37 a.m. on February 21, 2002 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Paul Morrison, Johnson County DA and Kansas Sentencing Commission, Vice-Chair
Ed Collister, Kansas Bar Association (KBA)
Robert Guy, Director, Division of Community Corrections, North Carolina
Charles Simmons, Secretary, DOC
Dina Hales, Shawnee County Community Corrections
Judge Ernie Johnson, 29th Judicial District, Wyandotte County
Diana Collins, President, Kansas Association of Court Services
Mike Taylor, City of Wichita
John Todd, Citizen, Wichita
William Davitt, Citizen, Wichita

Others attending: see attached list

The minutes of the February 21th, 2002 meeting were approved on a motion by Senator Donovan, seconded by Senator Goodwin. Carried.

SB 521–departure sentencing

Conferee Morrison testified in support of **SB 521**, a bill which he stated would require that the finding of aggravating circumstances which allow for an upward durational departure be made by the trial jury after a finding of proved beyond a reasonable doubt. He discussed why this mechanism for mitigating or aggravating departures is necessary and how it will function.(attachment 1)

Conferee Collister testified in opposition to **SB 521**. He stated that he did not oppose the entire bill but rather the concept of a "bifurcated jury trial" which he felt was complicated, costly, time consuming, and an extra burden on the courts. He elaborated on this and discussed an alternative which would allow for wider ranges in the Sentencing Guidelines grid boxes.(attachment 2)

Written testimony supporting **SB 521** was submitted by Jared Maag, Office of the Attorney General.(attachment 3)

SB 454–consolidation of field services; prescribing certain duties on the Kansas Sentencing Commission

Conferee Morrison testified in support of **SB 454**, a bill which would create an agency which would be responsible for the supervision, treatment and reentry process for adult felony offenders. He presented a brief historical review of events leading up to this proposed legislation and discussed why a Department of Field Services was necessary and how it would function.(attachment 4) He referenced a History of Field Services Consolidation and an Interim Study Report on this subject attached to his written testimony.(attachment 5)

Conferee Guy testified in support of **SB 454**. He presented an overview of North Carolina's consolidation of field services and testified to its effectiveness. He discussed several key points of an independent state agency covering such topics as: the economics of consolidation; public safety; role definitions; and centralized data system.(attachment 6)

Conferee Simmons testified in support of the concept of consolidation in **SB 454** but stated that the bill needs a "side-by-side" detailed analysis of options available. He proposed amendments to the bill which provide for this analysis.(attachment 7)

Conferee Hales testified in opposition to **SB 454**. She presented information to justify her opposition and offered alternative measures.(attachment 8)

Conferee Johnson testified in opposition to the mandated date in **SB 454**. He presented a brief history of the consolidation of field services and recommended removal of provisions (a) and (b) of the bill.(attachment 9)

Conferee Collins testified in opposition to **SB 454**. She discussed several concerns about certain provisions in the bill as they relate to Court Services Officers.(attachment 10)

Written testimony in opposition to **SB 454** was submitted by: Chief Judge Patrick McAnany, Johnson County District Court;(attachment 11) Ron Stegall, Chief Executive Probation Officer, Douglas Co.;(attachment 12) Edward Collister, KBA;(attachment 13) Stuart Little, KCCA;(attachment 14) District Magistrate Judge James Vano, Johnson Co.;(attachment 15) Mark Masterson, Director, Sedgwick Co. DOC;(attachment 16) and Judy Moler, Kansas Association of Counties.(attachment 17)

SB 522–municipal courts; re: collection of fines and court costs

Conferee Taylor testified in support of **SB 522**, a bill which requires delinquent defendants to pay the cost of the collection fee in addition to the fine owed. He discussed why the bill is necessary and how it's provisions will be implemented.(attachment 18)

Written testimony supporting **SB 522** was submitted by Sandy Jacquot, League of Kansas Municipalities (attachment 19) and Don Denney, Unified Government of Wyandotte Co.(attachment 20)

Conferee Todd testified in opposition to **SB 522**. He opposed further authority being given to municipal courts citing examples of apparent abuse of power by certain courts. He offered a solution to the separation of powers in the passage of a bill which was introduced in 2001 requiring the election of Municipal Court judges.(attachment 21)

Conferee Davitt testified in opposition to **SB 522**. He cited examples of abuse of power in certain courts in Kansas and made reference to the Kansas Municipal Manual which states that fines shall not be a source of city revenue.(attachment 22)

The meeting adjourned at 10:32 a.m. The next scheduled meeting is February 22, 2002.

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb 21, 2002

NAME	REPRESENTING
Nancy Lindberg	AG
[illegible]	KCDAA
Jeff Bottenberg	KS Sheriffs
Ed Callister	KBA
Paul Davis	KBA
Renee S Hess	DPS
Chris Mechler	OJA
Kent Sisson	KDOC
Diana Collins	KACSO
TODD HEITSCHMIDT	KACSO
Tim Laggy	KDOC
Kathleen Graves	KDOC
Cathy McMorton	KCJA
Mark Masterson	SG County
michael yeagley	Johnson County
Emily Jacquot	LKM
Judy Moler	KAC
GORDON LANSFORD	KCJIS
Don Denney	Unified Govt of Wy Co

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 2/21/02

NAME	REPRESENTING
KEVIN GRAHAM	A.G
Robert Sanders	KDOC - Central Office
Michael Pepoon	Sedgwick County
Jean Barbee	KADC
Steve Tatum	10th Judicial District - IG Dist Ct.
Marilyn Scafe	KPB
Joe Herold	KSC
Jan Brueher	KSC
Brenda Harmon	KSC
Robert Lee Guy	KSC
Dave Jones	KSC
Daniel Wilhelm	Vera Institute of Justice
Sonya Johnson	Shawnee Co. Comm.
Katie Mays	Luthern
Stuart Little	Community Corrections Assoc.
Helen Pedigo	Governor's Office
Dora Hales	SW CO COMMUNITY CORRECTIONS
Kathy Porter	Judicial Branch
Patrick McElvaney	Johnson County District Court

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Feb 21, 2002

NAME	REPRESENTING
Mark Gleeson	Judicial Branch
James Vano	Johnson County Dist. Magistrate
Mike Taylor	City of Wichita
Ron Stegall	Douglas County Dist. Court
Mike Malone	" "
Linda Foerster-Vogelsang	" " " "
Michelle Roberts	" " " "
Lynara South	JJA
Grant Johnson	KDJA

Testimony to the Senate Judiciary Committee

Regarding Senate Bill 521

Paul J. Morrison, District Attorney - Tenth Judicial District
February 19, 2001

I'm here today to testify in support of Senate Bill 521. In my opinion, it is one of the most important pieces of legislation for your consideration this year.

Sentencing Guidelines became effective in July, 1993. It was a culmination of four years of work by the Sentencing Commission, which had been created in 1989. As I'm sure most of you are aware, one of the biggest goals of the Guidelines was to promote public safety by incarcerating dangerous offenders. Other goals included reducing sentencing disparity and providing a mechanism for the legislature to be able to predict future prison needs. As such, felons' sentences fell into narrowly prescribed ranges. These ranges provided little deviation for sentencing judges.

These narrowly defined ranges were problematic. There needed to be a mechanism to allow for the judge to have discretion for the exceptional case. As such, the Commission recommended and the legislature passed a mechanism in K.S.A. 21-4716 to allow for departures. These departures allowed judges to either show mercy or impose harsher penalties, depending on the circumstances of the individual case. They are extremely important to our system and in the year 2000, were used in approximately 15% of felony sentences. Statutory criteria used in these departures was developed several years ago and has worked very well. It's interesting to note that the range of upward and downward departures is split almost evenly. Until recently judges have been allowed to use their discretion in imposing departures. Both prosecutors and defense attorneys believe these are absolutely necessary to the integrity of the system.

In April of 2000, the United States Supreme Court in Apprendi v. New Jersey ruled that a departure that increases a defendant's sentence must be determined by the trial jury. The Kansas Supreme Court soon followed in May of 2001 in State v. Gould, wherein the Kansas Supreme Court held the entire statutory framework for departures to be unconstitutional. As such, we have no mechanism for mitigating or aggravating departures. This is extremely significant in light of the fact that approximately 15% of felony cases in the year 2000 were departures. Much of this discretion was exercised in giving dangerous offenders tougher sentences when

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appropriate under these laws. Much of it was exercised in showing mercy in situations where the presumptive sentence might be too tough.

Senate Bill 521 rectifies the problems with the old law by bringing it into conformance with the Apprendi v. New Jersey decision. Basically, it requires that the finding of aggravating circumstances which allow for an increased prison term (upward durational departure) be made by the trial jury after a finding of proved beyond a reasonable doubt. Other departures will continue to be made by the trial judge. A special subcommittee was put together in the fall of 2000 to study this problem and we have met regularly since that time. Over the last several months our committee has looked at various options which could address this problem. These options have included broadening the numbers in the grid boxes, putting a "departure number" in the corner of the grid box, etc. It is our considered opinion that the only way to address these issues legally and still maintain the purpose of the guidelines is to adopt the changes we recommend today.

The language used in the statute to implement this change uses the trial jury that will already be in place when a finding of guilt occurs. That same jury will simply be reinstructed to find the presence or absence of the aggravating factor beyond a reasonable doubt. In a few situations, evidence might be introduced at this stage by either party. However, the vast majority of time the jury will simply make the finding and mark a special verdict form, making the process very simple. It is my considered opinion that this process will be easier than the current process of presenting evidence at the sentencing hearing for the trial judge.

TESTIMONY CONCERNING
SENATE BILL 521
February 19, 2002

Thank you for allowing me to appear and present some comments concerning Senate Bill 521, a proposal to amend certain criminal procedural statutes to provide for a two-part bifurcated, jury trial, the second part of which is to exclusively concerning itself with upward departure sentencing in criminal cases.

Sentencing Guidelines were adopted in 1993. A mechanical sentencing process was set up using a bar graph for the imposition of sentences. A copy of the latest graph for nondrug crimes is attached. The two axes which were used to determine the presumptive sentence were criminal history score and severity level of the crime. Even though one of the functions of sentencing guidelines was to remove judicial discretion in sentencing, principally as a mechanism for controlling prison population, discretion to impose harsher or less severe sentences was added to the graph scheme. The procedure set out in K.S.A. 2001 Supp. 21-4716 and 4717 was called aggravating and mitigating departures. They required a court to, upon a proper request, consider whether exceptional circumstances were present to vary the sentence promulgated by the graph.

Now both the United States Supreme Court and the Kansas Supreme Court have declared unconstitutional any system which increases the sentence over the standard (the maximum) prescribed by the graph, unless factual determinations necessary to support a foundation for that conclusion are

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determined by a jury beyond a reasonable doubt. The proposal before you establishes a bifurcated jury process, that is, two jury trials, one on guilt and one on sentencing in order to preserve the ability for aggravating departures. Please keep in mind that the proposal mandates a two-jury determination process to enable the use of an aggravating departure.

The Kansas Bar Association, through its Board of Governors has taken a position that a procedure such as this which places additional strain and demands upon a severely taxed judicial system in the form of additional hours of work for judges, clerks, court services officers, defense and prosecuting attorneys, and probably in some cases expert witnesses, should be avoided if at all possible, once the determination is made, to implement a method for constitutional process for aggravating departures.

Proponents minimize the impact of the second jury trial in terms of court hours taken and dollars spent; the Office of Judicial Administration predicts an expense which may be based on impractical assumptions; but the significance of both conclusions is that they are based on past history of aggravating departure cases which have reached the appellate court system. There can be no appeal from such a request that is denied. So, our statistical base is inadequate if based solely on the number of appeals taken. I have been unable to find any other method for counting the number of attempts at securing departures.

In my personal opinion, the long and short of the debate revolves around the question of whether we need to create, a system when is at best a

cumbersome, if not impossible, second trial on the issue of sentencing. Let me illustrate a simplistic, potential solution to the constitutional problem, to be compared with the proposed solution.

Please take a look at the second page exhibit attached to this testimony. It is a copy of the most recent version of K.S.A. 21-4704, the sentencing range for nondrug offenses. At random, and with no logical study, I have altered the sentence on the top number for a 3F grid box to increase it by twenty years and have lowered the number on the bottom number in the grid box to lower it by twenty years. One could do this for every grid box. One could then set out by statute that the maximum sentence is the top number and the minimum number is the lowest number in one of two ways; either leave it in the discretion of the judge based on information gathered at sentencing (which of necessity under current statute includes criminal history and criminal history score and anything else presented in a standard sentencing proceeding), or one might chose a different version which provided for a departure process which could be used to vary from the standard sentence the middle figure. Theoretically, if the restriction is the sentence cannot be more than the maximum for the crime unless it is determined by a jury, we have determined the maximum for the crime and allowed for it to be part of the information, complaint, or indictment, and there would be no need for determining any fact by a jury since the constitutional mandate of *Gould* would be inapplicable. Granted someone would have to do

work altering the grid box figures to reflect more serious and/or less serious maximums and minimums. But that is a one-time procedure.

We have not had the time resources to determine if an investigation that was made in the early fall of 2001 is still current, but at that time there was no other jurisdiction in the United States that had adopted a bifurcated jury trial system in response to a *Gould*-type decision.

The Judicial Council's Criminal Law Advisory Committee has recommended that no change be made immediately, but that various alternatives studied in depth to come up with alternative suggestions. As a temporary stop-gap method, if something has to be done immediately, that same committee has recommended altering the grid box numbers to provide the necessary remedy.

I was informed yesterday that a bill has been in the house to simple state the "maximum" sentence is the maximum limitation on departure sentences today, the double - double rule. It is maintained that simple statutory change will satisfy constitutional requirements.

If one is looking at the merits of the proposed bill, here are some of the problems that seem presented.

Proposed §1(c)(4) suggests that evidence may be used if it is found to be trustworthy and reliable. That is a different definition of admissible evidence than provided for in the Code of Civil Procedure which is the standard used in criminal trials.

Proposed §2(a)(3) suggests that a court may depart on its own volition which must be filed within five days of the date of the arraignment. It seems to me that it would be impossible for any judge who has made a determination to file a written notice potential court departure may not proceed to hear the case subsequent that time. Otherwise, there would seem to me to occur a violation of the Canons of Judicial Conduct and perhaps of constitutional rights of the defendant. And, under no circumstances could the jury at any point be informed that the person who is presiding over the trial and giving the instructions has filed a notice of the intention to seek an upward departure.

The Office of Judicial Administration has suggested using two senior judges to hear the bifurcated sentencing trial. I certainly hope that means that the schedule of trials and of the trials in criminal cases in which a sentencing trial were necessary would be coordinated statewide so that there would be no possibility of more than two occurring at the same time in any one of the 105 district courts of the state.

The problems presented by a jury at sentencing are difficult also. Is it constitutionally fair to tell the jury prior to the commencement of their service on the issue of guilt that for specified or unspecified reasons, the prosecutor or the judge has determined that an aggravation of the sentence will be sought. I suspect that is automatic prejudice. On the other hand, that means that during the indoctrination of the jury and voir dire, somehow the jury is going to be informed that its service will be one to two days longer than normal. In §(b)(2),

the legislation provides that evidence may be presented concerning any matter that the court deems relevant to the question of determining if an aggravation factor exists. If that is meant to alter the standard rules of evidence in an adversary trial which is constitutionally protected, more constitutional problems may exist.

In proposed §(b)(4), as written I assume the jury's recommendation need not be followed.

At the very least, it is our suggestion in view of the tremendous complicating feature of the proposed bifurcation process, and the cost and time burden to the courts, that whatever change be made, it be made in a simpler and more expedient manner such as altering the grid boxes. Thank you very much.

Yours very truly,

Edward G. Collister, Jr.
Collister & Kampschroeder
3311 Clinton Parkway Court
Lawrence, Kansas 66047-2631

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	653 / 620 / 593	618 / 586 / 554	285 / 272 / 258	247 / 253 / 240	246 / 236 / 221	226 / 214 / 203	203 / 195 / 184	186 / 176 / 166	165 / 155 / 147
II	493 / 467 / 442	460 / 438 / 415	216 / 205 / 194	200 / 190 / 181	186 / 176 / 165	168 / 160 / 152	154 / 146 / 138	139 / 131 / 123	123 / 117 / 109
III	287 / 233 / 221	228 / 216 / 206	107 / 102 / 96	100 / 94 / 89	92 / 86 / 81	83 / 79 / 74	77 / 72 / 68	71 / 66 / 61	61 / 59 / 55
IV	172 / 162 / 154	162 / 154 / 144	75 / 71 / 68	69 / 66 / 62	64 / 60 / 57	59 / 56 / 52	53 / 50 / 47	48 / 45 / 42	43 / 41 / 39
V	136 / 130 / 122	128 / 120 / 114	60 / 57 / 53	55 / 52 / 50	51 / 49 / 46	47 / 44 / 41	43 / 41 / 38	38 / 36 / 34	34 / 32 / 30
VI	66 / 63 / 60	61 / 58 / 57	38 / 36 / 34	36 / 34 / 32	32 / 30 / 28	28 / 27 / 25	26 / 24 / 22	23 / 20 / 18	19 / 18 / 17
VII	34 / 32 / 30	31 / 29 / 27	27 / 25 / 23	26 / 24 / 22	23 / 21 / 19	18 / 16 / 17	17 / 16 / 15	14 / 13 / 12	13 / 12 / 11
VIII	23 / 21 / 19	20 / 19 / 18	19 / 18 / 17	17 / 16 / 15	15 / 14 / 13	13 / 12 / 11	11 / 10 / 9	10 / 9 / 8	9 / 8 / 7
IX	17 / 16 / 15	15 / 14 / 13	13 / 12 / 11	13 / 12 / 11	11 / 10 / 9	10 / 9 / 8	9 / 8 / 7	8 / 7 / 6	7 / 6 / 5
X	13 / 12 / 11	12 / 11 / 10	11 / 10 / 9	10 / 9 / 8	9 / 8 / 7	8 / 7 / 6	7 / 6 / 5	7 / 6 / 5	7 / 6 / 5

LEGEND

Presumptive Probation

Border Box

Presumptive Imprisonment

SENTENCING RANGE - NONDRUG OFFENSES

A	B	C	D	E	F	G	H	I
3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
620 592	618 586 554	295 272 258	267 253 240	246 234 221	226 214 203	203 135 184	186 176 166	165 155 147
467 442	460 438 416	216 205 194	200 190 181	184 176 165	168 160 152	154 146 138	138 131 123	123 117 109
233 221	228 216 206	107 102 96	100 94 89	92 88 82	84 79 74	77 72 68	71 66 61	61 59 55
162 154	162 154 146	75 71 68	69 66 62	66 60 57	59 56 52	52 50 47	48 45 42	43 41 38
130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 30
43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	23 20 17	17 16 15
32 30	31 29 27	29 27 25	25 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
16 15	15 14 13	11 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

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State of Kansas
Office of the Attorney General
120 S.W. 10TH AVENUE, 2ND FLOOR, TOPEKA, KANSAS 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

MAIN PHONE: (785) 296-2215
FAX: (785) 296-6296

TESTIMONY OF
ASSISTANT ATTORNEY GENERAL JARED S. MAAG
BEFORE THE SENATE JUDICIARY COMMITTEE
RE: SENATE BILL 521
FEBRUARY 21, 2002

Mr. Chairman and Members of the Committee:

I want to thank you for the opportunity to present this written testimony today on behalf of Attorney General Carla Stovall, and ask that you support Senate Bill 521 which would provide a mechanism for departure sentencing in the wake of the Kansas Supreme Court's decision in *State v. Gould*, 271 Kan. __, 23 P.3d 801 (2001) finding K.S.A. 2000 Supp. 21-4716 unconstitutional.

In June of 2000, the United States Supreme Court handed down its decision in *Apprendi v. New Jersey*, 530 U.S. 466 (2000). The ramifications of this decision were not immediately well-known, but soon after it became readily apparent that this particular case would have a profound impact on the criminal justice system. Since its June 26th release date, the *Apprendi* decision has been cited 2515 times by state and federal courts throughout the country. Indeed, Justice O'Connor, in her dissent, foreshadowed the consequences of the *Apprendi* decision when she stated that it "[would] have the effect of invalidating significant sentencing reform accomplished at the federal and state levels over the past three decades."

The *Apprendi* decision left its mark on the Kansas system in 2001 when the Kansas Supreme Court released its opinion in *State v. Gould*, invalidating K.S.A. 2000 Supp. 21-4716 in light of *Apprendi*. As of May 25, 2001, there exists no statutory authority to impose upward durational departures on those defendants deserving of a sentence in excess of that provided under the Kansas Sentencing Guidelines.

Senate Bill 521 will once again allow our criminal justice system to impose a term of months that reflects the gravity of the offense committed. To be sure, departure sentences are reserved for those instances where increased punishment is warranted; but without that option those criminals most deserving of longer incarceration will benefit. This committee

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need look no further than the facts of the *Gould* case to understand that Crystal Gould, who severely beat her 21 day old infant twins to the point that one will likely require total care for the rest of his life, deserves a sentence well in excess of what she ultimately received.

In short, this legislation is necessary to correct a portion of our Sentencing Guidelines that is vital to the administration of justice in the State of Kansas.

Again, I want to thank the committee for allowing the Office of the Attorney General to voice its position on Senate Bill 521 and respectfully ask that the committee support its passage as well.

Sincerely,

OFFICE OF THE ATTORNEY GENERAL
CARLA J. STOVALL

Jared S. Maag
Assistant Attorney General
Criminal Litigation Division

3-2

Testimony to the Senate Judiciary Committee

Regarding Senate Bill 454

Paul J. Morrison, District Attorney - Tenth Judicial District

February 21, 2001

I am here today to support the effort to implement this legislative change that will force a comprehensive, long term study of field services consolidation. As many of you know, I am a long term member of the Sentencing Commission and currently sit as vice chair. I am involved in several committees on the Commission which relate directly to the subject of how field services are delivered to offenders in our state. Among other things, I've been very much involved in helping formulate a plan for a statewide drug strategy. I have also watched and been somewhat involved in some of the past efforts to consolidate field services in our state. In fact, about ten years ago I testified against a bill which would have consolidated field services under the Department of Corrections. I say that to illustrate that when it comes to consolidating agencies under a state bureaucracy, I generally view that with a jaundiced eye.

One of the biggest problems we grapple with at the Sentencing Commission is fragmented and disparate field services across the state. As you are aware, currently these services are delivered through three separate agencies that don't always communicate with each other very well. Often times they compete for the same scarce resources. There is no centralized database among the three. Often times political and philosophical considerations vary among the three agencies, making it difficult to get all "on the same page". These problems have seriously affected our state's ability to coordinate our limited resources to insure the public safety and reduce recidivism. Frankly, until significant changes are made, I'm not confident that those problems will end. Nonetheless, virtually everyone who works in the criminal justice system will tell you that effective field services are without a doubt one of the most cost effective ways to insure the public safety.

These changes are very simple. They simply restate what has already been the law in Kansas for several years, the consolidation of field services will ultimately occur. But more importantly, these changes set out a framework and a time table for a comprehensive, deliberate study of what those changes should be. Those recommendations will then be presented to the legislature. It's my hope that this study will show that we can insure consistent, quality, well

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funded programs across this state while still allowing for local control. Why can't the State of Kansas "raise the bar" higher through some sort of an independent entity while still allowing for local control of these programs? Generally speaking, that has worked very well in most parts of the state for Community Corrections. Believe me, the last thing we want to create is a chronically underfunded statewide behemoth that is unresponsive to its employees and the clients it serves.

Today you will hear many people speak against this bill. That's because change is always difficult, especially when it affects a large number of people. We will ask many of these people to be included in the study of consolidation to see if we can arrive at some sort of framework that will benefit all. I am optimistic that we can. If not, I'll be testifying against the bill with the others here in two years.

Brief Overview
History of Field Services Consolidation
State of Kansas 1992-2002

Year	Report Title	Requested by:	Performed by:	Recommendations
Jan. 1992	Task Force on Field Services Consolidation-Report to the Legislature, January 31, 1992	Criminal Justice Coordinating Council (CJCC)	Task Force of the Kansas Sentencing Commission on Consolidation of Field Services-representatives of Court Services, Community Corrections and Parole served on the task force. This is a comprehensive review of Kansas field services, along with practices of other states. The Task Force conducted hearings, a state survey and analyzed statistics, statutes, and provided descriptions of the current system and recommendations..	Task Force recommended consolidation of field services to address the fragmented system of client supervision and management, to provide better services statewide and provide for the collection of data and a more efficient use of resources. The Task Force determined that the consolidation of field services into a single agency, the Department of Field Services would remedy the fragmented system of client supervision and management. The Task Force voted unanimously for consolidation of field services in Kansas. The Task Force voted 8 to 5 in favor of consolidation under a new field services agency.
Dec 1992	1992 Legislature SB 479	Attorney General Opinion No. 93-72, the 1992 Legislature appointed another task force to consider consolidation and appointed the Kansas Sentencing Commission to conduct the 2nd Task Force.	New Task Force created in July, 1992. District Court Judge, Secretary of Corrections, member Kansas Parole Board, several court service officers, and a probation officer	Second task force recommended consolidation of field services under the Department of Corrections as stated in the Report on Legislative Interim Studies to the 1993 Kansas Legislature. It was noted in the report that several members expressed reservations about this recommendation, and suggested a separate agency.

Year	Report Title	Requested by:	Performed by:	Recommendations
1996	Koch Crime Commission Kansas Field Services Consolidation Report	Koch Crime Commission's Task Force on Corrections, Prison, Jails, and Parole supported by the Kansas Criminal Justice Coordinating Council, the Kansas Sentencing Commission, and the Kansas Department of Corrections	MJM Consulting Services December, 1995 The consultant's analysis and recommendations of was based on • "Task Force on Field Services Consolidation" report, • interviews with selected justice officials and legislators in Kansas • Focus groups with field service staff and criminal justice agency representatives. • Statistical information and agency descriptions • Consultation with officials from other states	The administration of correctional field services in Kansas should be reorganized and consolidated within the next two years. A central state office should be established to provide state oversight of state-funded, county-managed field services agencies. The proposed agency should be an independent neutral agency eliminating turf issues resulting in placing the office in an existing field services agency. The proposed agency would provide a central location for data collection and systems monitoring. This report stated, however, that in discussions with key legislators, department heads, and others as well as a review of the Task Force Report (2nd Task Force) that forming a new state agency was not an option considering pending plans to reduce the budget and size of state government.

Year	Report Title	Requested by:	Performed by:	Recommendations
1997	Report to the 1997 Kansas Legislature	Chief Justice and Secretary of Corrections as a result of the Koch Crime Commission Report	Judge Newton Vickers, Chairman of the Field Services Coordination Committee, and representatives of court services, community corrections, state parole services, and the office of judicial administration.	The mission of this report was to identify issues in which court services, community corrections, and parole services can provide improved services. Four subcommittees were established to study the issues of: • Identification of the lead agency in cases of multiple supervision • Cooperative training • The development of an uniform offender risk/needs instrument • The development of an uniform offender database. Recommendations were to be made on all issues.
2000	Committee Reports to the 2000 Legislature	Special Committee on Judiciary	1999 HB 2398-Rep Shari Weber, this bill would create the Unified Field Services Commission. The members would be Chief Justice; the Secretary of KDOC; the Commissioner of JJA; the Chief Court Service Officer; the Chairperson of the Kansas Parole Board; the Executive Director of the Kansas Sentencing Commission; the President	The Committee recommends a bill to repeal the portion of KSA 21-4727, which contains a directive that probation, parole, and community services shall be consolidated on or before January 1, 1994. The Committee believes it is time to put the consolidation of services issue aside due to the inability of the parties involved to arrive at a consensus on the need for consolidation or how to achieve it. Recommendation for further investigation by legislative committees on proposed topics:

Year	Report Title	Requested by:	Performed by:	Recommendations
2000 cont.			Of the Community Corrections Association; a facilitator from a community planning team; and two members of the Legislature, one from the House and one from the Senate. The Secretary of Corrections would chair.-Sunset provision October 1, 2000.	• Clarify the responsibilities of the community corrections program . • Add 50 more court service officers • Fund the pay reclassification plan proposed by the Kansas Association of Court Services Officers • Consider the idea of abolishing community corrections programs and require that all felony probation supervision be placed under court services officers.

Committee Reports

to the

2000 Kansas Legislature

Part I—Special Committees

Part II—Selected Joint Committees, Other Committees, Commissions, and Task Forces

Kansas Legislative Research Department
December 1999

CONSOLIDATION OF FIELD SERVICES*

CONCLUSIONS AND RECOMMENDATIONS

The Committee recommends a bill to repeal the portion of KSA 21-4727 which contains a directive that probation, parole, and community corrections services shall be consolidated on or before January 1, 1994. The Committee believes it is time to put the consolidation of services issue aside due to the inability of the parties involved to arrive at a consensus on the need for consolidation or how best to achieve it.

The Committee also recommends that the appropriate committees of the 2000 Legislature more fully investigate the following recommendations proposed during the interim:

- Clarify the responsibilities of the community corrections programs to require that these programs focus solely on providing intermediate sanctions programs for offenders as a stage between probation and prison. Define the offender populations that should utilize the community corrections programs to determine the high risk probationers. Change the name of this program to "regional intermediate sanction" programs for Kansas.
- Add 50 more court services officers in Kansas to meet public safety needs.
- Fund the pay reclassification plan proposed by the Kansas Association of Court Services Officers and establish a court services supervision fee to help fund this plan.
- Consider the idea of abolishing community corrections programs and requiring that all felony probation supervision be placed under court services officers.

BACKGROUND

The study called for a review of the issue of the consolidation of field services performed by court services officers, parole officers, and community corrections officers.

1999 HB 2398

The study was prompted by the introduction of 1999 HB 2398 by Representative Shari Weber. HB 2398 would create the Unified Field Services Commission. This Commission would be given the following responsibilities:

- Develop a plan for the consolidation of the activities, funding, and administration of court service probation, parole, post-release supervision, and community corrections services with the Kansas Department of Corrections (KDOC) as the central agency with responsibility and oversight of all such field services;
- Report to the Joint Committee on Corrections and Juvenile Justice Oversight on a monthly basis;
- Prepare and present a final report to the Joint Committee and to the Governor by September 30, 2000;

* HB 2595 was recommended by the Committee.

- Consult and advise the Joint Committee, and any other legislative committee and the Governor with reference to the implementation, management, monitoring, maintenance, and operation of such consolidation of field services; and

- Make recommendations to the Joint Committee in regard to any needed legislation.

The Unified Field Services Commission would have ten members: the Chief Justice; the Secretary of KDOC; the Commissioner of the Juvenile Justice Authority (JJA); the Chief Court Service Officer; the Chairperson of the Kansas Parole Board; the Executive Director of the Kansas Sentencing Commission; the President of the Community Corrections Association; a facilitator from a community planning team; and two members of the Legislature, one from the House and one from the Senate. The Secretary of KDOC would be the Chair of the Commission. The provisions of HB 2398, regarding the Commission, would sunset on October 1, 2000.

HB 2398 would charge the Joint Committee on Corrections and Juvenile Justice Oversight with monitoring and reviewing the development of the plan for consolidation of field services which is developed by the Unified Field Services Commission. The Joint Committee would also be responsible for the introduction of legislation necessary in the implementation of the consolidation of field services. HB 2398 also amends KSA 46-4801 to extend the life of the Joint Committee on Corrections and Juvenile Justice Oversight until December 1, 2001.

The concept in HB 2398 is patterned after prior legislation for the Sentencing Commission (KSA 74-9101 *et seq.*), which provided that the Sentencing Commission would develop a sentencing guideline model. These recommendations resulted in the enactment of the Kansas Sentencing Guidelines Act (KSA 21-4701 *et seq.*).

Field Services Consolidation Issue in the 1990s

In 1991, the Kansas Legislature directed the Criminal Justice Coordinating Council (CJCC) to form a task force to study consolidation of field services. The task force consisted of 18 members, appointed as representatives of the Kansas Sentencing Commission, community corrections programs, parole services, and the courts. The task force conducted hearings and a state survey, and analyzed statistics, statutes, and descriptions of the current system. The task force's recommendation in January 1992 was for the consolidation of field services.

The CJCC presented the task force's report and recommendations to the 1992 Kansas Legislature. The report triggered among other things the passage of SB 479, which required the appointment of another task force to consider implementation of consolidation and a requirement which is codified as part of KSA 21-4727 as follows:

"On or before January 1, 1994, probation, parole and community corrections services shall be consolidated after review of the recommendation of a task force to be appointed by the Kansas Sentencing Commission."

The 1992 Interim Special Committee on Judiciary was charged to review the recommendations of the second task force which in December 1992, had also recommended consolidation, but proposed the consolidation to be placed under KDOC. The 1992 interim committee recommended that the 1993 Senate Judiciary Committee introduce a bill that reflected the second task force recommendations for the field services consolidation under KDOC.

The 1993 Senate Judiciary Committee introduced SB 21 which would have implemented the consolidation of field services, as directed by KSA 21-4727. The bill included provisions for consolidation of field services under KDOC with a revised implementation

date of July 1, 1994. Both houses of the 1993 Legislature passed SB 21, but a conference committee could not resolve House and Senate versions. Despite the language of KSA 21-4727, the 1993 Legislature failed to pass legislation to implement consolidation.

The Attorney General was asked to rule on the status of the consolidation language in KSA 21-4727, as related to the provision for consolidation. In Opinion No. 93-72, the Attorney General stated the following:

"The obvious intent of the consolidation provision in (KSA 21-4727) was that the legislature would review the recommendations of the second task force and pass legislation required to implement the consolidation . . . . This prerequisite never occurred and, therefore, the provision requiring the consolidation has no legal effect because legislation is necessary to implement any consolidation. Consequently, it is our opinion that in the absence of legislation implementing the consolidation of probation, parole and community correction services, the 'consolidation' provision (KSA 21-4727) is a nullity."

In November 1994, the Executive Director of the Kansas Sentencing Commission asked the Koch Crime Institute to review and make recommendations pertaining to the 1992 Task Force report. The Koch Crime Institute consulted with its Corrections Task Force and agreed to examine the report.

The Koch Crime Institute's Task Force on Corrections, Prisons, Jails, and Parole, under the leadership of the Secretary of KDOC, requested that the Institute retain a consultant to undertake the consolidation project review. The Kansas CJCC and KDOC supported the project.

The Koch Crime Institute contracted with MJM Consulting Services of Boulder, Colorado. MJM was directed to conduct a study of Kansas' field services and the feasibility of reorganization to improve their efficiency and effectiveness, and make recommendations detailing a method for any alterations needed. The consultant conducted a study of correctional field services in Kansas, provided an updated analysis of the current system, and made recommendations for improvements. The consultant's report was published as the *Kansas Field Services Consolidation*, in April 1996 after being released the previous December.

The *MJM Consulting Services Report* recommended the following:

"The administration of correctional field services in Kansas should be reorganized within the next two years. A central state office should be established, under the direction of a committee of the Criminal Justice Coordinating Council, which provided state oversight of state-funded, county-managed field services agencies."

"A field services transition team should be formed by September 1996. If reorganization is adopted by the Legislature, the committee will assist in transition planning. If reorganization is not enacted, the committee should be formed and function as an interagency, organization team to plan for fuller collaboration and coordination among field services systems."

While the report recommended a centralized state office under the direction of the CJCC, it also suggested that other options were available.

The CJCC declined to act on the consultant's report indicating that they did not envision themselves as a management entity. Shortly thereafter the Chief Justice of the Kansas Supreme Court and Secretary of KDOC appointed a joint Field Services Coordination Committee to identify and implement measures to increase efficiency and effectiveness of field services in lieu of consolidation.

In January 1997, the Field Services Coordination Committee generated a report focusing on identification of a lead agency in cases

of multiple supervision; cooperative training, uniform offender risk/needs instrument; interagency transfer criteria; uniform database; and offender assignment staffing conferences. A uniform database was established for community corrections and parole services and substantial progress has been made toward validating risk/needs instruments for those two entities.

In January 1998, KDOC's ten-year corrections master plan recommended field services unification through establishment of local and regional community supervision departments to plan, develop, operate, and evaluate community supervision services for one or more counties. In December 1998, the Koch Crime Institute issued a White Paper Report entitled *Kansas Field Services Consolidation Report* noting that consolidation has been repeatedly recommended and that a decision to either consolidate or streamline the current organizational structure needs to be made.

Field Services Review

Parole. KDOC parole officer staffing statewide consists of 11 Parole Supervisors; 29 Parole Officer IIs; and 79 Parole Officer Is. The average caseload is 62 offenders. Only Parole Officer Is and IIs have caseloads. As of December 31, 1998, the in-state parole population numbered 5,764 with 4,585 being Kansas offenders and 1,179 offenders from other states supervised as a result of an interstate compact. The total parole budget for FY 1999 was $97 million.

Community Corrections. The FY 1999 expenditures for community corrections grants are estimated at $14,093,638 which does not include Byrne Grant match funds of $220,393; condition violator grant funds of $700,000; or substance abuse and mental health grant funds of $250,000. The average daily population of adults supervised by local community corrections programs for FY 1998 was 4,535 and for adults at the Sedgwick and Johnson County residential centers, 184. There are approximately 220 community corrections officers with caseloads.

Court Services Officers. A total of 342 court services officers are employed by the Kansas Judicial Branch. The total includes all court services officers and supervisors. In FY 1999, court services officers undertook the supervision of a total of 20,010 adult felony, misdemeanor, and traffic cases, and a total of 7,724 juvenile cases. court services officers perform a variety of other functions in addition to supervision. Statewide, court services officers collected approximately $2.8 million in restitution for victims of crimes during that same time period, and prepared a total of 29,977 reports to the court in criminal cases (including presentence investigation, transfers reports, violation investigations, and progress reports, among others). In domestic cases, they prepared a total of 7,190 reports to the court, providing services to judges in child custody, visitation, and divorce cases. A total of 1,231 diversion cases required investigative and supervision services from court services officers, and court services officers monitored 669 interstate compact cases. The FY 1999 budget cost for salaries and wages for all court services officers was $12,919,626, including fringe benefits and family health insurance. Other operating expenses for court services officers are paid by the counties.

Committee Activities

The Committee heard from representatives of KDOC, the Kansas Sentencing Commission, the Kansas Parole Board, the Office of Judicial Administration, the Kansas Association of Court Services Officers, the Kansas JJA, the Kansas District Judges Association, the Kansas Community Corrections Association, the Koch Crime Commission, a regional supervisor of the Missouri Probation and Parole Board, the Sedgwick County Corrections Advisory Board, several parole officers,

several district court judges, a second community corrections director, and Representative Shari Weber.

Consolidation of field services was supported by representatives of the Kansas Sentencing Commission, the Kansas Parole Board, the Koch Crime Commission, the Missouri Probation and Parole Board regional administrator, the director of the Emporia Court Services and Community Corrections program, the Kansas Community Corrections Association (under an independent field service agency), and Representative Shari Weber.

Consolidation was opposed by the Kansas Association of Court Services Officers. The representative of the Sedgwick County Community Corrections Advisory Board opposed consolidation under KDOC unless some mechanism was provided for local needs to be considered. The representative of the Office of Judicial Administration opposed consolidation under the Judicial Branch. The representatives of the Kansas District Judges Association recommended that the community corrections program be abolished and that all adult felony probationers be placed under the direction of the local judicial district with adequate funding for added court services officers.

Conclusions and Recommendations

The Committee recommends a bill to repeal the portion of KSA 21-4727 which contains a directive that probation, parole, and community corrections services shall be consolidated on or before January 1, 1994. The Committee believes it is time to put the consolidation of services issue aside due to the inability of the parties involved to arrive at a consensus on the need for consolidation or how best to achieve it.

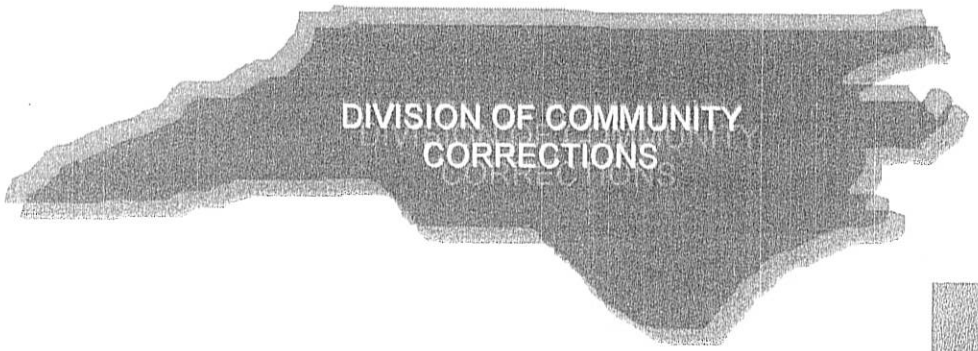
The Committee also recommends that the appropriate committees of the 2000 Legislature more fully investigate the following recommendations proposed during the interim:

- Clarify the responsibilities of the community corrections program to require that these programs focus solely on providing intermediate sanctions programs for offenders as a stage between probation and prison. Define the offender populations that should utilize the community corrections programs to determine the high risk probationers. Change the name of this program to "regional intermediate sanction" programs for Kansas.

- Add 50 more court services officers in Kansas to meet public safety needs.

- Fund the pay reclassification plan proposed by the Kansas Association of Court Services Officers and establish a court services supervision fee to help fund this plan.

- Consider the idea of abolishing community corrections programs and requiring that all felony probation supervision be placed under court services officers.



NORTH CAROLINA

TOUGH PUNISHMENTS THAT MAKE SENSE

COMMUNITY CORRECTION STRATEGY

1993 - 2000

James B. Hunt, Governor

Robert Lee Guy, Director

DIVISION OF COMMUNITY CORRECTIONS

- Probation
- Intensive
- House Arrest
- Impact
- Criminal Justice Partnerships
- Post-Release/Parole
- Substance Abuse Screening
- Victim Services

INTRODUCTION

North Carolina's Structured Sentencing Legislation is successfully achieving its goal of truth in sentencing by incarcerating violent and dangerous offenders and seeing that they serve out the active punishment as received. There is no doubt that this will help restore public trust. However, the second most critical element of new sentencing legislation is the Division of Community Corrections' ability to establish a comprehensive community correction strategy which includes a tough continuum of punishments for the intermediate sentenced offender while maintaining traditional probation supervision for the community offender. Together, with prisons, intermediate sanctions and community probation, we have formed a progressive ladder of punishments to effectively control, treat, and hold accountable criminal offenders in North Carolina.

COMMUNITY CORRECTION STRATEGY

GOAL Development and implementation of a comprehensive community correction strategy aimed at restoring the public's confidence in our criminal justice system, protecting society, and enabling offenders under our supervision the opportunity to reform and become productive, law abiding citizens.

REORGANIZATION to provide an efficient, effective and streamlined organizational structure to manage and implement the Division's Community Correction Strategy.

DEVELOPMENT AND IMPLEMENTATION of a comprehensive Community Corrections Strategy.

COMMUNITY CORRECTION STRATEGY

UPDATE 1993-2000

- **REORGANIZATION**
  COMPLETED 1998
- **CONTINUUM OF SANCTIONS**
  COMPLETED 1995
- **CASE MANAGEMENT STRATEGIES**
  COMPLETED 1999
- **INTERAGENCY COLLABORATION/ PARTNERSHIP STRATEGIES**
  ONGOING

REORGANIZATION

- 93-95 FINALIZED MERGER PROBATION/PAROLE; JUDICIAL ALIGNMENT
- THREE YEAR EXPANSION OF DAPP 94-97 900+ POSITIONS
- CJPP MERGER W/DAPP MAY, 1998
- OFFICIAL NAME CHANGE
- DIVISION OF ADULT PROBATION/PAROLE

  TO

  DIVISION OF COMMUNITY CORRECTION

JULY 1, 1998

DCC

CONTINUUM OF SANCTIONS

INTERMEDIATE

21,461

DWI I, II - 12,000

ABSCONDERS - 16,309

- SPLIT SENTENCE
- IMPACT
- RESIDENTIAL
- ELECTRONIC HOUSE ARREST
- DRC
- INTENSIVE PROGRAM

COMMUNITY

52,445

DWI III,IV,V - 8,000

PRE SS - 18,386

- TRADITIONAL PROBATION

CASE MANAGEMENT STRATEGIES

INTERMEDIATE CASE MANAGEMENT PLAN

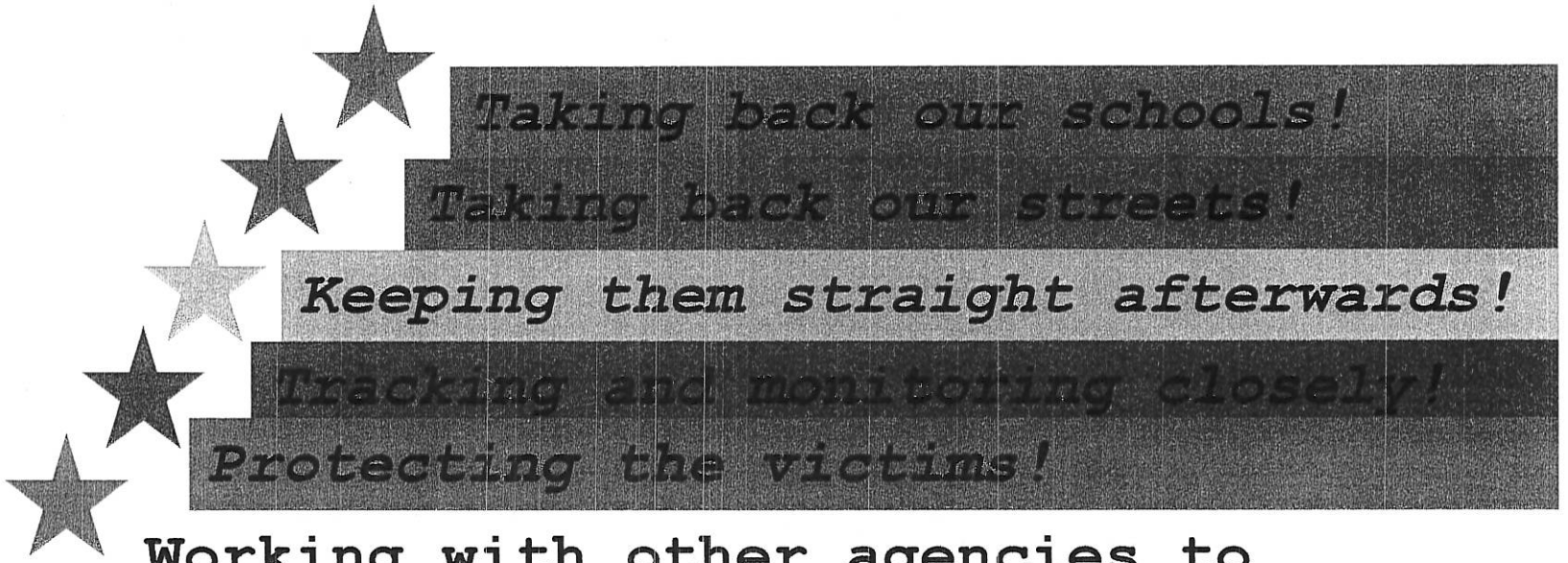
- CASELOAD GOAL/TARGET POPULATIONN
- 60-1 OFFICER/OFFENDER RATIO
- 'I' SANCTION OFFENDERS
- POST-RELEASE SUPERVISION OFFENDERS
- 'C' PUNISHMENT FAILURES
- HIGH NEED/SPECIALIZED OFFENDERS

  EX. SEX OFFENDERS, DOMESTIC VIOLENCE

  DEVELOPMENTAL DISABILITIES, ETC.
- HIGH RISK/NEED DWI

INTERMEDIATE STRATEGIES

- **TEAM STRATEGIES TO ENHANCE COLLABORATION**



Working with other agencies to apprehend fugitives!

INTERMEDIATE STRATEGIES

- **DCC PARTNERSHIPS/COLLABORATIONS**

SCHOOL PARTNERSHIP PROGRAM

COMMUNITY POLICING

STATE/COUNTY PARTNERSHIPS (CJPP)

SEX OFFENDER CONTROL PROGRAM

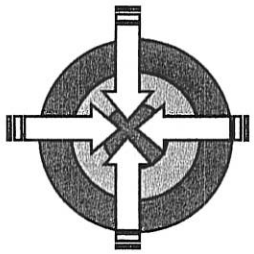
DOMESTIC VIOLENCE PROGRAM

FBI FUGITIVE TASK FORCE

INTERMEDIATE STRATEGIES

- **CONTROL/TREATMENT PLAN**
  - SPECIALIZED OFFICERS
    - **INTENSIVE CASE OFFICERS**
    - **INTERMEDIATE PROBATION OFFICERS**
  - CONTROLLING CONDITIONS
    - **CURFEWS**
    - **RESTRICTION OF MOVEMENT**
    - **INCREASED FREQUENCY/INTENSITY OF CONTACT**
    - **INCREASED OFFICER PRESENCE IN COMMUNITY**
  - TREATMENT CONDITIONS
    - **MANDATORY DRUG SCREENS**
    - **TREATMENT ASSESSMENT**
    - **ENFORCED PARTICIPATION IN TREATMENT**
    - **MANDATORY WORK/SCHOOL**

COMMUNITY CASE MANAGEMENT PLAN



CASELOAD GOAL/TARGET POPULATION

90-1 OFFICER/OFFENDER RATIO

'C' PUNISHMENT OFFENDERS

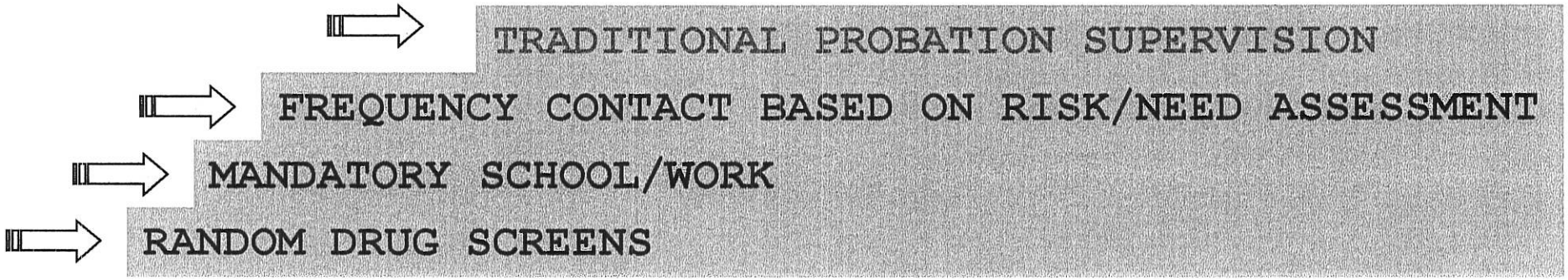
LOW RISK/NEED DWI

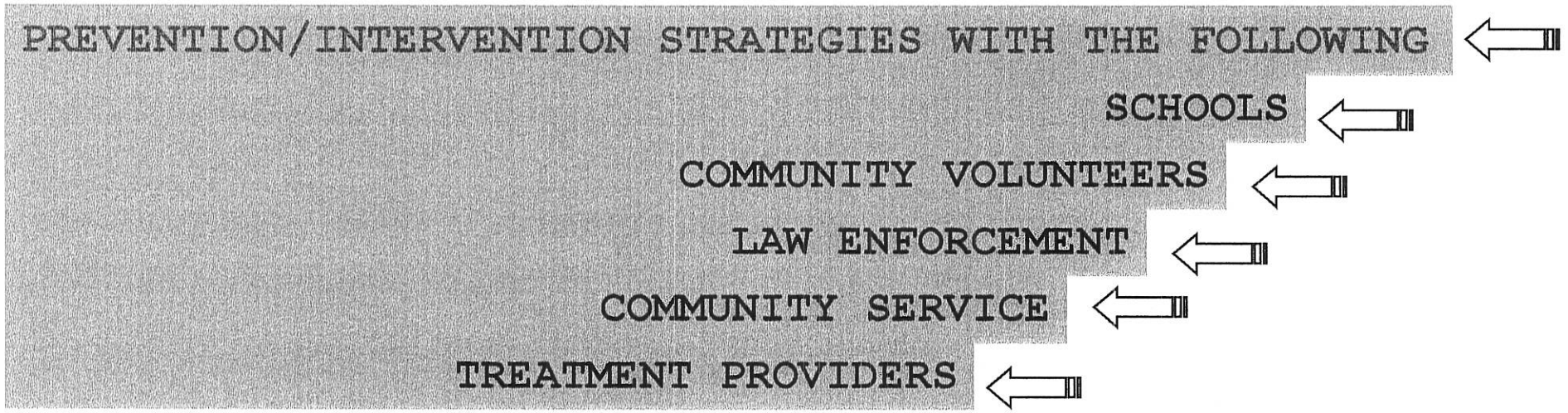
UNSUPERVISED PROBATION FAILURES

PRE-SENTENCE INVESTIGATION/TARGETING

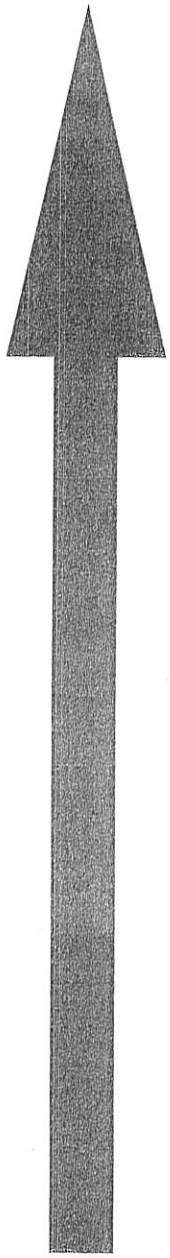
FOR COURTS

CONTROL/TREATMENT PLAN





OFFICER CAREER DEVELOPMENT PLAN



- CHIEF PROBATION OFFICER CLASS (PPOIV)
  - HIGHEST CERTIFIED CLASS IN DIVISION
  - LINE SUPERVISOR

- INTERMEDIATE PUNISHMENT OFFICER CLASS
  - **INTENSIVE CASE OFFICERS**
  - **INTERMEDIATE PROBATION OFFICERS**
    - -SUPERVISE INTERMEDIATE PUNISHMENT CLASS
    - -MANDATORY SHIFT/WEEKEND WORK REQUIRED
    - -90% OFFENDER CONTACT IN FIELD
    - -HIGHER TRAINING STANDARD MIN. 3 YRS EXP.

- COMMUNITY PUNISHMENT OFFICER (PPOI)
  - -TRADITIONAL PROBATION OFFICERS

GOAL 2000

"NEW" DIVISION OF COMMUNITY CORRECTIONS

◆ORGANIZATION WHICH EFFECTIVELY AND EFFICIENTLY MANAGES AND COORDINATES COMMUNITY CORRECTIONS RESOURCES

"NEW" CASE MANAGEMENT POLIC Y

◆EMPHASIZES "TOUGH PUNISHMENT THAT MAKE SENSE" FOR THE "INTERMEDIATE" OFFENDERS WHILE MAINTAINIG TRADITIONAL PROBATION SUPERVISION FOR THE "COMMUNITY" OFFENDERS

"NEW" PROFESSIONAL STANDARD FOR "I" OFFICERS

◆BETTER TRAINED, EQUIPPED AND MORE EXPERIENCED WORKFORCE TO CONTROL "I" OFFENDERS

STATE OF KANSAS

DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
Landon State Office Building
900 S.W. Jackson — Suite 400-N
Topeka, Kansas 66612-1284
(785) 296-3317

Bill Graves
Governor

Charles E. Simmons
Secretary

MEMORANDUM

TO: Senate Judiciary Committee

FROM: Charles E. Simmons

DATE: February 21, 2002

SUBJECT: SB 454

SB 454 would create a new state agency, effective July 1, 2004. The new agency would consolidate the supervision activities of probation, parole, and community corrections.

History of the Issue

The consolidation issue dates back to 1991. Several task forces and consultants have recommended consolidation. The Legislature has directed that consolidation occur, but has failed to specify how that should be accomplished.

My testimony of August 9, 1999 to a Special Committee on Judiciary, a copy of which is attached hereto, summarizes the history of this issue through that date. While the history shows considerable conceptual support for field services consolidation, the details of how to do it, where to do it, and who is going to be in charge have never been decided by the legislature.

Consolidation under a new state agency has been recommended by some, as has consolidation under the Department of Corrections. Administrative oversight from the Criminal Justice Coordinating Council has been suggested, as has maintaining the current structure but working towards a better coordination of field services supervision. Given the mix of field services involved–a state agency, the judicial branch, and local communities–I believe it is clear that if consolidation is to occur, legislative action will be necessary to specify how it is accomplished.

Cooperative Activities of Existing Entities

In considering this issue it would be inappropriate to conclude that no progress has been attained in recent years in accomplishing some of the desired outcomes of consolidation.

- In December 1995 Chief Justice McFarland and I appointed a Field Services Coordination Committee, involving all field services interests. Many of this Committee's recommendations, issued in January 1997, have been implemented

SJud 2-21-02 Att 7

- The Total Offender Activity Documentation System (TOADS) has been developed and both community corrections and DOC place and share information in this system.
- Development of the Kansas Adult Supervised Population Electronic Repository (KASPER) is underway as part of the Criminal Justice Information System (CJIS). This repository will contain information on all adults under supervision, regardless of the agency supervising. KDOC is taking an active role in developing a state-wide Adult Offender Supervision Repository. This includes project management and coordination with agencies at all levels down to the counties. This repository will eventually house data pertaining to probation, confinement, post-incarceration supervision, jail, victim services and offender release planning.
- Development of a new, standardized risk/needs instrument is underway, involving the Kansas Parole Board, the DOC, and representatives from probation and community corrections.
- Senate Bill 323, enacted by the 2000 Legislature, established a target population for community corrections, thereby improving the coordination for the supervision of offenders in the community.
- Other areas of collaboration are identified in an attachment to my testimony.

The existing agencies are working cooperatively within the existing structure to improve efficiency and effectiveness of field services.

Creating a New State Agency

While as indicated in my testimony of August 1999, I support the concept of consolidation of field services and agree that some efficiencies will result from that action, I do not know whether creating a new state agency is the best course of action to take at this time. I don't know that it is not. There has not been a detailed analysis completed for each of the various options available in order to come to that conclusion.

Creating a new state agency is a significant action to take. Growing state government should be a considered, thoughtful decision made because it is the best alternative available. If, after analyzing the options a new agency is determined to be the best option, then the state should move in that direction.

Is consolidation through a new state agency better than under an existing agency? Can the current structure under several entities be modified in order to achieve the goals of consolidation? What will be the cost of each option? What are the advantages and disadvantages of each option? How will a new state agency be organized? How will it interact with the local communities? How will it interact with existing state agencies?

I believe answers to these and other questions should be available before a specific course of action is decided upon. As such, I recommend that SB 454 be amended to provide for a thorough analysis of each option for consolidation. The analysis should be submitted to the legislature next January, with an implementation goal the same as set forth in SB 454, July 1, 2004. With such analysis the legislature can make an informed decision on this issue.

Without such an analysis, the legislature is being asked to create a new agency without knowing that it is the best option, without knowing what it will cost, particularly whether it will cost more than the existing system, and without knowing how it will be administered.

Proposed Amendment

Proposed amendments to SB 454 are attached. These amendments provide for the analysis of the various options for consolidation.

The proposed amendments leave with the Sentencing Commission the appointment of the task force to undertake this analysis. The Committee may want to consider naming the task force in the bill given the number of different entities having an interest in this issue or which will be impacted by consolidation efforts.

STATE OF KANSAS

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(785) 296-3317

Bill Graves
Governor

Charles E. Simmons
Secretary

MEMORANDUM

DATE: August 9, 1999

TO: Special Committee on Judiciary

FROM: Charles E. Simmons
Secretary

SUBJECT: Consolidation of Field Services

Background

Adult felons under community supervision are monitored by three separate agencies in Kansas. Court Services supervises adult felons on probation as assigned by the Courts. In calendar year 1997, the average daily population of felons supervised by Court Services was 6,105. Community Corrections also supervises adult felons assigned by the Courts and may, through contractual agreements, monitor adult felons released from Kansas prisons. In fiscal year 1999 through April, Community Corrections agencies supervised an average daily population of 4,905. Parole Services supervises adult felons released from Kansas prisons and parolees and probationers from other states who transfer to Kansas through the Interstate Compact. In FY 1999, the average daily population of felons supervised by Parole Services was 5,766.

A chronology of activities related to field services consolidation is outlined below:

1991
Kansas Legislature directs Criminal Justice Coordinating Council to establish Task Force to study consolidation of field services.

January 1992
Task Force recommends consolidation of field services under new executive branch agency, the Department of Field Services.

1992
Kansas Legislature appoints second Task Force to consider implementation of consolidation and passes the following directive which is incorporated into K.S.A. 21-4727: "On or before January 1, 1994, probation, parole, and community corrections services shall be consolidated after review of a task force to be appointed by the Kansas Sentencing Commission".

December 1992
Second Task Force recommends consolidation of field services under the Kansas Department of Corrections.

1993
Senate Judiciary Committee introduces Senate Bill 21 to implement consolidation of field services under the Kansas Department of Corrections by July 1, 1994. Legislation fails to pass.

June 1993
Attorney General asked to rule on status of consolidation provision of K.S.A. 21-4727 and responds, "...it is our opinion that in the absence of legislation implementing the consolidation of probation, parole, and community corrections services, the "consolidation" provision of (K.S.A. 21-4727) is a nullity".

January 1995
Koch Crime Commission's Task Force on Corrections, Prisons, Jails, and Parole (chaired by Secretary Simmons) requests Commission to retain consultants to update 1992 Task Force on Field Services Consolidation Report.

December 1995
Consultant's Kansas Field Services Consolidation Report recommends that, "The administration of correctional field services in Kansas should be reorganized within the next two years. A central state office should be established, under the direction of a committee of the Criminal Justice Coordinating Council which provides state oversight of state-funded, county managed field services agencies. Other viable options identified in the report were: Maintain current organizational structure but formally

declare an objective to establish better field services coordination; or consolidate field services under the Kansas Department of Corrections.

December 1995
Criminal Justice Coordinating Council declines to act on consultants' report indicating that they do not envision themselves as a management entity.

December 1995
Chief Justice Kay McFarland and Secretary of Corrections Charles Simmons appoint Field Services Coordination Committee to identify and implement measures to increase efficiency and effectiveness of field services in lieu of consolidation.

January 1997
Field Services Coordination Committee generates report focusing on identification of lead agency in cases of multiple supervision; cooperative training; uniform offender risk/needs instrument; interagency transfer criteria; uniform database; and offender assignment staffing conferences. A uniform database has been established for Community Corrections and Parole Services and substantial progress has been made toward validating risk/needs instruments for those two entities.

January 1998
Ten Year Corrections Master Plan recommends field services unification through establishment of local and regional Community Supervision Departments to plan, develop, operate, and evaluate community supervision services for one or more counties.

December 1998
Koch Crime Institute issues White Paper Report entitled Kansas Field Services Consolidation Report noting that consolidation has been repeatedly recommended and that a decision to either consolidate or streamline the current organizational structure needs to be made.

February 1999
HB 2398 submitted, proposing to create the Unified Field Services Commission with responsibility for developing a plan for the consolidation of the activities, funding, and administration of court service probation, parole, post-release supervision, and community corrections services with the Department of Corrections as the central agency with responsibility and oversight of all such field services. No action taken on proposed legislation.

This chronological outline of legislative initiatives and various studies of field services consolidation indicates that there does appear to be consensus that consolidation should take place. However, the details of how to do it, where to do it, and who is going to be in charge have thwarted implementation.

Goals of Consolidation

Consideration of the feasibility of consolidating Kansas' three field services agencies seems to have originated with concerns about eliminating duplication of services and dual supervision of offenders. Proponents of consolidation have also cited the following additional goals:

- Increased efficiency (a more uniform system for the administration and operation of field services)
- More even distribution of resources
- Expansion in the types and availability of offender services
- Adoption of single risk/needs assessment for offender classification purposes
- Establishment of single set of supervision standards
- Consistent utilization of intermediate sanctions for condition violators
- Selection of standard performance measures
- Development of uniform offender database
- Standardization of field service training content and elimination of duplication in training delivery

It is critical that the goals of consolidation be agreed on before proceeding to discuss the issues of how, where, and who will be in charge of a consolidated field services system.

Consolidation Options

After determining the goals consolidation is expected to achieve, the following issues will also need to be addressed:

- Target Population

The presumption has been that a consolidated field services agency would serve only adult offenders, not juveniles. This proposed target population should be explicitly confirmed. A decision will also need to be made concerning whether the target

population should be restricted to felons or if it should also include misdemeanants. We also believe that determining the appropriate target population for each service will be critical to accomplishing the goals of consolidation.

- Offender Services

The initial Task Force recommended that the services of a consolidated agency should be restricted to offenders on post-conviction status. Pre-conviction services, such as pre-trial diversion and pre-trial release supervision, have not been contemplated by those charged with studying consolidation and this direction should be confirmed. In addition, specific services needed throughout the state, and the best way of delivering those services, will need to be determined.

- Administrative Structure

The various studies consistently advocate that a consolidated field services agency be designated as part of the Executive rather than Judicial Branch of government. This placement will need to be endorsed. Arguably, the primary issue concerning the administrative structure of a consolidated field services agency is whether offender supervision should be the responsibility of the state or the county or groups of counties.

The two potential consolidation models are presented below:

- State Responsibility Model

Consolidation occurs within a single state agency which could be: a) New State Agency, b) Department of Corrections, c) Office of Judicial Administration. Offender supervision is performed by state employees and services (e.g. substance abuse treatment) are provided through: (1) statewide contractual agreements with private providers; (2) local service providers; (3) staff; or (4) a combination of providers.

- Local Responsibility Model

Consolidation occurs at local level which might consist of a) Single County, b) Group of Counties, c) Counties divided into regions. Funding and oversight would be provided by a) New State Agency, b) Department of Corrections, c) Office of Judicial Administration. Offender supervision is performed by county employees, and services are provided through contractual agreements with local service providers or staff, or a combination thereof.

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Other Issues

- The Community Corrections Advisory Committee has previously recommended that Community Corrections agencies be designated as being responsible for supervising all adult felons granted probation by Kansas courts. In effect, implementation of this recommendation would consolidate Community Corrections and Court Services. This concept does not include parole services, making it a partial consolidation option.

- Any consolidation option will have to address replacing county funding and in-kind services which are currently devoted to activities related to offender supervision. The 1992 Task Force Report estimated that the value of those services was approximately three million dollars.

- Court Services conducts presentence investigations, provides divorce mediations, and supervises bond and diversion cases. Provisions will need to be made to continue these services.

Conclusion

Several studies in recent years on the issue of the consolidation of field services have been undertaken and have concluded that consolidation should take place. However, the details of how and where consolidation should occur have not been worked out. The Department of Corrections recognizes the studies have concluded that certain efficiencies and an increased effectiveness would result from consolidation and believes it is an issue which has merit.

In my view, achievement of the primary goals of consolidation—efficiency, equitable distribution of resources and standardization of training, offender classification, databases, and performance measures—requires a greater degree of centralized leadership, direction, and accountability than currently exists.

CES:TJV:jg

FIELD SERVICES COLLABORATIVE EFFORTS

Field Services (Kansas Department of Corrections' Division of Community and Field Services, Community Corrections, and Court Services) collaborate in the following manner:

- Co-Located Offices
  - Community Corrections, Court Services, and Parole Services Co-Located
    - Emporia
    - Great Bend
    - Hutchinson
  - Community Corrections and Parole Services Co-Located
    - Paola
    - Liberal
    - Garden City
    - Coffeyville
    - Hays
    - Atchison
    - Independence
  - Community Corrections and Court Services Co-Located
    - Kansas City
    - Leavenworth
    - Concordia

- Shared Communications Lines
  - Community Corrections and Court Services
    - Ness City
  - Adult Community Corrections and Juvenile Community Corrections
    - Atchison
    - Chanute
    - El Dorado
    - Fredonia
    - Fort Scott
    - Hiawatha
    - Hutchinson
    - Leavenworth
    - Newton
    - Ottawa
    - Pittsburg
    - Pratt
    - Salina
    - Wellington
    - Winfield
  - Adult Community Corrections, Juvenile Community Corrections, and Court Services
    - Concordia
    - Great Bend
    - Larned
    - Wichita
  - Adult Community Corrections, Juvenile Community Corrections, and Parole
    - Emporia
    - Hays
    - Independence
    - Liberal
    - Paola
  - Adult Community Corrections and Parole
    - Garden City

- Parole Services ensures Community Corrections' access to its service contracts for electronic monitoring, sex offender treatment and substance abuse testing.

- Representatives of KDOC, Community Corrections, and Court Services are members of the Sentencing Commission's risk/needs working group, tasked with identifying and implementing a dynamic statewide risk and needs assessment instrument.

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FIELD SERVICES COLLABORATIVE EFFORTS

- Community Corrections agencies (such as 25th Judicial Community Corrections, Johnson County Residential Center, Santa Fe Trail Community Corrections, Reno County Community Corrections) permit access of their services by offenders assigned to Court Services and Parole Services supervision.

- Community Corrections, Parole Services, KDOC facilities, and some KDOC treatment providers share offender information in the Total Offender Activity Documentation System (TOADS).

- KDOC and Community Corrections staff worked together to validate the current risk and needs assessment instrument.

- KDOC and Community Corrections staff developed and provided training for Community Corrections and Court Services staff in the use of the risk and needs assessment instrument.

- Community Corrections and Court Services use the same risk and needs assessment instrument.

- Community Corrections, Court Services, and Parole Services staff are represented on the CJIS Supervision Task Force.

- KDOC, Community Corrections, and Juvenile Justice Authority are co-recipients of a Byrne Grant, which, among other things, funds the salaries of technicians that provide support to computers used by Community Corrections, some Court Service offices, Juvenile Justice Authority, and Parole Services.

- KDOC, Community Corrections, and Juvenile Justice Authority are represented on the CJIS Advisory Board.

- KDOC and Community Corrections staff regularly meet to discuss and suggest improvements to the Total Offender Activity Documentation System (TOADS).

- KDOC staff provide and/or coordinate the delivery of training and technical assistance to Community Corrections on a variety of topics, including case management, locating absconders, program administration, fiscal management, grant writing, and computer skills.

- KDOC and Community Corrections staff meet to discuss and revise standards directing Community Corrections Services.

- KDOC, KBI, Court Services, Community Corrections, and Juvenile Justice Authority staff have coordinated mass DNA sampling of offenders throughout the state.

- KDOC and Community Corrections directors met to discuss and revise the mission statement for community corrections.

- KDOC has contracted with Northwest Kansas Community Corrections for the supervision of parolees in 17 counties of northwest Kansas.

- KDOC has entered into an agreement with Shawnee County Community Corrections for the placement of offenders in the Topeka Day Reporting Center. Similar agreements will be offered to community corrections programs in Wichita and Kansas City once DRC's are operational in those communities.

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Session of 2002

SENATE BILL No. 454

By Committee on Judiciary

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AN ACT concerning crimes, criminal procedure and punishment; relating to consolidation of field services; prescribing certain duties on the Kansas sentencing commission; amending K.S.A. 21-4727 and K.S.A. 2001 Supp. 74-9101 and repealing the existing sections.

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

New Section 1. ~~(a) On July 1, 2004, there shall be a consolidation of the activities, funding and administration of the following field services: Probation, parole and community corrections pursuant to this act.~~

~~(b) On July 1, 2004, there shall be created a department of field services which shall be the central authority with responsibility and oversight of such field services. The department of field services shall be responsible for the supervision, treatment and reentry process involving adult felony offenders and for the development and maintenance of a comprehensive database of such offenders under supervision of the department. The department of field services shall develop a statewide comprehensive risk and needs assessment tool and all such offenders shall be subject to and evaluated pursuant to such assessment tool. There shall be established within the department of field services an evaluation division that shall provide annual evaluations of community based programs utilized by the department. The department shall develop and submit a report to the Kansas legislature summarizing such annual evaluations of community based programs. On July 1, 2004, the governor shall appoint a commissioner of field services who shall be responsible for the administration of field services as provided in this act and otherwise provided by law.~~

Sec. 2. K.S.A. 21-4727 is hereby amended to read as follows: 21-4727. All costs and expenses associated with postconviction prison and nonprison sanctions imposed for felony convictions and time spent in a county jail pursuant to a nonprison sanction imposed for felony convictions shall be the responsibility of and paid by the state of Kansas. ~~On or before January 1, 1994, probation, parole and community corrections services shall be consolidated after review of the recommendations of a task force to be appointed by the Kansas sentencing commission.~~

Sec. 3. K.S.A. 2001 Supp. 74-9101 is hereby amended to read as

On July 1, 2004, there shall be a consolidation or restructuring of the activities, funding and administration of the following field services: Probation, parole and community corrections for the supervision, treatment and reentry process involving adult felony offenders; development and maintenance of a comprehensive database of such offenders; development of a statewide comprehensive risk and needs assessment tool by which all such offenders shall be subject to and evaluated; and preparation of annual evaluations of community based programs utilized.

follows: 74-9101. (a) There is hereby established the Kansas sentencing commission.

(b) The commission shall:

(1) Develop a sentencing guideline model or grid based on fairness and equity and shall provide a mechanism for linking justice and corrections policies. The sentencing guideline model or grid shall establish rational and consistent sentencing standards which reduce sentence disparity, to include, but not be limited to, racial and regional biases which may exist under current sentencing practices. The guidelines shall specify the circumstances under which imprisonment of an offender is appropriate and a presumed sentence for offenders for whom imprisonment is appropriate, based on each appropriate combination of reasonable offense and offender characteristics. In developing its recommended sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities. In its report, the commission shall make recommendations regarding whether there is a continued need for and what is the projected role of, if any, the Kansas parole board and whether the policy of allocating good time credits for the purpose of determining an inmate's eligibility for parole or conditional release should be continued;

(2) consult with and advise the legislature with reference to the implementation, management, monitoring, maintenance and operations of the sentencing guidelines system;

(3) direct implementation of the sentencing guidelines system;

(4) assist in the process of training judges, county and district attorneys, court services officers, state parole officers, correctional officers, law enforcement officials and other criminal justice groups. For these purposes, the sentencing commission shall develop an implementation policy and shall construct an implementation manual for use in its training activities;

(5) receive presentence reports and journal entries for all persons who are sentenced for crimes committed on or after July 1, 1993, to develop post-implementation monitoring procedures and reporting methods to evaluate guideline sentences. In developing the evaluative criteria, the commission shall take into consideration rational and consistent sentencing standards which reduce sentence disparity to include, but not be limited to, racial and regional biases;

(6) advise and consult with the secretary of corrections and members of the legislature in developing a mechanism to link guidelines sentence practices with correctional resources and policies, including but not limited to the capacities of local and state correctional facilities. Such linkage shall include a review and determination of the impact of the sentencing

guidelines on the state's prison population, review of corrections programs and a study of ways to more effectively utilize correction dollars and to reduce prison population;

(7) make recommendations relating to modification to the sentencing guidelines as provided in K.S.A. 21-4725 and amendments thereto;

(8) prepare and submit fiscal impact and correctional resource statement as provided in K.S.A. 2001 Supp. 74-9106 and amendments thereto;

(9) make recommendations to those responsible for developing a working philosophy of sentencing guideline consistency and rationality;

(10) develop prosecuting standards and guidelines to govern the conduct of prosecutors when charging persons with crimes and when engaging in plea bargaining;

(11) analyze problems in criminal justice, identify alternative solutions and make recommendations for improvements in criminal law, prosecution, community and correctional placement, programs, release procedures and related matters including study and recommendations concerning the statutory definition of crimes and criminal penalties and review of proposed criminal law changes;

(12) perform such other criminal justice studies or tasks as may be assigned by the governor or specifically requested by the legislature, department of corrections, the chief justice or the attorney general;

(13) develop a program plan which includes involvement of business and industry in the public or other social or fraternal organizations for admitting back into the mainstream those offenders who demonstrate both the desire and ability to reconstruct their lives during their incarceration or during conditional release;

(14) ~~appoint a task force to make recommendations concerning the consolidation of probation, parole and community corrections services;~~

~~(15)~~ produce official inmate population projections annually on or before six weeks following the date of receipt of the data from the department of corrections. When the commission's projections indicate that the inmate population will exceed available prison capacity within two years of the date of the projection, the commission shall identify and analyze the impact of specific options for (A) reducing the number of prison admissions; or (B) adjusting sentence lengths for specific groups of offenders. Options for reducing the number of prison admissions shall include, but not be limited to, possible modification of both sentencing grids to include presumptive intermediate dispositions for certain categories of offenders. Intermediate sanction dispositions shall include, but not be limited to: Intensive supervision; short-term jail sentences; halfway houses; community-based work release; electronic monitoring and house arrest; substance abuse treatment; and pre-revocation incarceration. Intermediate sanction options shall include, but not be limited to, mecha-

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nisms to explicitly target offenders that would otherwise be placed in prison. Analysis of each option shall include an assessment of such options impact on the overall size of the prison population, the effect on public safety and costs. In preparing the assessment, the commission shall review the experience of other states and shall review available research regarding the effectiveness of such option. The commission's findings relative to each sentencing policy option shall be presented to the governor and the joint committee on corrections and juvenile justice oversight no later than November 1; ~~and~~

~~(10)~~ at the request of the governor or the joint committee on corrections and juvenile justice oversight, initiate and complete an analysis of other sentencing policy adjustments not otherwise evaluated by the commission.; *and*

~~*(17) on or before May 1, 2002, appoint a transition committee to: (A) Identify critical issues related to consolidation of field services as provided in section 1, and amendments thereto;*~~

~~*(B) establish a timeline of required activities prior to such consolidation;*~~

~~*(C) identify and address obstacles to such consolidation;*~~

~~*(D) identify appropriate current resources to be transferred to the department of field services;*~~

~~*(E) identify any additional resources required for operation of the department of field services;*~~

~~*(F) review and identify staffing needs for the department of field services;*~~

~~*(G) draft a transition plan for the transfer of responsibilities, powers, duties and functions to the department of field services, and*~~

~~*(H) make recommendations as to legislation necessary to implement the consolidation of field services as provided in section 1, and amendments thereto.*~~

~~*Such committee*~~ *shall include adequate and necessary representation from probation, parole and community corrections services.* ~~*On or before January 15, 2003, the commission shall submit a complete department operations plan, clearly defined departmental mission, goals and objectives, departmental structure, comprehensive budget, state fiscal note and necessary statutory changes to implement the consolidation of field services pursuant to section 1, and amendments thereto.*~~

Sec. 4. K.S.A. 21-4727 and K.S.A. 2001 Supp. 74-9101 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the Kansas register.

(15)

(16) appoint a task force to make an analysis concerning whether consolidation of probation, parole and community corrections services should be under the auspices of an existing state agency, a newly created independent state agency, or whether the goals of consolidation can be accomplished through a restructuring or other cooperative working relationship of the existing field service entities. The task force shall submit a report of its analysis to the Kansas legislature by January 15, 2003. The report shall identify cost estimates as well as the advantages and disadvantages of consolidation of probation, parole and community corrections services under the auspices of an existing state agency, a newly created independent state agency, and a restructuring or other cooperative working relationship of the existing field service entities, including a complete plan of operations; clearly defined statement of the mission, goals, and objectives; comprehensive budget; state fiscal note; and necessary statutory changes.

The task force

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Testimony to Senate Judiciary Committee – February 21, 2002
Opposition to Consolidation of Field Services – SB 454

My name is Dina Pennington Hales and I am the Director of Shawnee County Community Corrections. My agency provides adult and juvenile community corrections services for the 3rd District County of Shawnee and the 2nd District Counties of Jackson, Jefferson, Pottawatomie and Wabaunsee. We have the unique experience of supervising offenders in both a rural and urban setting.

SB 454 proposes consolidation of field services for adult felony offenders. I will present information to justify my opposition to this legislation and offer targeted alternative, and less expensive, measures.

Dual supervision – Dual supervision is not a significant problem. A recent poll conducted by the Office of Judicial Administration (OJA), indicated that out of 15,250 court services cases, 220 cases were under dual assignment. However, the 220 offenders were not necessarily dually supervised. In Shawnee County, we have an agreement between our agencies that one agency takes over supervision.
Solution: Require field service agencies determine who will supervise an individual dually assigned, based on which agency is best suited to supervise the offender in the community.

Use of standardized risk assessment instrument – A risk instrument was developed by the Kansas Department of Corrections (KDOC) and mandated for use beginning in 2000 by SB 323.
Solution: Legislatively mandate a statewide committee composed of Community Corrections, Parole and Court Services to adopt a risk assessment process and instrument appropriate for community supervision of offenders.

Public Safety – Field services agencies hold public safety as their primary concern. Each agency is well aware of their role in public safety.

Sharing of information and a common database – Although the legislature provided some funding for a statewide information system a number of years ago, it remains incomplete. KDOC currently has the most comprehensive model. The system is Total Offender Activity Documentation Services (TOADS) and is used by Community Corrections and Parole.
Solution: Require Court Services to use TOADS thereby establishing a common database without starting all over again on a new system.

Continuum of sentencing options – A number of sentencing options currently exist. Basic options are standard probation, Intensive Supervised Probation, Labette Correctional Conservation Camp, residential centers in Sedgwick County and Johnson County, day reporting centers (Topeka is open and Kansas City and Wichita are being developed), jail sanctions, community service work, fines and other reparations. Consolidation could break down the county support many of these options are now receiving.

Resources – Many areas, especially rural jurisdictions, face shortages of resources. Resources required to implement consolidation would be better spent to address current program shortages.

Consolidation and/or co-location of field services has occurred at the local level with no statewide mandate. Mandating consolidation is unnecessary and costly. I urge the committee to reject SB 454 in favor of the targeted measures discussed above.

Dina Pennington Hales, Director
Shawnee County Community Corrections, 712 S Kansas, Topeka, KS 66603
(785) 233-8856 X 7810 dina.hales@co.shawnee.ks.us

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To: The Senate Judiciary Committee

From: KDJA Executive Committee, by Judge Ernest L. Johnson

Re: Senate Bill 454

Date: February 21, 2001

The KDJA Executive Committee opposes bill provisions (a) and (b) which mandate the consolidation of field services by a date certain. K.S.A. 74-9101(14), a part of the original statute creating the sentencing commission, directed that the commission appoint a task force to make recommendations concerning the consolidation of field services. That task was carried out in the early 1990's. K.S.A. 21-4727, still in the statutes, required that field services be consolidated by January 1, 1994. That consolidation, obviously, never occurred. In June, 1993, then Attorney General Stephan detailed the legislative history of these consolidation efforts in his AG Opinion 93-72 directed to then State Senator Jerry Moran. The General concluded that the consolidation requirement was a "nullity" because the legislature did not act to implement and/or fund it. The Opinion points out that the first task force report, in January 1992, recommended the creation of a new state agency to oversee consolidation. The second task force then recommended in December 1992 that consolidation occur within the department of corrections. Again obviously, neither plan could gain the support of a majority of the two houses. Implicit in that is a legislative decision that what we had in field services was preferable to the changes proposed.

If consolidation is to be considered again we suggest that there be a fresh start. The evaluation of consolidation outlined in SB 454 Sec. 3, new subsection (17), can be done ***without a statutory requirement that consolidation must occur***. In fact, without a plan crafted according to the criteria in (17), how can we and you know that consolidation will be better and cheaper than what we have now? Our preference is that the committee envisioned in new (17) be charged to evaluate the viability of consolidation for the delivery of field services, not just propose how it could be done. That committee should demonstrate to you that consolidation would be preferable, explaining why, to what is in place. The better approach would be for the committee to bring you, if it concludes that it can, a specific plan that can be justified as to both cost and effectiveness compared to what we already have.

Respectfully submitted,

Ernest L. Johnson

Ernest L. Johnson
Member, Executive Committe, KDJA
Member, Sentencing Commission

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KANSAS ASSOCIATION OF COURT SERVICES OFFICERS

TESTIMONY TO THE SENATE JUDICIARY COMMITTEEE
DIANA COLLINS, PRESIDENT
KANSAS ASSOCIATION OF COURT SERVICES OFFICERS
ON 2002 SENATE BILL 454
FEBRUARY 21, 2002

Senator Vratil and Members of the Committee:

I am Diana Collins, President of the Kansas Association of Court Services Officers.

On behalf of over 340 members of the Kansas Association of Court Services Officers, I am here to express our opposition to this legislation. We have concerns about the transition committee; the bill is unclear as to who will appoint the members and who the committee members will be. Members of this committee need to equally represent all of the three entities affected. This committee will decide the fate of these entities and their employees. Representation from all levels, from field officers, to supervisors to Judges, is needed to represent the various services provided by Court Services Officers throughout the State of Kansas. Funding for a newly-created agency is a pressing concern in a year when the State of Kansas is facing budget cuts, budget shortfalls and bleak projections of future revenue. The money used to create a new agency could be better spent creating additional resources for probation clients throughout the state.

Although not addressed in the legislation, other issues raised to justify consolidation include uniform risk-needs assessments, dual supervision of offenders and cooperation between all three existing entities.

In reference to the Risk-Needs Assessment tool, Court Services and Community Corrections use the same Risk-Needs Assessment tool as mandated by the Kansas Legislature. It is our understanding that State Parole uses a similar tool that scores

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differently based on their population. Court Services and Community Corrections participated in statewide joint training on the use of the new Risk-Needs Assessment tool.

Dual supervision of offenders between the three entities is a non-issue. In December 2001, Court Services supervised 15,250 adult criminal cases. Of those cases, 79 have been identified as "dual-supervision", these offenders are actively reporting to Court Services and either Parole or Community Corrections. This is 0.5% of the total number of Court Services clients. This is a very minimal number and demonstrates that all three entities are currently cooperating to ensure that the appropriate supervision is provided.

Cooperation does occur between Court Services, Community Corrections and State Parole. All three entities are cooperating throughout the state to assist the KBI with the recent retroactive DNA draws. All three entities have been involved in statewide risk-needs training through the Kansas Sentencing Commission Risk and Need Task Force. In several judicial districts, Court Services and Community Corrections regularly meet to share information and resources. In my district, members of Court Services and Community Corrections meet at least three times monthly to discuss supervision concerns and review resource information. We also participate in joint training. Also, several judicial districts have co-located offices, which has saved on office operating expenses and increased the sharing of information. When consolidation was initially proposed in the early 1990's, there may have been some lack of communication. This was recognized by the administration of all three entities and this problem has been addressed.

On behalf of the Kansas Association of Court Services Officers, we appreciate your consideration of this matter.

STATEMENT
SENATE BILL NO. 454

My name is Patrick D. McAnany. I am Chief Judge of the Johnson County District Court. I am here today with District Judge Stephen Tatum and Magistrate Judge James Vano of our court to speak in opposition to the consolidation of field services. I will limit my remarks to some general observations. Judges Tatum and Vano, who deal daily with the issues surrounding this bill, will provide more detailed testimony.

1. Our sentencing guidelines have created a uniform, statewide system for sentencing felons. Probation, on the other hand, is a fact-intensive process which is, by its very nature, tailor-made by the court for each defendant on a case-by-case basis. Consolidation of field services undermines that notion by imposing a one-size-fits-all program of services.

2. Different communities have different needs. The unit of government best qualified to determine the needs of its communities is the county. Consolidation of field services is contrary to the notion of local control. The whole notion of Community Corrections is to center the responsibility for these services in the county.

3. The highest level of accountability for the expenditure of public funds is achieved when funding arises from, and is controlled at, the local level. The more remote the funding (i.e., Topeka), the lower the accountability.

4. If you enjoy wrestling with the School Finance Formula every legislative session, you will love the consolidation of field services. The statewide funding of education is in response to a constitutional mandate. No such mandate is at work here. There is no justifiable reason to take on the task of determining an adequate level of funding, as well as the task of seeing that this funding is equitably applied throughout the disparate communities of this state, when the task can and should be handled at the local level.

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JACK A. MURPHY, Judge
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MICHELLE ROBERTS
Chief Court Services Officer
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RON STEGALL
Chief Executive Probation Office
785-832-5218

February 21, 2002

Thank you Mr. Chairman and Members of the Judicial Committee

My name is Ron Stegall. As the Chief Executive Probation Officer, I supervise both Court Services and Community Corrections for the 7th Judicial District, Douglas County.

I am here today not so much to oppose state wide mandated consolidation of all field services as to offer a positive alternative to this bill. We do, indeed, oppose this bill, but there will be others who will speak specifically as to the reasons to be concerned with this legislation and I will not attempt to repeat those arguments and concerns. However, as a positive alternative to this bill, we suggest enacting legislation which would provide for the effective and efficient consolidation of Court Services and Community Corrections at the local level when such consolidation is desired.

Background

Approximately two years ago, Douglas County Commissioners entered into discussions with our Chief Judge to explore the possibility of bringing Community Corrections under the direct supervision of the Court, thereby consolidating Court Services and Community Corrections. There were several reasons for this, but the initial motivation was financial. As DOC continued to cut the budget for Community Corrections the county was being asked to pick up more and more of the funding. This led to a desire to find a more effective and efficient way to administer Community Corrections.

In November of 2000 the administration and supervision of Community Corrections was transferred to the Court, and a partial consolidation of Court Services and Community Corrections was effected. Court Services and Community Corrections remain separate entities, each still part of their own separate agencies (OJA and DOC), but I was appointed to supervise both Court Services and Community Corrections under the direct supervision of the Chief Judge of the Douglas County District Court.

Benefits

Over the past year, we have experienced many benefits as a result of this consolidation. The Court now feels a direct responsibility for Community Corrections and does not hesitate to

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make full use of their services. Our ability to effectively place felony offenders in the most appropriate placement has been greatly enhanced. The communication, interaction, and cooperation between Court Services and Community Corrections has dramatically increased. On a practical, day by day level, we now function as one. And we have saved money.

Obstacles

However, there were, and continue to be, many obstacles to this effort. These obstacles center primarily around the fact that both OJA and DOC as separate entities expect all funds and resources coming from their departments to be used exclusively for their own departments on both state and local levels. This hinders the effective sharing of staff, resources, and services at the local level.

As one example (among many that could be mentioned), in Douglas County, Community Corrections employs a halftime Resource Specialist whose job is to help offenders find and keep employment. Community Corrections also employs a Surveillance Officer who checks up on offenders during "off hours" (evenings and weekends). Court Services' clients could greatly benefit from such services, but presently, with the continued division and separation of funds, it is very difficult to completely share these services between Community Corrections and Court Services.

Solutions

We believe the consolidation of Community Corrections and Court Services on the local level makes sense. However, to do this effectively, we need to see the present statutory obstacles removed. We need enabling legislation which would permit, and even promote, this kind of consolidation at the local level. At the very least, we need legislation that would enable local communities to administer and allocate all available funds (whether from OJA, DOC or other sources) as they see fit toward the most effective operation of both Community Corrections and Court Services. While this may seem difficult, it is certainly a far less daunting task than the enormous and sweeping changes that would be required under present proposals for state wide mandated consolation of all field services.

We believe having the option and ability to effect consolidation at the local level is a very obtainable goal. Even under the present restrictions we have seen it work in Douglas County. With the proper enabling legislation, the ease and effectiveness of this type of local consolidation could be greatly enhanced to the benefit of all concerned.

We present this as a positive alternative to state wide mandated consolidation of all field services.

Thank you.

Tom Stagg

TESTIMONY CONCERNING
SENATE BILL 454
February 21, 2002

Dear Senators:

Thanks for the opportunity to testify concerning Senate Bill 454. I am appearing today as a representative of the Kansas Bar Association. Attorneys who are members of the Kansas Bar Association and members of the committees which formulate policy, and the Board of Governors which adopts policy, include practitioners from all areas of the State who come in contact with the operation of probation services and community corrections services. These practitioners, who have played a part in the policy formation process of the Bar Association, are unanimously of the opinion that the consolidation of these services does harm, both philosophically and financially to the existing system. I know that there are several judges who have indicated a desire to testify before your committee. I don't want to repeat what I would guess their comments would be and therefore would offer comments as to what we consider practical problems will be, and problems that will arise as a practitioner that will lead to system problems.

Although I am sure that you are all aware of the differences in the criminal justice system, comparing criminal felonies to misdemeanors, because that difference is so significant concerning the issues with this bill, I think differences need to be stressed at the outset.

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For all practical purposes misdemeanors are funded as to prosecution and defense functions by the county, and for sanction implementation by the county [except that CSOs may also provide probation services to misdemeanants, while community corrections may not]. By law, misdemeanants cannot go to prison. Probation officers are usually designated by the CSO, Community Service Officers, positions in the judicial branch. Community correction employees are not employees in the judicial branch, but are county employees and technically part of the executive branch.

For the last completed fiscal year report on case activity there were 16,876 felonies filed in the 2001 fiscal year and 20,944 misdemeanors.

As I am sure you also know, although there are 31 judicial districts in the State, the organization by district is a management device, and in some cases a method to take advantage of the constitutional judges of the district court who are circuit riders. Each criminal case, however, is filed in the district court of a particular county, thus there are 105 district courts which are the venue for the initiation, processing, and disposing of each of the some 38,000 criminal cases that are filed. There is nothing in the processing of a criminal case that bears any direct relationship to any administration from a central location, such as Topeka, other than unusual occasions when an assignment of an out of district trial judge is necessary (that decision being handled by the Office of Judicial Administration), or the prosecution by the Attorney General instead of the county or district attorney. There may be other such examples but, for the most

part the process of considering a criminal case from commencement to termination in the trial stage is in each of the 105 county district courts.

To the best of my knowledge, once a criminal case is instituted, unless for disqualification of judge, potential retirement or unavailability of judge, or some other unique and unusual occurrence, a judge who commences a case ends with a case at the trial level. Even in the cases where that is not true it is a judge of the applicable county district court who hears the case. That reality is significant in considering the availability and use of probation or local community corrections involvement with an individual criminal defendant who is sentenced. It is true that some court service officers perform other functions outside the area of criminal law, but those are unique to individual jurisdictions and I am not informed about them. My remarks are centered on the criminal justice system.

By the time the CSO or community corrections representative gets involved in a case on a permanent basis a proceeding has been commenced and processed through sentencing. Sentencing and misdemeanor cases involve sanctions all imposed at the local level in each of the 105 counties. Sentences imposed in felony cases, if the defendant is placed on probation, either with a court service officer supervising or with community corrections supervising, is all handled and monitored at the local level in each of the 105 counties. Furthermore, for each criminal case in which a sentence is imposed and in which there is the involvement of a court service officer or community corrections representative as a probation officer, that person is responsible directly to the

judge who has imposed the sentence which includes probation and who bears the ultimate responsibility for enforcing the satisfaction of that sentence obligation, including probation.

If you compare the number of total cases filed every year to the number of persons in prison you have to conclude that it is a minority of the cases in which a defendant is remanded to the custody of the Department of Corrections.

Criminal activity is local in nature. It is the local community that is most concerned with crime in that local community. It is the local community that is most concerned with criminal punishment for those who commit crime in that local community. It is the local community that has the most concern with correct and proper use of the sentencing penalties to those who remain in the local community. And, that same analysis is true for each of the 105 counties. Policies emanating from a central location, such as Topeka, Kansas, are not what any local community wants. Policies, line of responsibility, and authority emanating from Topeka, Kansas, or any central location, are not what the individual judge who is responsible for some policing of the sentence that judge has pronounced is not what that judge needs, desires, or necessarily can work consistently with. The local probation officer is one of the right hand positions of the local district judge who has handled a criminal case. To make that person responsible to a central authority in Topeka portends disorganization, bad utilization of services for the smooth processing of cases to the end of probation, and smooth running of the criminal court system.

For a prison population on the other hand, the inmate is in the custody of the Secretary of Corrections, and central administration of parole and/or post-release supervision if feasible.

A reason advanced for consolidation of field services is that a better gauge will be given of prison population. That means a central policy office will be dictating to the 105 county district court systems how and when to operate with probation services. That is a system doomed to failure at the local level.

I am sure each of you must have heard constituent complaints relating to enforcement of the criminal laws for those cases in which presumptive incarceration is not a legitimate possible sanction. I read regularly in the paper complaints of law enforcement organizations and citizens who complain that repeat burglars or forgers, or thieves do not seem to have any consequences for their transgressions. Since the sentencing guidelines graph has replaced the discretion of judges in fitting a punishment to a particular defendant who has committed a particular crime, the graph rules, and the community suffers. Changing the function and position of the probation officer in the manner sought by the consolidation of services magnifies and exacerbates that problem. It seems to me that the old concept of imposing a punishment to fit the criminal violation to an individual defendant is still the sensible way to proceed, but we have changed our philosophy about that conclusion. Please do not make it worse by taking another segment of local control away from the criminal justice system.

Let me suggest another problem. The court service officers are employees of the judicial system. The proposal before you would consolidate all of the court service officer positions, as well as the other field services into an executive branch agency. The court services officers performs pre-sentence investigations as a neutral aide to the judge. The court service officer may perform other functions as the same neutral aid. The court service officer may gather information concerning bond conditions, may gather information concerning compliance with bond and/or probation requirements, may gather information to make to determine criminal history score, [an extremely significant process with the criminal sentencing aspect of a criminal case] as a neutral aide to the judge. By our constitution the judicial branch, and only the judicial branch, is supposed to process the judicial business of the State, which includes the criminal justice system. The executive branch through its prosecutor seeks to have the law enforced, and you as legislators make the statutory law. The parties in a criminal lawsuit are the executive branch represented by the prosecutor and the defense represented by a retained or appointed lawyer. Attorneys have to be appointed in most number of cases because the Constitution of the United Sates and the Constitution of the State of Kansas requires that one not be required to defend him or herself in a criminal case. Philosophically, the separation of powers now in effect concerning court service officers or probation officers, those representatives are part of the judicial system. But, when I used the word neutral earlier in this discussion that is what I meant. If you take that probation officer

and make him part of the prosecution system you are creating a fertile avenue of work for lawyers whose obligation it is constitutionally and ethically to represent their client to fashion a new set of challenges to the criminal process. Now, you may not like the fact that lawyers will be required to discharge their duty, but most of them take an oath of office to advocate for their client, and represent their client's interests so they are probably going to do it.

How can they advise their client to work with, provide information to, or cooperate with another law enforcement representative, the probation officer? It just means more business for lawyers, and more potential problems for beleaguered judges.

How abut this basic structural distinction between trial court probation procedures and State parole and post-release supervision provisions: In the former, probation from beginning to end is covered procedurally by the Code of Criminal Procedure, constitutional rights and full adversary process. The latter, by an administrative procedure implemented by the Executive Branch, with much different procedures all administered without court involvement are the norm. Therefore, if services are consolidated, you will have two totally different sets of procedure administered in 105 counties by an administration centrally located in Topeka. Such a system still looks like a format for failure.

The amendment in §2, lines 39 through 42 of the bill is acceptable. However, §3(b)(16) should be rejected. In the real word it is bad law to consolidate field services.

Thank you.

Yours very truly,

Edward G. Collister, Jr.
3311 Clinton Parkway Court
Lawrence, Kansas 66047-2631
(785) 842-3126

STUART J. LITTLE, Ph.D.

February 21, 2002

Senate Judiciary Committee
Testimony from Kansas Community Corrections Association on SB 454

Thank you Mr. Chairman and Members of Judiciary Committee.

I am here today on behalf of the Kansas Community Corrections Association. Community Corrections programs provide cost-effective community-based supervision for adult and juvenile offenders with primarily lower severity level offenses such as property, drug, and nonperson crimes. The courts determine whether an offender is assigned to regular probation (though the courts) or intensive supervise probation in a community corrections program. Key Community Corrections' programs include adult and juvenile intensive supervised probation and programs, and adult residential programs in Sedgwick and Johnson counties.

The KCCA opposes Senate Bill 454 and state mandated consolidation. The KCCA opposes SB 454 that establishes the Department of Field Services because we do not know the structure and organization of the new Department. Community Corrections is a partnership between the Department of Corrections (who fund the program through grants), the courts (which direct offenders to the programs), and local units of government. Community Corrections organization budgets are reviewed and approved by local community corrections advisory boards. KCCA does not support a bill to create a new state agency that would remove the local control from Community Corrections programs.

Other details remain in question. Do the approximately 1,500 community corrections employees of counties become state employees under the new bill? Would local community advisory board participation be eliminated? Could unification of the responsibilities of all public safety field services be achieved satisfactorily for the KCCA? Perhaps, but not in SB 454.

Thank you.

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PHONE: 785-845-7265 • FAX: 785-354-8092

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DISTRICT COURT OF KANSAS
TENTH JUDICIAL DISTRICT
JOHNSON COUNTY COURTHOUSE
OLATHE, KANSAS
66061

CHAMBERS OF:
JAMES F. VANO
DISTRICT MAGISTRATE JUDGE
(913) 715-3577

February 21, 2002

Senator John Vratil
Judiciary Committee
State Capitol
Topeka, KS 66612

RE: CONSOLIDATION OF FIELD SERVICES
S.B. 454

Dear Senator Vratil and Members of the Senate Judiciary Committee:

This testimony is offered on behalf of the Kansas District Magistrate Judges Association. We offer these suggestions to illustrate the negative impact of consolidation under a single state-run agency.

The problem with consolidation of field services under a single state-run agency is that one size does not fit all. Flexibility, local accountability, adaptability and multiplicity in funding sources are the hallmarks of the current system of coordinated field services. For example, in Johnson County, the county commissioners funded expansion of the Community Corrections Residential Center to accommodate misdemeanants. In an effort to curb escalation and recidivism, the commissioners opted for expanded use of the local Community Corrections resources, therapeutic counseling and residential facilities.

The truth is that every jurisdiction has different requirements and resources and each jurisdiction configures and arranges how their Court Services and Community Corrections interact. The needs of Johnson County's state-line offender population differ from those of Sedgwick County's internal tension and those differ from Douglas County's student transient population and the special needs of Garden City's cultural diversity. There is no evidence that

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consolidation under a state agency will correct anything. The benefits of the current system would be sacrificed for no comparable benefit.

Perhaps those favoring some type of consolidation tend to be from rural counties (not necessarily "poor" counties) where money issues are hotly contested politically and the "turf wars" between agencies leave the Judges with little, if any, cooperation between their Court Services and Community Corrections. They may see a consolidation under a state agency as a good thing. Those opposed express, among other things, the view that probation historically is a contract with the court, needing Court Services to monitor performance. Court Services monitoring and facilitating execution of court orders is a key ingredient to an effective independent judicial government branch.

Consolidation of field services may have been grounded initially on the sentencing guidelines goal of reducing or eliminating parochial disparity in the treatment of criminal defendants. The truth is that disparity exists and must. All defendants committing the same criminal acts are not similarly situated persons. Likewise, their communities and victims are multifarious. An act that may result in a felony charge in an urban area may be charged only as a misdemeanor in a smaller community where everybody knows the offender and his or her family. Supervision of felons in a rural county, where everyone knows their whereabouts, where there is no place to hide may require far less utilization of services than the level of supervision for an escalating misdemeanant in an anonymous urban area. If we are to attain the admirable goal of meeting individual sentencing needs (K.S.A. 21-4601) we must have the flexibility of local control – with multiple funding streams and accountability – not offered in S.B. 454.

Typically, as in the current proposal, when any discussion regarding Field Services Consolidation emerges the focus is only on adult/criminal felony field services consolidation. In the past, this discussion has ignored the existence and interdependence of misdemeanor probation services, juvenile court services, domestic court services, support staff and numerous logistical issues. This is further compounded by the fact that in some judicial districts a number of county-paid positions and grant-money funded positions are relied upon to enhance staff and meet the local staffing needs. Some of the enhancement is available only given the economies of scale, combining the felony resources with the misdemeanor, for justification. Where do they go with consolidation?

The purpose of probation is to propel defendants toward a change in lifestyle and to give them some tools to make cognitive behavior modifications. As is often the case, the lifestyle of the felon may include dealing with a CINC case, offending children, and a divorce for good measure. Having the local coordination of field services and familiarity with the family needs helps to facilitate the development and monitoring of appropriate programs and plans for that person, and that family. There is a benefit to having the felony field services working locally in the same coordinated efforts with the other types of services currently offered through Court Services.

In S.B.454, the suggestion is for a brand new state agency, to be funded by some other legislature in later years. Start-up costs, personnel, training, and so forth are not negligible for such an endeavor. The start-up costs may not be reasonable when coupled with the dismantling of a current field services organizational plan. The alternative to carry out state-run consolidation then would be to use an existing state agency. That is also not a good solution. You already have a field services organization that is seriously underfunded on an ongoing basis.

In past discussions regarding adult criminal field services consolidation, the emerging entity of consolidated power was the Department of Corrections. It can be argued that this would result in a greatly diminished, if not a totally destroyed county Community Corrections Department. There is a consistent attitude that the current state parole operation is not a model to copy. It can be seen that the Department of Corrections is the weakest of all alternatives for field services consolidation, if consolidation is the ultimate state policy adopted. Funding would be jeopardized, and in constant competition with correctional institutions. Field services consolidation at the state level would lead to all counties taking a lesser role (particularly those in the urban areas) in the funding and development of new and emerging programs to address the offender populations peculiar to their own geographical areas.

As an example of the problem with a one-size-fits-all thinking, one need only look at the problems in funding through the Juvenile Justice Authority. The best program in Johnson County to address juvenile offenders on the brink of escalating misbehavior and criminal enterprise is the Crossroads program. However, since similar programs are not made available in other counties across the state, JJA has opted to cut funding for the program. The

system works toward a least common denominator, driven by single funding source mentality.

Arguing that it is cheaper for the counties and more consistent with the aim of sentencing guidelines to operate a single state-run felony field services agency trades significant benefits for a mirage. State-run field services will simply devolve to mirror the current state parole system and become a tool for managing prison population without any balanced regard for legitimate safety concerns of the local communities and the special needs of individual offenders.

Supporting consolidation upon the argument that it would ease the financial burden and internal provider bickering of rural Kansas counties is to ignore where the majority of criminal offenders reside.

It would be easy to demonstrate that the Kansas Judiciary has not been very effective in providing stewardship, leadership and needed funding related to correctional field services. Supreme Court and OJA funding for community-based supervision is virtually non-existent and staff appropriations have not matched relevant workloads. Every year the Supreme Court has been seen begging at the door for needed funding first from the Budget Director, then from the Legislature itself. What has been accomplished (particularly as is seen in the Johnson County criminal field services) is based primarily upon local funding of the District Court operational goals, federal grant money, and service fees, coupled with a little imagination and a lot of cooperation.

Not all Court Services Departments are as dynamic as others. Much of what has been accomplished would be lost in a consolidation of field services at the state level, which would likely result in a single revenue stream, and one size fits all mentality for services.

It is true that Court Services acts as the eyes and ears of the District Court in seeing that orders are executed. This is important for an effective Judiciary. It could be argued on the other hand, that field services can be so much more and should not be limited to a monitoring role for the judicial orders. But, this is perhaps the most compelling reason for maintaining the current model of service delivery. We have three primary entities – Parole, Probation, and Community Corrections (the latter two being enhanced by a host of private providers) – monitoring, supervising, and providing services to offenders. The key is to minimize duplicative services yet maintain role clarification.

Having felony field services in the counties makes coupling misdemeanor services more cost-effective locally. Having a therapeutic community drug program available for felonies, has made the same program available to the occasional misdemeanant who needs that type treatment. Having felony probation services through Community Corrections has, by cooperation with the county, made intensive supervision through the same entity available for those misdemeanor probationers and local parolees who need it. Elimination of those programs will result when the state-run agency tries to make single programs fit every locale.

A field services model that is decentralized, with multiple funding sources, and having some accountability to the local community and to the Judiciary should be the preferred model. County/Community Corrections appears to hold the most promise if efficacious consolidation is to occur. In addition, you could adopt a monthly probation services fee (*e.g.,* up to $25 per month) for defendants to pay to help defray the cost of local supervision and special programs use. If the goal is to take field services out of the judicial system, it should at least remain under the Community Corrections, local control and adaptability, model.

Thank you for your consideration and continuing work on behalf of the citizens of the State of Kansas, and for the opportunity to participate in this process.

Sincerely,

James F. Vano

Senate Judiciary Committee
Written Testimony From Sedgwick County Community Corrections
Advisory Board In Opposition to Senate Bill 454
Consolidation of Correctional Field Services

From: Mark Masterson, Director, Sedgwick County Department of Corrections

Date: February 21, 2002

I am offering testimony today on behalf of Sedgwick County Corrections Advisory Board. The membership on this board is very experienced, seasoned and involved in corrections issues in our community. Several board members were involved in helping sell community corrections to the public in the early 1980's, and many provided input to the study of consolidation in the early 1990's. We support effective community supervision programs that hold offenders accountable and protect public safety. We also strongly support an administrative structure for those programs that is accountable and responsive to local needs.

When the members of the Board learned of the introduction of Senate Bill 454 to once again raise the issue of consolidation, we wanted an opportunity to share our concerns with you. We appreciate your providing us this opportunity.

We are in opposition to consolidation for the following reasons:

1. We believe local control is key for the purposes of public safety. The current system provides more local control and accountability to the citizens than a state controlled system. This is evident by comparing court services probation and community corrections administration with state parole.

2. We agree with the Kansas Association of Counties position in opposition to mandatory consolidation. We continue to support the current practice of permitting local districts to consolidate voluntarily where it makes sense to local officials.

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3. We believe the current system is working well in our district and that passage of SB 454 will serve to create confusion for years between the county, judiciary and the state legislature in deciding how to pay for, locate and operate a new consolidated state agency.

4. Funding a new state agency will be expensive. Where will the funds come from? In this tight budget environment, an under-funded, consolidated agency could emerge which could jeopardize public safety.

5. SB 454 presents no workable plan to judge the merits of the proposal and is subject to far too much chance in the work of the transition committee. For example, will court services continue to supervise offenders on probation for misdemeanor offenses? Will juveniles continue to be supervised by court services? Will counties be expected to pay for more or less when court services in broken up?

Thank you for taking the time to consider our concerns regarding this proposed legislation.

KANSAS
ASSOCIATION OF
COUNTIES

WRITTEN TESTIMONY
Senate Judiciary Committee
On
SB 454
February 21, 2002
By Judy A. Moler, General Counsel/Legislative Services Director

Thank you Chairman Vratil and Members of the Senate Judiciary Committee for allowing the Kansas Association of Counties to provide written testimony on SB 454.

The Kansas Association of Counties opposes the passage of SB 454. Consolidation of court services officers and community corrections. has been discussed and rejected by the legislature for a decade. The KAC is on record as opposing the concept of state imposed consolidation in this area and others.

In some areas this consolidation has happened at the local level without a statewide mandate. The KAC believes this is the best approach as one size does not fit all 105 counties. The KAC believes the decision to consolidate is best made locally.

The Kansas Association of Counties respectfully requests that the Senate Judiciary Committee reject SB 454.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

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Topeka, KS 66615
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TESTIMONY

City of Wichita
Mike Taylor, Government Relations Director
455 N Main, Wichita, KS. 67202
Phone: 316.268.4351 Fax: 316.268.4519
Taylor_m@ci.wichita.ks.us

Senate Bill 522
Municipal Court Delinquent Fines

Delivered February 21, 2002
Senate Judiciary Committee

The City of Wichita supports Senate Bill 522. Municipal Courts play an important role in keeping the public safe and administering justice in Kansas. With Senate Bill 522, the City of Wichita is asking for the cooperation of the Legislature to help address a serious and growing problem which threatens the operation of the court, the effectiveness of the Court and the administration of justice.

The number of people who fail or outright refuse to pay fines after being found guilty of an offense has reached alarming levels and is increasing. The number of adjudicated court cases from 1998 through 2001 considered delinquent, stands at nearly 95,000. 95,000 cases in which people are ignoring the prescribed penalty of law, showing contempt for the authority of the Court and disrespecting the very rule of law on which our society is based.

While the Municipal Court does not exist to produce revenue, there is a significant financial component to this problem. The total amount of delinquent fines owed the Municipal Court totals nearly $17.5-million.

Senate Bill 522 is an attempt to help Wichita Municipal Court, in fact all Municipal Courts, more effectively deal with the problem of delinquent fines. The bill requests that Municipal Courts be allowed the same authority for collecting unpaid fines as District Courts by requiring delinquent defendants to pay the cost of the collection fee as well as the fine owed.

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In 11, Wichita Municipal Court sent nearly 13,000 cases to a collection agency for processing. Those cases amounted to nearly $4.5-million in delinquent fines. The average collection rate was 15% or about $1.3-million. Under agreement with the collection agency, Municipal Court pays a fee of 22% of the money collected, which totaled about $301,000.

Under Senate Bill 522, the defendant who owes the delinquent fine would pay the full amount of the fine and, in addition, the fee which must be paid to the collection agency. In simple terms, here is how it would work. If the delinquent amount owed the court is $100, the collection agency now keeps $22 and sends $88 to the court. Under Senate Bill 522, the delinquent defendant would pay $122, with the full $100 fine going to the court and the additional $22 going to the collection agency as the cost of its fee. All this does is make the person who owes the delinquent debt pay the cost of having to collect it.

In closing, I want to make a couple of observations:

First, the magnitude of this problem is probably surprising to many who think of Municipal Courts in a much more limited way. Many Municipal Courts are small or even part-time operations. Wichita Municipal Court however, has five appointed judges and 23 pro-tem judges. In any given year, the Court handles nearly 200,000 cases involving traffic infractions, driving under the influence, petty theft, prostitution, drug violations and domestic violence. Judges also hear cases dealing with Health, Fire, and Central Inspection violations. Wichita Municipal Court is the largest limited jurisdiction court in the state.

Second, there may be concern by some members of the Legislature about doing anything which gives the appearance of raising fees or taxes. Senate Bill 522 does not impose new fees, it simply makes those who owe the court, who owe society for a violation of the law, responsible for paying the full cost of that debt. And the simple fact is, it does not at all affect people who accept their responsibilities and meet their obligations. It only affects people who have been found guilty of breaking the law and then fail or refuse to live up to those responsibilities.

LKM
League of Kansas Municipalities

300 SW 8th Avenue
Topeka, Kansas 66603-3912
Phone: (785) 354-9565
Fax: (785) 354-4186

TO: Senate Judiciary Committee

FROM: Sandy Jacquot, Director of Law/Legal Counsel

DATE: February 21, 2002

RE: SB 522

I want to thank you on behalf of the League of Kansas Municipalities for the opportunity to testify in favor of SB 522. This bill would assess the cost of collecting delinquent municipal court fines to the defendant when the court contracts with a collection agency. In addition, the bill would allow the victim to which restitution had been ordered to use the contracting collection agency to attempt to collect any unpaid restitution.

For some of our larger municipal courts, collection of delinquent fines and court costs is an ongoing concern. Contracting with a collection agency is often the most efficient means of collecting fines and court costs, but the end result is that the city bears the cost of collection. This bill would shift the burden to the defendant who has chosen not to pay the fine rather than the taxpayers of the city at large. The League supports SB 522 and urges the committee to report the bill favorably for passage.

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Municipal Court

701 N. 7th Street
Kansas City, Kansas 66101

Phone: (913) 573-5200
Fax: (913) 573-5210

Wesley K. Griffin
Administrative Judge

Maurice J. Ryan
Municipal Court Judge

Mark E. Chop
Court Administrator

February 20, 2002

Re: Senate Bill No. 522

To Whom It May Concern,

The Unified Government of Wyandotte County/Kansas City, Kansas has contracted with an outside company to collect certain fines owed to Municipal Court. At this point the costs incurred by the collecting agency are borne by the Unified Government.

The provisions of Senate Bill No. 522 are very appropriate. I believe that local governments should not have to receive reduced fines simply because a party fails to pay his/her legally obligated fines and the government turns the collection of the obligation to an agency, etc. The governments are being punished for seeking the assistance of a collection agency when it is the defendant, due to their inaction, that should bear the additional cost of collection.

This Senate Bill, if passed, will assist municipalities who, because of funding restraints, have to use a private collection agency. The cost incurred in this collection logically should be borne by the defendant.

I would recommend passage of this bill. If I can be of any further assistance, please feel free to contact me.

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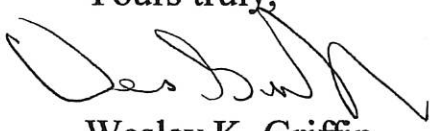
Yours truly,



Wesley K. Griffin
Administrative Judge

cc: Don Denney

20-2

John R. Todd
1559 Payne
Wichita, Kansas 67203
(316) 262-3681 office
(316) 264-6295 residence
e-mail: john@johntodd.net

Date: February 20, 2002

To: Members of the Senate Judiciary Committee

Subject: I OPPOSE SENATE BILL #522 that would grant the Wichita Municipal Court greater power to collect fines without civil proceedings though the state district courts.

Members of the Senate Judiciary Committee:

My name is John Todd. I live in Wichita, and am here to speak as a citizen who has spent time observing the Wichita Municipal Courts over the last 3 to 4 years, and can advise you quite candidly that you need to find out for yourselves what is going on in these Courts before you grant them greater powers of any nature.

The City of Wichita is asking for additional authority to collect fines, and at first blush that doesn't sound like a bad idea compared to the virtual "debtors prison" they were operating a couple of years ago. The attached Wichita Eagle article explains the class action suit that is currently pending against the City of Wichita in District Court for those actions.

My opposition to Senate Bill #522 can be summarized as follows:

1. Municipal Court fines fall heavily on the economically deprived citizens who live in older neighborhoods. You need to witness for your selves as I have the dozens of property owners who are paraded each week before the Wichita Environmental Court and are fined thousands of dollars because they are too poor to paint flaking paint, repair torn screens, or provide minor foundation tuck-pointing. Many are

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threatened with multiple years' imprisonment if they fail to comply with housing codes even though the City Court is limited to 12-month incarceration. I believe if these same people had the money to pay the exorbitant fines they face, they would gladly repair their properties. Sending collection agencies after these people only creates greater problems for those citizens as well as the City.

2. Why should the City have greater authority to collect fines than an individual citizen who must seek collection of judgments for debts owed through civil proceedings in the District Court? The City has legal staff already on the payroll who could handle collections of debts just like any ordinary citizen through civil action in the state District Court.

3. In the Municipal Court there is no separation of powers between the legislative, executive, and judicial branches of City government. Citizens coming before the Municipal Court face city Prosecuting Attorneys who work for the City Manager who works for the City Council, and Judges who are appointed by the City Council and in the city of Wichita actually work under contract with the City Council. The separations issue coupled with the lack of a stenographic record of the Court proceedings, one can see the opportunity for abuse and the difficulty in obtaining "due process" of law in the Municipal Courts as our system of government demands. For this simple reason, you don't want to give Municipal Courts greater power without the supervision of the state District Courts.

4. One simple solution to the separation of powers issue would be passage of House Bill #2334 that was introduced by Representative Tony Powell in the 2001 legislative session. That Bill, a copy of which is attached, would require the

election of Municipal Court judges. I believe Court Reform of this nature deserves more consideration before you give Municipal Courts the additional power they are asking for in Senate Bill #522. Perhaps House Bill #2334 could be added to Senate Bill #522 as an amendment?

Thank you for allowing me the opportunity to speak. I would be glad to answer your questions.

Sincerely,

John R. Todd

21-3

Testimony of William T. Davitt, 1205 Bitting, Wichita, Kansas 67203 on Thursday, February 21, 2002 before Senate Committee on Judiciary in OPPOSITION to Senate Bill No. 522.

Please send a message to Wichita City officials that you are not going to pass any legislation to help them collect their fines until they stop thumbing their noses at the Kansas Legislature and the Kansas Judicial Council.

A few brief examples:

1. The KANSAS JUDICIAL COUNCIL has prepared an excellent KANSAS MUNICIPAL COURT MANUAL so practice will be uniform and fair to everyone in our state. Wichita City officials absolutely refuse to provide a courtroom as the KANSAS JUDICIAL COUNCIL has outlined on page 2-5.

2. On page 3-2 the Kansas Legislature has enacted the KANSAS CODE OF PROCEDURE FOR MUNICIPAL COURTS. Wichita City officials absolutely refuse to follow this code. They used home rule to opt out and adopted their own charter ordinances.

Line 41 of this Senate Bill 522 states: "This act shall be part of KANSAS CODE OF PROCEDURE FOR MUNICIPAL COURTS." I fear that they are up here to sweet talk you into passing this bill . . . and then they will opt out and cook up their own charter ordinance which will be more harsh. They might raise the collection fee above 33 per cent and make other changes.

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3. At bottom of page 3-3 KANSAS JUDICIAL COUNCIL states that a municipal ordinance cannot be a FELONY. But, that is exactly what the Enviromental Court judge was trying to do when he cried out: "Mr. Davitt, you are facing five years in PRISON. He knows he does not have jurisdiction for that. He was determined to get himself in good with the city staff. They were gaping and gawking at him with their mouths open. He works on a contract FOR the city manager and his staff. They are his boss. It is not a free in independent court. He has to do what they tell him to do.

4. Top of page 10-4 KANSAS JUDICIAL COUNCIL declares "Fines should not be imposed for the purpose of providing a source of city REVENUE." Wichita City officials again absolutely <u>refuse</u> to follow the KANSAS JUDICIAL COUNCIL. It has been exposed in the Eagle newspaper that Wichita collects far more money in fines that it needs to run the courts.

Please send a message to Wichita City officials that you are not going to enact legislation to help them collect fines until they stop stumbing their noses at the KANSAS LEGISLATURE and the KANSAS JUDICIAL COUNCIL.

Respectfully submitted,

William T. Davitt

William T. Davitt

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arranged in such a way as to facilitate the orderly transaction of business in the court.

The courtroom should be located in a well-kept, accessible building. City hall or some other public building is a good location. If possible, it is suggested that it not be located in the police or sheriff's offices or in any location which would suggest the court is an arm of law enforcement.

As a minimum, there should be at least one table large enough to accommodate the defendant and the prosecution and defense attorneys. It is better to have separate tables for prosecution and defense. There should be a table or desk for the judge and a chair for witnesses. There should be a place for observers to be seated in the courtroom as well.

The courtroom should be large enough to accommodate the people who are due to appear on any particular day so no one will have to stand in line to get into the court. It should either be small enough that all can hear or there should be a public address system employed. The courtroom need not be elaborate, but it should be both functional and reasonably attractive. There should be a United States flag and a Kansas State flag in the courtroom if possible. While the degree of formality with which the court proceedings are conducted is a matter for the court to determine, the judge should keep in mind that both the physical appearance of the court and the procedure followed should enhance respect for the court. The traditional trappings of the court room–the elevated bench, the gavel, the flags, the robe, the bailiff and the ceremony–are designed for the psychological purpose of contributing to a well-ordered court and making sure that confidence in the administration of justice is not undermined. Many people will have contact with municipal court who will never appear in another court. Their whole outlook toward the court and the judicial system in general may depend on their observation of the municipal court.

2.08 OFFICES

If possible, the court clerk's office should be separate from the courtroom but close enough to facilitate the orderly transaction of business. The clerk should have ample space for file cabinets to hold court records. If possible, the prosecutor's files should not be kept with the other court records. This is because before trial the judge should not see police records and other documents which might be in the prosecutor's file. Furthermore, the court's records are public, but the prosecutor's records are not. Therefore, it is advisable for the prosecutor to have a separate office and filing system.

The judge should have an office or other work area near the courtroom which has access to state statute books and city ordinances.

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instances in which the law is inadequate to promptly meet and punish every wrong committed, this does not authorize the courts to remedy the defects with "judicial legislation."

In order for the municipal court to have jurisdiction in any case, the alleged offense must have been committed within the corporate limits of the city and the accused person must be properly brought before the court. Bringing the defendant before the court can be accomplished in several ways which are more fully discussed in Chapters 4 and 5.

3.03 LACK OF JURISDICTION

If the court determines that there is no jurisdiction for any of the reasons set forth above, the case must be dismissed; the judge cannot make a finding of guilty or not guilty. A municipal judge who determines guilt or innocence when the court lacks jurisdiction exposes himself or herself to a lawsuit.

3.04 CONCURRENT JURISDICTION

A state statute and a city ordinance may both prohibit the same act, for example, theft or driving under the influence of alcohol or drugs.

Where an act constitutes a violation of both a city ordinance and a state statute, the district court and municipal court have concurrent jurisdiction. K.S.A. 20-301 and 12-4104. When both the district court and municipal court have concurrent jurisdiction, the court that first obtains jurisdiction over the accused person may retain jurisdiction and punish the accused to the extent of its power. *State v. Frazier*, 12 Kan. App. 2d 164, 736 P.2d 956 (1987).

3.05 HOME RULE

State law provides the Kansas Code of Procedure for Municipal Courts. See K.S.A. 12-4101 through 12-4602. Every municipal judge must follow this code of procedure unless the city governing body exercises its constitutional power to exempt itself from a portion of the code of procedure by adopting a "charter ordinance."

The Kansas Constitution, Article 12, Section 5, grants cities the power to determine their local affairs and government. This "home rule" power granted to cities includes a "charter ordinance" method to opt out of some state laws which do not uniformly apply to all cities. *City of Junction City v. Griffin*, 227 Kan. 332, 334-36, 607 P.2d 459 (1980). In

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Griffin, the Kansas Supreme Court noted that one provision of the Kansas Code of Procedure for Municipal Courts requires that only municipal judges in first class cities must be attorneys; municipal judges in second and third class cities do not need to be attorneys. See K.S.A. 12-4105. Therefore, the *Griffin* court held that the Kansas Code of Procedure for Municipal Courts does not apply uniformly to all cities. For that reason, any city that takes the appropriate steps to pass a "charter ordinance" can amend, repeal or replace some portions of the Kansas Code of Procedure for Municipal Courts.

For example, K.S.A. 12-4112 limits the power of municipal courts to assess court costs. Some Kansas municipalities have opted out of that statute by charter ordinance to add additional court costs for cases filed in the municipal court.

3.06 TRAFFIC OFFENSES (MISDEMEANORS AND INFRACTIONS)

The State of Kansas has adopted uniform laws regulating traffic on roads, streets and highways throughout the state. K.S.A. 8-1401, *et seq*. Local authorities may adopt traffic regulations which are not in conflict with the uniform act. K.S.A. 8-2001.

The general rule of interpretation of ordinances, the violation of which may result in the violator being fined or jailed, requires the court to view the ordinance strictly. If, however, the ordinance covers allowable areas and is not in conflict with the uniform act, it is proper. An example of a permitted local ordinance would be the establishment of parking regulations. An example of an area reserved by the state is the issuance of driver's licenses. However, a city may properly make the failure of an individual to possess a valid driver's license a violation of its ordinances.

The Kansas Supreme Court has held that municipalities do not have jurisdiction to prosecute third or subsequent DUIs because those crimes are designated as felonies. *City of Junction City v. Cadoret*, 263 Kan. 164, 946 P.2d 1356 (1997).

3.07 NONTRAFFIC OFFENSES

The same general rules which apply to traffic offenses likewise govern the broad area of nontraffic offenses. Where the state law has completely covered the area or offense, the state is deemed to have completely occupied or preempted the right to regulate the subject. An area of exclusive state jurisdiction is the criminal area where total state control and regulation exists over crimes designated as felonies. Cities have the right to govern lesser offenses (ordinance violations), however, a city may not, under current state law, make the violation of its ordinances a felony. A felony is an offense punishable by imprisonment in a state penal institution.

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A. Fines

The most common sentence in municipal court is a fine. If the judge decides that a fine is the most appropriate form of sentence for the violator, the judge should attempt to set a reasonable fine which will serve the purpose of sentencing. An exorbitant fine is never warranted. Fines should not be imposed for the purpose of providing a source of city revenue. A fine is merely one tool of sound sentencing practice. Some courts maintain a schedule whereby every person convicted of certain offenses receives the same fine. Such a schedule is required in cases of ordinance traffic infractions.

When a fine is given, it should be in the form of a statement setting forth the amount of the fine and the manner of payment. If the accused person is unable to pay the fine immediately, the court should attempt to accommodate the accused's financial condition and give the accused a written payment schedule. The court should emphasize the date by which the fine must be paid in full. An indigent person cannot be given a sentence such as $10 or ten days and be required to serve the ten days because the accused is without funds. The same principle is applicable for putting a person in jail for nonpayment of a fine alone. See *City of Wichita v. Lucero*, 255 Kan. 437, 874 P.2d 1144 (1994); *In re Administration of Justice in the Eighteenth Judicial District*, 269 Kan. 865, 3 P.3d 28 (2000).

If the person disregards the order of the court and refuses to pay, as distinguished from being unable to pay, contempt proceedings may be in order and a jail sentence may be appropriate. In addition to traditional remedies to enforce judgments, K.S.A. 75-6201, *et seq.*, now permits municipal court fines and penalties to be offset against a person's income tax refund. The forms which must be filed to utilize the debt setoff program are located at the end of this chapter. The debt setoff statutes are located in Appendix L.

Unless prohibited by the ordinance, the court may remit (not require the payment of) portions of the fine imposed. In cases in which mitigating circumstances are presented to the court subsequent to sentencing, or in those instances in which the judge feels that a fine should always be imposed, the judge may decide to remit all or a part of the fine depending upon the circumstances of the case.

B. Imprisonment

If the municipal judge feels that the conduct of the accused warrants imprisonment, the judge must make a written copy of the judgment certified by the judge or clerk. Some courts use a rubber stamp which states that the document is a true and correct copy of the court's records in the case. The certified judgment is delivered to the Chief of Police or an agent, such as a uniformed officer. This copy is sufficient authority for the Chief of Police to carry out the sentence and confine the person to jail for the time specified or until further

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