

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:34 A.M. on January 16, 2008, in Room 123-S of the Capitol.

All members were present except:

Terry Bruce- excused
Barbara Allen, arrived 9:37 A.M.
David Haley, arrived 9:44 A.M.
Derek Schmidt, arrived 9:44 A.M.

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Bruce Kinzie, Office of Revisor of Statutes
Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Dr. Tony Fabelo Council of State Governments Justice Center
Marshall Clement, Council of State Governments Justice Center

Others attending:

See attached list.

Bill Introductions

Randy Hearrell, Kansas Judicial Council, requested the introduction of five bills. The first bill would amend the Kansas Rules of Civil Procedure to incorporate the recent changes in federal rules relating to electronically stored information into the Kansas statutes.

The second bill would amend K.S.A. 17-49a01 and 17-49a03 of the Uniform Transfer on Death Securities Registration Act. The amendment proposes to reinsert language from the Uniform Act that was omitted when the bill was enacted.

The third bill would amend certain dollar amounts in the probate code. These dollar amounts were last considered eight years ago.

The fourth bill would enact the Kansas Uniform Prudent Management of Institutional Funds Act. This act will replace the Uniform Management of Institutional Funds Act enacted in 1973.

The fifth bill is a clean-up bill which relates to juveniles and amends a number of sections in the Revised Kansas Code for Care of Children, amends two sections in the Revised Kansas Juvenile Justice Code and repeals K.S.A. 38-133.

Senator Donovan moved, Senator Goodwin seconded, to introduce all five bills. Motion carried.

Chairman Vratil introduced Dr. Tony Fabelo and Marshall Clement who provided a presentation on the impact and implementation of **SB 14** enacted by the 2007 Legislature entitled *Tracking the Impact and Implementation of 2007 SB 14 to Increase Public Safety and Reduce Spending on Corrections (Attachments 1 & 2)*. Results indicate that 2007 SB 14 is making a positive impact and the legislature should continue to support the program.

The meeting adjourned at 10:32 A.M. The next scheduled meeting is January 17, 2008.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 1-16-08

| NAME | REPRESENTING |
|--------------------|--------------------------------|
| Judy Mohr | KAC |
| Richard Samuels | Kennedy Assoc |
| Ed Klump | KACP/KPOA |
| Scott Heidner | KADC |
| Karla Werth | Ks Assoc for Justice |
| NIKI CHRISTOPHER | CURB |
| Randy Heameel | Judicial Council |
| Heather Morgan | SJA |
| Lana White | OTA |
| Austin Hayden | Hein Law Firm |
| Stuart Little | Ks Community Corrections Assoc |
| SEAN MILLEN | CAPITOL STRATEGIES |
| Phil Hoyer | KHPA |
| Margaret Smith | KHPA |
| Pat Woods | SRS |
| A Therese Banerjee | Ks. CATH. CONF |
| | |
| | |



Kansas's Effort to Increase Public Safety & Manage Spending on Corrections

January 16, 2008

Dr. Tony Fabelo
Marshall Clement

Council of State Governments Justice Center

Overview

- **Enactment of SB14
& Neighborhood Reinvestment**
- Impact on Prison Population Projection
- Accountability Issues

One Year Ago

- Need to Build 1,800 Prison Beds
- 65 percent of admissions due to probation and parole revocations
- Most people being released from prison hadn't completed programs to reduce their likelihood of recidivism

Process Leading up to SB14

JUSTICE CENTER
CRIMINAL JUSTICE & PUBLIC SAFETY

Policy Options to Increase Public Safety & Manage the Growth of the Prison Population



Projected Kansas Prison Population
 Fiscal Year 2007-2016

Policy Options

No Policy Change

Governor's Budget Proposal to Sustain 50% Reduction in Parole Revocations

HB2141: Strengthen Community Corrections and Reduce Revocations by 20 Percent

HB2141 + Treatment Capacity Enhancement to Reduce Community Corrections Revocations by 20 Percent

HB2142: Reduce Risk Prior to Release (60 Day Program Completion Credit)

• Current assumptions of sentencing Commission

• Capacity and completion rates increase

(Net capacity impact assumes 10% of offenders complete community, 10% complete boot program, and program participation reduces recidivism by 20 percent.)

Package 1

• Governor's Budget Proposal

• HB2141: Community Corrections (20%)

Package 2

• Governor's Budget Proposal

• HB2141: Community Corrections (20%)

• HB2142: Program Credit (20 days)

Package 3

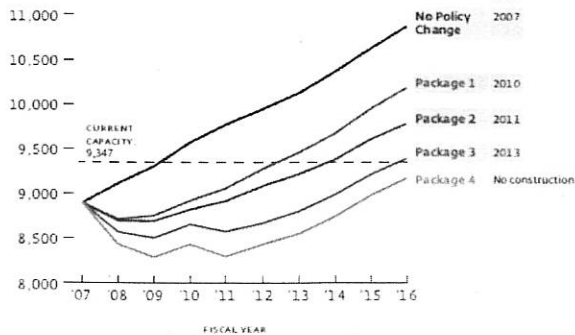
• Governor's Budget Proposal

• HB2141: Community Corrections (20%)

• HB2142: Program Credit (20 days)

• Include total 1000 Beds 11% or 20% construction cost

• 2007-2016: 1,800 Beds



Goals & Key Provisions of SB14

Reduce community corrections revocations & hold offenders accountable in the community



Grant program to local CC agencies to reduce revocations by 20 percent

Reduce recidivism rates by creating an incentive for people to complete vocational, treatment, and educational programs prior to the end of their sentence



Risk reduction program credit of 60 days for offenders who successfully complete programs designed to reduce their risk prior to release

Reserve prison space for the most serious and violent offenders



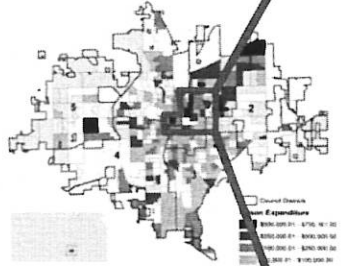
Return to 80 percent of time to be served for offenders in lowest guideline categories

Community Corrections

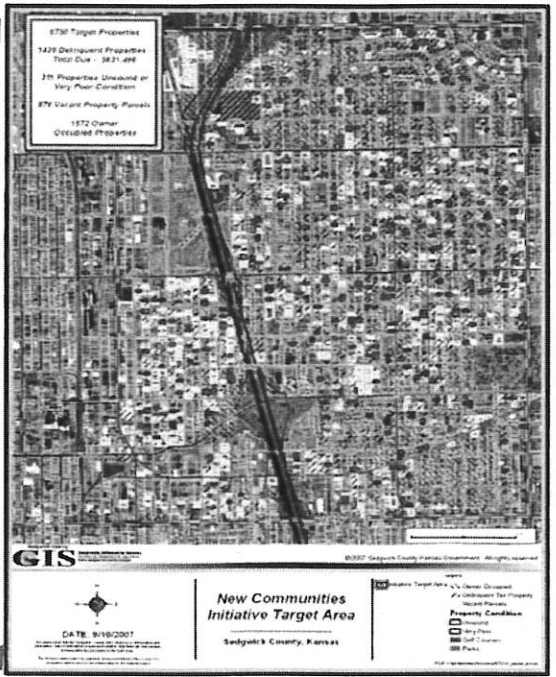
- **\$4.0 million invested in local community corrections agencies across the state**
- **Enhanced supervision based on risk/needs assessments**
- **Increased community-based treatment & other resources to reduce recidivism and prevent crime**
- **National Institute of Corrections & JEHT Foundation Committed to Support SB14 Implementation**

Neighborhood Reinvestment

Prison Expenditure by Block-Group with Council District Boundaries, Wichita



| Council District | Block-Group | Prison Expenditure | Population | Ratio |
|------------------|-------------|--------------------|-------------|-------------|
| 1 | 001 | \$6,773,080 | \$2,517,100 | \$3,088,943 |
| 2 | 002 | \$6,003,793 | \$1,718,239 | \$3,498,004 |
| 3 | 003 | \$2,314,100 | \$666,814 | \$3,456,000 |
| 4 | 004 | \$1,884,584 | \$543,206 | \$3,450,000 |
| 5 | 005 | \$1,795,600 | \$543,206 | \$3,287,500 |
| 6 | 006 | \$1,847,757 | \$1,800,344 | \$1,026,470 |
| Total | | \$13,478,000 | \$7,137,227 | \$1,886,200 |



Neighborhood Reinvestment



Sedgwick County...
working for you



New Communities Initiative Policy Group

- Carl Brewer, Mayor, City of Wichita
- Sharon Fearey, Council Member, City of Wichita
- George Kolb, City Manager, City of Wichita
- Roger Werholtz, Secretary, Kansas Department of Corrections
- Roderick L. Bremby, Secretary, Kansas Department of Health & Environment
- Don Jordan, Acting Secretary, Kansas Department of Social and Rehabilitation Services
- Jim Garner, Secretary, Kansas Department of Labor
- David Kerr, Secretary, Kansas Department of Commerce
- Kathy Greenlee, Secretary, Kansas Department of Aging
- J. Russell Jennings, Commissioner, Kansas Juvenile Justice Authority
- Winston Brooks, Superintendent, Wichita Public Schools
- Bill Buchanan, County Manager, Sedgwick County Courthouse
- Keith Lawing, Executive Director, Workforce Alliance of South Central Kansas
- Donald L. Beggs, President, Wichita State University
- John Moore, Former Lieutenant Governor
- Rob Allison, President, Bank of America
- James N. Barber, President, Via Christi Foundation
- S. Edwards Dismuke, MD, MSPH, Dean KLU School of Medicine-Wichita

- Anne Corrigan, Program Director, John S. and James L. Knight Foundation
- Susan Addington, Community Relations Manager, Koch Industries, Inc.
- Larry Schumacher, President & CEO, Via Christi Wichita Health Network
- Hugh Tappan, CEO, Wesley Medical Center
- Lyndon O. Wells, Executive Vice President, Intrust Bank

Collaborating Agencies

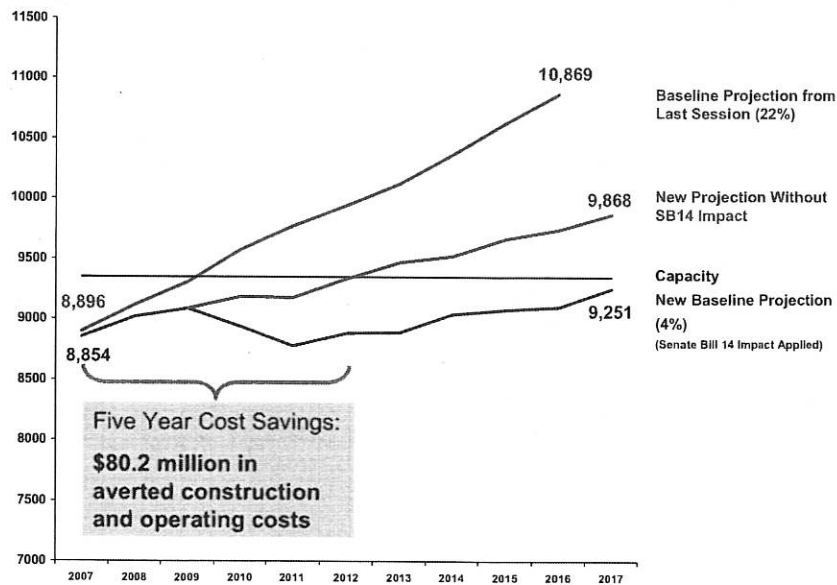
- Wichita Housing and Community Services Dept.
- Wichita Police Department
- Wichita Public Schools
- Sedgwick County Reentry Program
- Sedgwick County Division of Human Services
- Sedgwick County Department of Corrections
- COMCARE of Sedgwick County
- Kansas Housing Resources Corporation
- Kansas Department of Corrections
- Kansas Department of Health & Environment
- Kansas Department of Social and Rehabilitation Services
- Kansas Juvenile Justice Authority
- Kansas Department of Commerce
- Kansas Department of Labor
- Kansas Parole Board

1-4

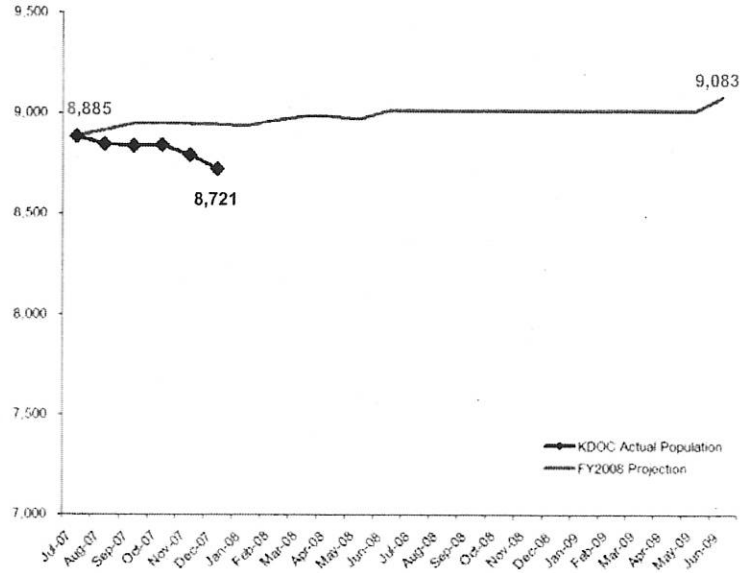
Overview

- Enactment of SB14
& Neighborhood Reinvestment
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- Accountability Issues

Projections



Actual Population vs. Projection



Kansas Averting a Crisis that Other States Are Now Facing

San Francisco Chronicle

Prisons: 22,000 prisoners could be set free early to save millions

John Wildermuth, Chronicle Staff Writer
Saturday, January 12, 2008

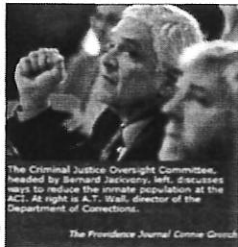
Proposals aim to cut inmate population

01:00 AM EST on Friday, January 11, 2008

By Katherine Gregg

Journal State House Bureau

PROVIDENCE — A packet of early-release proposals — aimed at reducing the state prison population by at least 211 inmates — is headed to the legislature, with advocates hoping the seriousness of the state's financial situation and the possibility the state may soon hit a court-imposed inmate cap will make lawmakers more amenable this year to some of the proposals.



The Criminal Justice Oversight Committee, headed by Bernard Jacobson, left, discusses ways to reduce the inmate population at the JCI. At right is A.T. Wall, director of the Department of Corrections.

The Providence Journal Come Growth

Governor confirms he wants inmates released

Plan to free 22,000 has a GOP legislator charging 'betrayal'

By Andy Furillo - afurillo@sacbee.com

Published 12:00 am PST Friday, January 11, 2008
Story appeared in MHPH NEWS section, Page A14

Print | Email | Comments (45) | Diggs | Discussion



Gov. Arnold Schwarzenegger presents the state budget plan Thursday at a news conference in Sacramento. The proposal includes \$667.6 million to the release of 22,700 inmates over the next year. Photo by Andy Furillo/Sacramento Bee

There were expressions of fear and disbelief, and promises of danger. One man said the best way to deal with 22,000 early prisoner releases is for society to lend a hand to its incorrigibles. Others said the proposal is long overdue.

Kansas Highlighted Nationally

THE NEW YORK TIMES EDITORIAL/LETTERS MONDAY, JULY 2, 2007

The New York Times A Much-Needed Second Chance

The United States now has more than two million people behind bars, a number that has been rising steadily for decades. But state lawmakers who once would have rushed to build new prisons have begun to see that prison-building is not the best or most cost-effective way to fight crime or protect the public's safety.

Several states are developing programs with low-level offenders. And the control recidivism among recently released people. Mental health care to live viable lives. Shunned them.

Texas and Kansas are developing programs into their own. The states have part to the effort. The center is a call to sweeping changes in Texas, where the legislature was facing a projected upsurge in the prison population and a projected outlay of more than a bil-

lion dollars to build several new prisons.

The surge in Texas was not being driven by crime, which had risen only slightly, but by a breakdown in the parole and probation systems, which were unable to process and supervise the necessary numbers of released prisoners. Mental health and

could potentially avoid the need for any new prisons.

A similar solution was found in Kansas, where about 65 percent of the state's admissions to prison were traced to technical violations of probation or parole, often by people with drug addictions or mental illnesses. The Legislature has expanded drug treatment behind bars and created a grant program that encourages localities to provide more effective supervision and services as a way of keeping recently released people away from crime and out of prison.

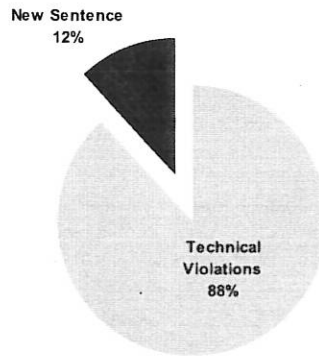
The second chance Act would bolster the re-entry movement with money, training, technical assistance — and the federal stamp of approval.

Overview

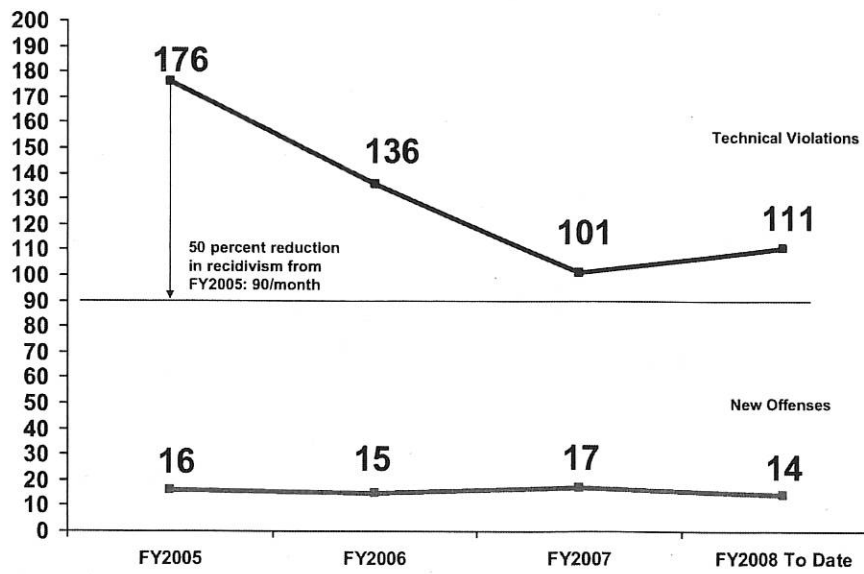
- Enactment of SB14
& Neighborhood Reinvestment
- Impact on Prison Population Projection
- **Accountability Issues**

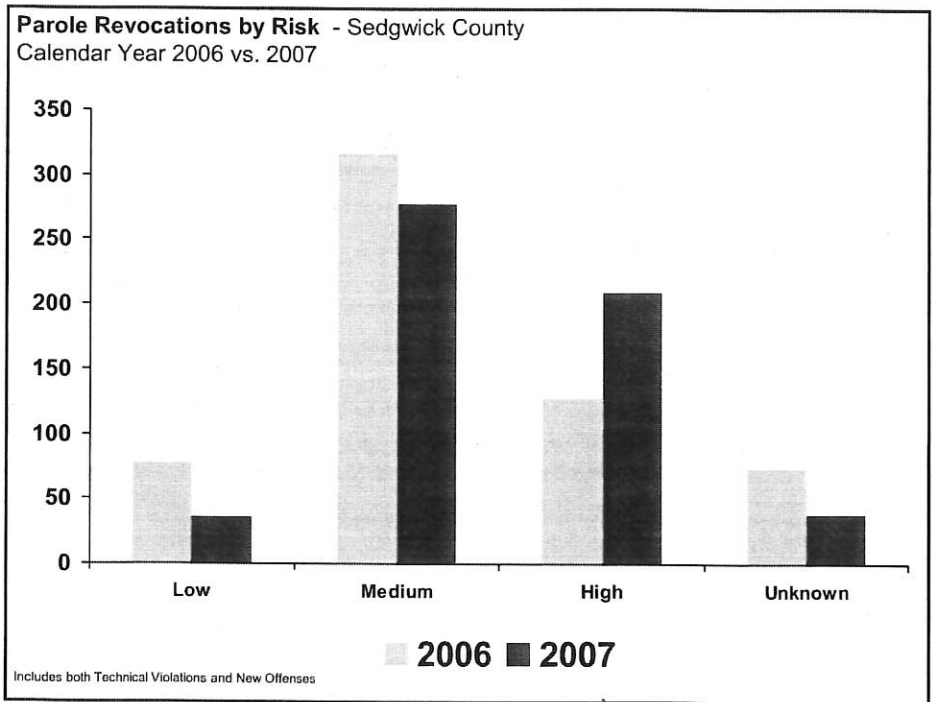
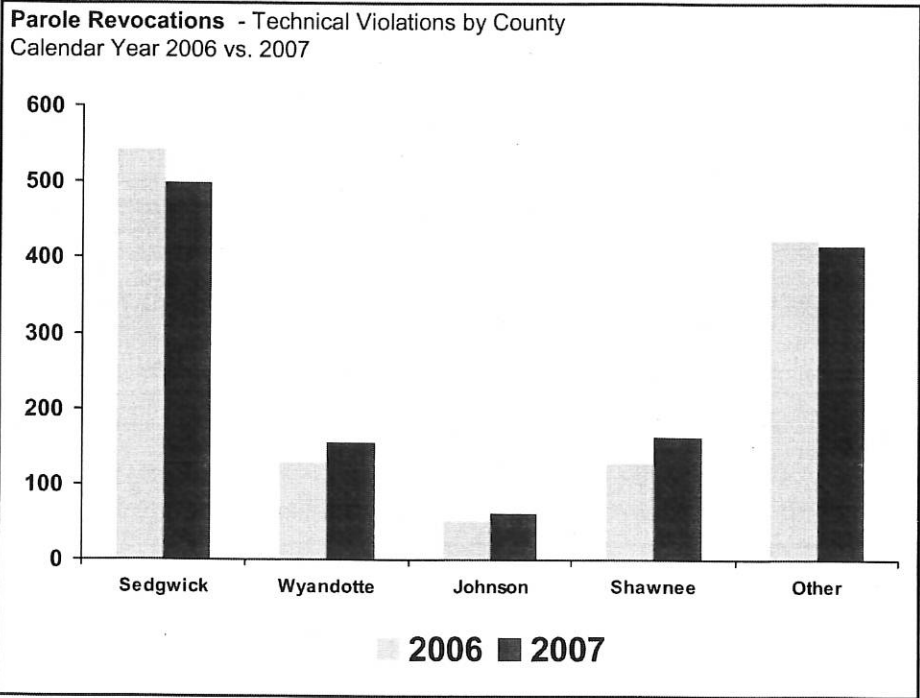
Parole Revocations

Calendar Year 2007



Parole Revocations (Average per month)
FY2005-2008 (to date)



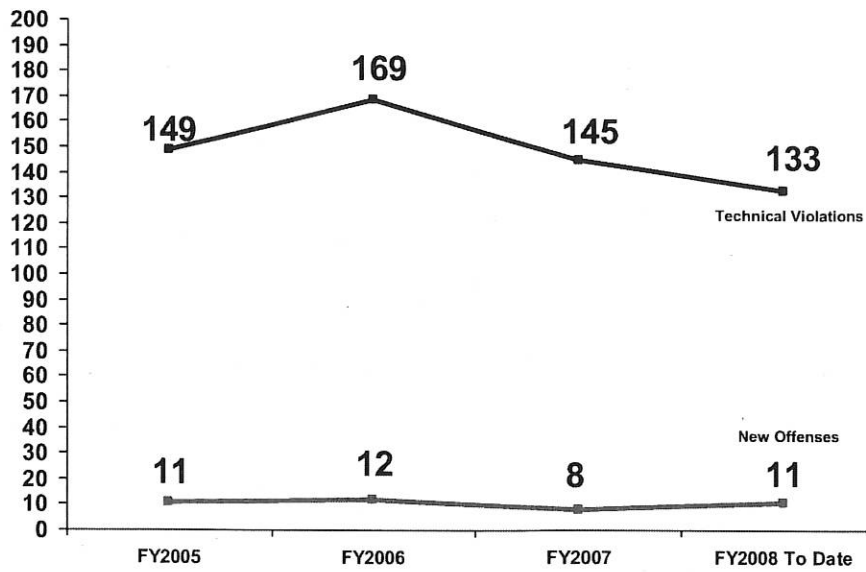


Probation Revocations

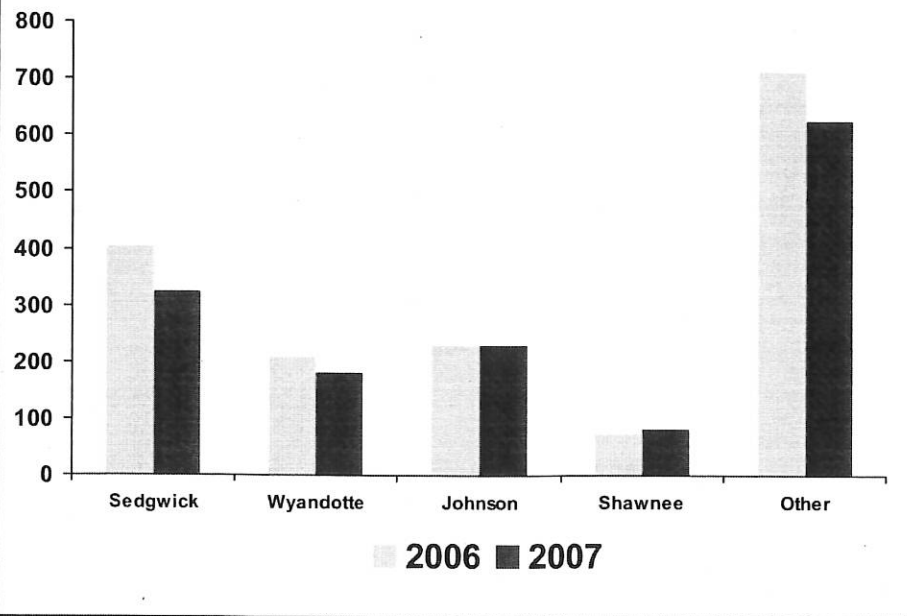
Calendar Year 2007



Probation Revocations (Average per month)
FY2005-2008 (to date)



Probation Revocations - Technical Violations by County
Calendar Year 2006 vs. 2007



Challenges

- Closely track the implementation of SB14
- Continue funding of community corrections grant program to achieve target of 20 percent reduction in revocation rate
- Evaluate the impact of program credits on rates of program completion and recidivism
- Start designing a strategy for justice reinvestment in high stakes neighborhoods
- Continue to use a data-driven process for evaluating new criminal justice policies



Justice Reinvestment State Brief: Kansas



This brief is part of a series for state policymakers interested in learning how particular states across the country have employed a data-driven strategy called justice reinvestment to better manage corrections spending, increase public safety, and redirect some of the savings toward efforts that will improve conditions in the neighborhoods to which most people released from prison return. Over the past two years, Kansas policymakers worked with the Council of State Governments Justice Center, and with the support of the Bureau of Justice Assistance, a component of the U.S. Department of Justice, and the Public Safety Performance Project of The Pew Charitable Trusts' Center on the States, to pursue a justice reinvestment strategy.¹

Highlights

The prison population in Kansas was projected to increase 22 percent by 2016 at a cost of approximately \$500 million in additional construction and operating costs.

An analysis of the prison population identified high rates of failure on community supervision and low rates of in-prison program completion as key factors driving the projected growth.

To reduce recidivism rates, state lawmakers enacted both a 60-day credit for people in prison who complete certain programs and a grant program for local community corrections agencies to increase success rates among those under supervision by 20 percent. The measures are expected to avert \$80 million in state spending over the next five years.

Policymakers reinvested \$7 million of the projected savings in additional treatment programs and efforts to improve community-based supervision, and are focusing these efforts on high-crime neighborhoods.

State, county, city, and community leaders are collaborating on the New Communities Initiative, a major neighborhood reinvestment project.

1. The JEHT Foundation recently awarded the Kansas Department of Corrections a \$4.67 million multi-year grant to support the state's prison reentry and risk reduction efforts. The Open Society Institute has provided significant support to state, county, and city leaders who are working together to develop the New Communities Initiative.

Criminal justice policy in Kansas has long been regarded as “tough and smart.” It is tough because serious and violent offenders are held in prison for long terms. It is smart because policymakers have made research-driven decisions about which offenders can be safely and effectively supervised in community corrections programs. This combination has allowed Kansas to curb spending on prison construction while ensuring space is available to keep violent offenders behind bars.

Nonetheless, criminal justice policies enacted in 2006 which increased sentence lengths, along with other developments, were poised to place this balanced criminal justice policy framework under significant pressure. With the prison population projected to increase by 22 percent, policymakers were faced with the prospect of appropriating nearly \$500 million over ten years to build and operate approximately 1,292 additional prison beds. Kansas policymakers instead identified another path and applied a justice reinvestment strategy.

“If we do not address the problem today, we are effectively deciding to spend hundreds of millions of dollars on future construction and operation of more prisons...Kansas will miss the opportunity to become safer.”

**— STATE SENATOR JOHN VRATIL, R-OVERLAND PARK,
CHAIR, JUDICIARY COMMITTEE**

**STEP
1**

Analyze the Prison Population and Spending in the Communities to Which People in Prison Often Return

In 2006, state policymakers in Kansas requested intensive technical assistance from the Council of State Governments Justice Center. In response, the Justice Center provided state officials with an analysis of the prison population that identified the factors driving the projected 22 percent increase in the prison population:

- In FY 2006, probation and parole revocations accounted for 65 percent of prison admissions, consuming 27 percent of prison capacity at a cost to taxpayers of \$53 million annually.²
- That same year, 90 percent of revocations were for conditions violations, with alcohol or drug use accounting for 32 percent of parole revocations. Additionally, 58 percent of people revoked on probation supervision demonstrated a need for substance abuse or mental health treatment.³

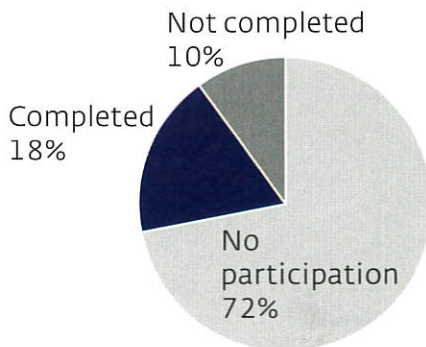
- Most people were released from prison without participating in programs that could reduce their risk of reoffending. Half of people in need of substance abuse treatment and 72 percent of people needing vocational education did not participate in relevant risk reduction programs prior to their release from prison.⁴

"We've got a broken corrections system. Recidivism rates are too high and create too much of a financial burden on states without protecting public safety. My state and others are reinventing how we do business by employing justice reinvestment strategies that can put our taxpayers' dollars to better use."

— U.S. SENATOR SAM BROWNBCK, R-KANSAS

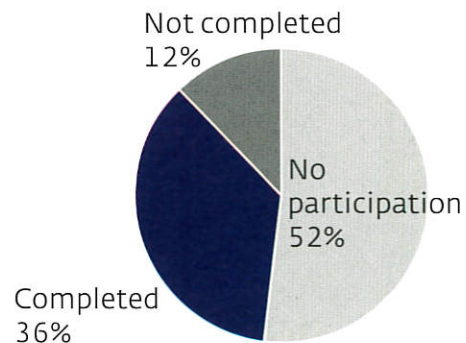
Offenders in Need of Vocational Education:

Program participation & completion prior to release



Offenders in Need of Substance Abuse Treatment:

Program participation & completion prior to release



2. Dr. Tony Fabelo, "Tough and Smart: Opportunities for Kansas Policymakers to Reduce Crime and Spending," Presentation, December 12, 2006.

3. Dr. Fred Osher, "Kansas' Opportunity to Improve Public Safety Through Effective Treatment," Presentation, February 5, 2007.

4. Ibid; Department of Corrections Analysis, October 2006. Ibid; Department of Corrections Analysis, October 2006.

**STEP
2**

Identify Options to Generate Savings and Increase Public Safety

Following the analysis of the prison population, leaders in the state legislature established a bipartisan legislative task force and worked with the Justice Center to identify policy options that would increase public safety by reducing recidivism and avert as much of the projected prison growth as possible.

To gain a sense of public attitudes toward these and related issues, state legislators commissioned a public opinion survey, which revealed that despite the enactment of various laws designed to incarcerate serious, violent offenders for longer periods of time, most Kansans continued to believe, incorrectly, that people currently sentenced to prison serve less time in prison than they did 10 years ago.⁵

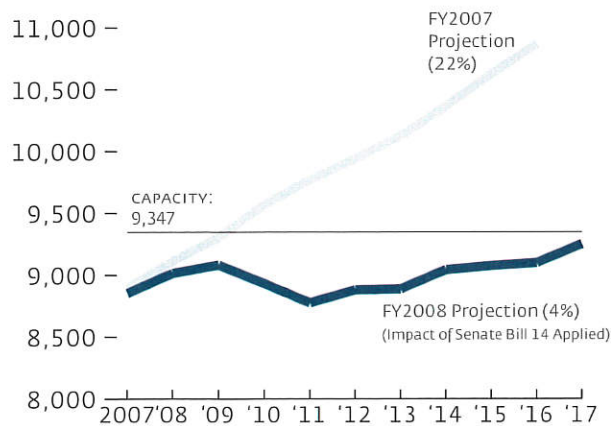
The same poll results also showed that Kansans overwhelmingly supported providing substance abuse treatment to people in prison, and assumed, again incorrectly, that such services were widely available behind the walls. When told that strategies designed to keep offenders from failing on probation and ending up in prison could be employed to avert growth in the population, the vast majority of Kansans preferred these strategies or the combination of these strategies with some prison construction over only building more prisons.⁶

At the recommendation of the task force, in May 2007, the Kansas Legislature approved a package of criminal justice legislation which included:

- creation of a performance-based grant program for community corrections programs to design local strategies to reduce revocations by 20 percent;
- establishment of a 60-day program credit to increase the number of people who successfully complete educational, vocational, and treatment programs prior to release; and
- restoration of earned time credits for good behavior for nonviolent offenders.⁷

“We’ve already spent millions ensuring that Kansans are safe by locking up offenders for longer periods of time. Now it’s time to make Kansas safer by making sure that when offenders inevitably finish their sentences, they are productive taxpaying members of our community.”
— STATE REPRESENTATIVE MICHAEL O’NEAL, R-HUTCHINSON, CHAIR, JUDICIARY COMMITTEE

Kansas Projected Prison Population (FY2007 & FY2008)



5. Council of State Governments Justice Center, “Kansas Criminal Justice Public Opinion Survey,” April 2007. The Survey Research Center at the Institute for Policy and Social Research at the Uni-

versity of Kansas conducted the polling. The survey results are available at: <http://justice.reinvestment.org/states/kansas/pubmaps-ks>.
6. Ibid.

7. Kansas Legislature, Senate Bill 14, “An Act Concerning the Department of Corrections,” enacted 2007. For full text of bill, see <http://www.kslegislature.org/bills/2008/14.pdf>

**STEP
3**

Quantify Savings and Reinvest in Select High-Stakes Communities

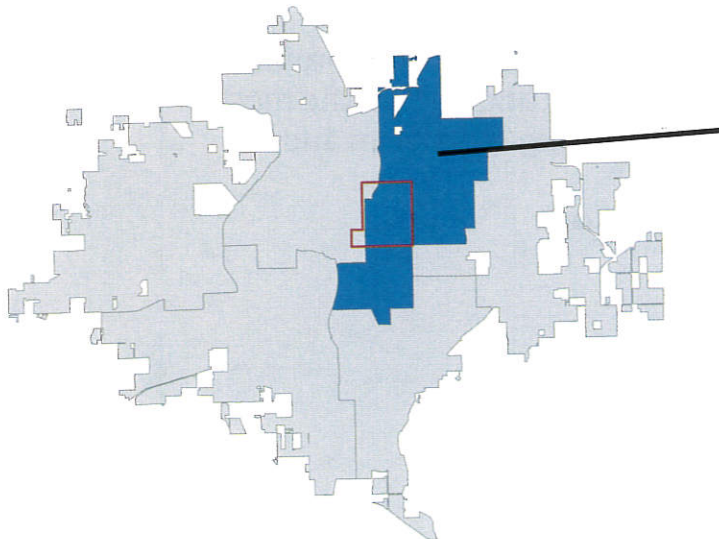
If the new policies are implemented successfully, the state of Kansas will avoid having to build 1,292 additional prison beds over the next 10 years and save \$80.2 million over 5 years in averted construction and operating costs.⁸ As part of the legislative package enacted, policymakers appropriated \$4.5 million to reinvest in the community corrections grant program and \$2.4 million to reinvest in substance abuse and vocational programs.⁹

Data collected and analyzed through the technical assistance made available by the Justice Center prompted state agencies to establish the New Communities Initiative (NCI), a major neighborhood reinvestment project in Wichita, coordinated by state, county, community, and city leaders. Geographic analyses of Wichita revealed that in 2004, Kansas taxpayers spent \$11.4 million to incarcerate people from a single neighborhood, as well as an additional \$8.7 million on food stamps,

unemployment insurance, and Temporary Assistance to Families. To integrate these funding streams and achieve better outcomes for this collective set of resources, NCI leaders are designing a common set of strategies around these issue areas: children and youth, behavioral and physical health, adult education and economic vitality, safe and secure communities, and housing, which has been identified as a key issue given the high incidence of dangerous and neglected housing in the area.

“Reducing recidivism helps fight crime in the short-term. In the long-term it frees up resources to reinvest in neighborhood-based strategies which improve conditions for the whole community.”

— REPRESENTATIVE JANICE PAULS (D-HUTCHINSON),
RANKING MINORITY LEADER, JUDICIARY COMMITTEE



State spending on corrections for people sent to prison from Wichita is approximately \$28.9 million annually. Of that sum, 39 percent (\$11.4 million) is spent on offenders who lived in a single district—Council District 1. In that same district, \$8.7 million in additional taxpayer dollars is spent on food stamps, unemployment insurance, and Temporary Assistance to Families. (The area outlined in red denotes the boundaries of the New Communities Initiative).

8. This figure is dependent on when the state decides to build additional facilities.

9. The package also included bonding authority to build prisons should it become necessary,

although based on the plan enacted, the state may not have to build for 5 years.

**STEP
4**

Measure the Impact and Enhance Accountability

For the state of Kansas to realize the objectives in the legislative package, state and local government officials will need to address several challenges. The statute's goal of reducing probation revocations, for example, will require unprecedented levels of collaboration among judges, community-based treatment providers, community corrections agencies and other local stakeholders. Together, these groups must design new, effective supervision strategies, which are tailored to the unique aspects of their counties to improve the success of people on supervision.

No single state agency can coordinate these efforts across the counties, as they require support and leadership from multiple state and local systems. People under supervision must be connected to community-based mental health and substance abuse treatment, housing, and employment—

services all funded by distinct state agencies. Similarly, the NCI seeks to bring together funding streams and services from multiple state agencies in order to realign those resources around a common set of neighborhood-based strategies for improving public safety and the quality of life of all residents.

To centralize accountability and integrate the efforts of these distinct government agencies, state policymakers established the Kansas Reentry Policy Council (KRPC), which maintains a statewide, multi-system vision for reducing recidivism. The KRPC includes the secretaries of five cabinet agencies, leaders of the judiciary, and designees of the legislative leadership. It will collect information and report to the legislature about the state's progress in establishing and realizing a comprehensive risk reduction and reentry plan.

“Building more prisons does not solve our problems. We must continue to identify and pursue the most cost-effective ways of reducing recidivism and increasing public safety.”

— GOVERNOR KATHLEEN SEBELIUS, D

To learn more about the justice reinvestment strategy in Kansas and other states, please visit:
www.justicereinvestment.org.

JUSTICE★CENTER

THE COUNCIL OF STATE GOVERNMENTS

The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The Justice Center provides practical, nonpartisan advice and consensus driven strategies, informed by available evidence, to increase public safety and strengthen communities.



BJA Bureau of Justice Assistance



This project was supported by Grant No 2006-RP-BX-K276 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United State Department of Justice.

To learn more about the Bureau of Justice Assistance, please visit: <http://www.ojp.usdoj.gov/BJA/>.

Research and analysis described in this report also has been funded by the Public Safety Performance Project of The Pew Charitable Trusts' Center on the States. Pew's project assists select states that want better results from their sentencing and corrections systems, providing nonpartisan research, analysis and expertise to help states identify data-driven, fiscally responsible options for protecting public safety, holding offenders accountable, and controlling corrections costs.

To learn more about the Public Safety Performance Project, please visit: <http://www.pewpublicsafety.org/>.

Points of view, recommendations, or findings stated in this document are those of the authors and do not necessarily reflect the official position or policies of the Bureau of Justice Assistance, U.S. Department of Justice, The Pew Charitable Trusts, Council of State Governments Justice Center, or the Council of State Governments' members. © 2007

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