

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on January 27, 2009, in Room 136-N of the Capitol.

All members were present except:

Senator Steve Morris- excused

Committee staff present:

Connie Burns, Committee Assistant
Julian Efird, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Jason Long, Office of the Revisor of Statutes

Conferees appearing before the committee:

Pat Lehman - Kansas Fire Service Alliance
Senator Tom Holland
Athena Andaya - Kansas Legislative Research Department

Others attending:

See attached list.

Senator Tom Holland requested two bill introductions. The first bill introduction regards implementation of E-Verify for public employers and their contractors in the State of Kansas. The second bill is in regards to criminal penalties for misclassification.

Senator Faust-Goudeau moved that this request should be introduced as a committee bill. Senator Francisco seconded the motion. The motion carried.

Pat Lehman, Kansas Fire Service Alliance, requested a bill introduction that allows for a fire department to block a public highway temporarily in the discharge of their official duties.

Senator Reitz moved that this request should be introduced as a committee bill. Senator Francisco seconded the motion. The motion carried.

Senator Brungardt requested two bill introductions. The first bill introduction regards examination of the Private Investigators statutes as it concerns concealed carry.

Senator Brungardt moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

The second bill introduction is in regards to removing the sunset and redefining Racial Profiling.

Senator Brungardt moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

Senator Owens requested a bill introduction concerning zoning relating to group homes.

Senator Owens moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

Athena Andaya, Kansas Legislative Research Department, briefed the committee on the report of the Joint Committee on Corrections and Juvenile Justice Oversight to the 2009 Kansas Legislature. (Attachment 1) The topics included the statutory charge in KSA 46-2801 and recommends the following:

- The Committee discussed the current practice of providing sex offender programs and substance abuse programs to offenders when they are approaching their release dates; and wanted to emphasize the importance of starting earlier in sex offender programming and the substance abuse programming in order to manage offenders better and reduce the recidivism rate. These programs, if started earlier, would provide less need to create new facilities to house offenders.
- Secretary Werholtz brought to the attention of the committee the concerns of systems and

CONTINUATION SHEET

Minutes of the Senate Federal And State Affairs Committee at 10:30 a.m. on January 27, 2009, in Room 136-N of the Capitol.

infrastructure that are worn out and outdated, and the need for capital expenditures to replace and update these systems. The committee concluded that this issue is a priority and the Legislature should be made aware of this issue, the Secretary requested the means to complete the task of creating a treatment prison, not necessarily building a physical plant, but the support needed to build a program.

- There were numerous conferees during the six meeting days that the Level of Services Inventory-Revised (LSI-R) is an extremely effective risk assessment tool; and notes the potential savings from its use.
- The Committee would like to commend Commissioner Jennings, Juvenile Justice Authority (JJA) for his truthfulness in revealing problems to the committee and for winning the 2008 Performance-based Standards (PbS) Barbara Allen-Hagen Award; a national award recognizing exceptional work to ensure that facilities are safe for youths and staff, hold youths accountable, and provide effective rehabilitation services that prevent future crime, and commend Deputy Commissioner Pealer for pursuing programs that work in assessing the juveniles.
- The Committee authorized the Chairperson of the Jt. Committee on Corrections and Juvenile Justice to send a letter on its behalf to the Judicial Council for an in-depth study of issues caused by the opinion of the Kansas supreme Court authorizing juvenile jury trials, to request the Council makes a recommendation on legislation needed to comprehensively implement juvenile jury trials, and suggests that the Council move quickly on this study so that the Legislature may review the recommendations during the Legislative Session.
- The Committee recognizes that proportionality is a work in progress but endorses the effort of the Proportionality Subcommittee of the Kansas sentencing Commission in combining the drug and non-drug sentencing grids into one grid and encourages the introduction of such a bill.
- The Committee recommends the pre-filing of two bills based on the draft legislation provided by JJA concerning the Court-ordered custody of juveniles to the Commissioner of Juvenile Justice; and a bill on the implementation of the Interstate Juvenile Compact.

The next meeting is scheduled for January 29, 2009. The meeting was adjourned at 10:30 am

**Report of the
Joint Committee on Corrections and
Juvenile Justice Oversight
to the
2009 Kansas Legislature**

CHAIRPERSON: Senator Pete Brungardt

VICE-CHAIRPERSON: Representative Tim Owens

OTHER MEMBERS: Senators Karin Brownlee, Greta Goodwin, David Haley, Phillip Journey, Jean Schodorf, and David Wysong; and Representatives Bob Bethell, Doug Gatewood, Jerry Henry, Dan Johnson, Jim Ward, and Jason Watkins

STUDY TOPIC

- Statutory duties pursuant to KSA 46-2801

December 2008

Sen Fed & State

Attachment 1
1-27-09

Joint Committee on Corrections and Juvenile Justice Oversight Committee

STATUTORY DUTIES

CONCLUSIONS AND RECOMMENDATIONS

The Joint Committee reviewed the topics included in the statutory charge in KSA 46-2801. The Committee concludes and recommends the following:

- The Committee discussed the current practice of providing sex offender programs and substance abuse programs to offenders when they are approaching their release dates. Ideally, needed programs would start earlier but these programs cost money. The lack of funding has required these programs to be offered shortly before the offender's release from prison. The Committee wanted to emphasize the importance of starting earlier in sex offender programming and the substance abuse programming order to manage offenders better and reduce the recidivism rate. It was discussed that if these programs were started earlier, there would be less of a need to create new facilities to house offenders.
- Secretary Werholtz brought to the attention of the Committee the concern of systems and infrastructure that are worn out and outdated. He mentioned the need for capital expenditures to replace and update these systems. The Committee concluded that this issue is a priority and this is something that the Legislature should be made aware of. Also, Secretary Werholtz had a request that he be provided the means to complete the task of creating a treatment prison, not necessarily building a physical plant, but the support needed to build a program.
- The Committee heard from numerous conferees during its six meeting days that the Level of Services Inventory-Revised (LSI-R) is an extremely effective risk assessment tool. The Committee agrees that treating and placing offenders based on their risk to reoffend is more effective than basing the strategy on their length of sentence or severity of their crime of conviction. The Committee notes the potential savings from its use.
- The Committee would like to commend Commissioner Jennings, Juvenile Justice Authority (JJA), for his truthfulness in revealing problems to the Committee and for winning the 2008 Performance-based Standards (PbS) Barbara Allen-Hagen Award. It is a national award recognizing exceptional work to ensure that facilities are safe for youths and staff, hold youths accountable, and provide effective rehabilitation services that prevent future crime. The Committee would like to commend Deputy Commissioner Pealer for pursuing programs that work in assessing the juveniles.
- The Committee authorized the Chairperson of the Joint Committee on Corrections and Juvenile Justice Oversight to send a letter on its behalf to the Judicial Council for an in-depth study of issues caused by the opinion of the Kansas Supreme Court authorizing juvenile jury

trials. The letter will request the Judicial Council make recommendations on legislation needed to comprehensively implement juvenile jury trials in Kansas. Finally, the Committee suggests the Judicial Council move quickly on this study so that the Legislature may review the recommendations during the Legislative Session.

- The Committee recognizes that proportionality is a work in progress but endorses the effort of the Proportionality Subcommittee of the Kansas Sentencing Commission in combining the drug and non-drug sentencing grids into one grid. The Committee encourages the introduction of such a bill.

Proposed Legislation: The Committee recommends the pre-filing of two bills based on the draft legislation provided by JJA. The first bill concerns the Court-ordered custody of juveniles to the Commissioner of Juvenile Justice, and the second bill concerns the implementation of the Interstate Juvenile Compact.

BACKGROUND

The 1997 Legislature created the Joint Committee on Corrections and Juvenile Justice Oversight (Committee hereinafter) to provide Legislative oversight of two executive agencies: the Kansas Department of Corrections and the Juvenile Justice Authority.

The Kansas Department of Corrections (KDOC) is a cabinet-level criminal justice agency created in 1975 to provide effective containment, risk management, and supervision of adult offenders. KDOC operates eight correctional facilities: El Dorado Correctional Facility, Ellsworth Correctional Facility, Hutchinson Correctional Facility, Lansing Correctional Facility, Larned Correctional Mental Health Facility, Norton Correctional Facility, Topeka Correctional Facility, and Winfield Correctional Facility. KDOC operates parole offices located in 17 communities throughout the state. KDOC also is responsible for the administration of funding and oversight of 30 local community corrections programs, and two correctional conservation camps: one for men and one for women in Labette County.

The Kansas Juvenile Justice Authority (JJA) is a cabinet-level criminal justice agency that

began operating on July 1, 1997. Individuals as young as ten years of age and as old as 17 years of age may be adjudicated as juvenile offenders and ordered into the custody of the Commissioner of Juvenile Justice. The JJA may retain custody of a juvenile offender in a juvenile correctional facility to the age of 22 ½ and in the community to the age of 23. The JJA operates three correctional facilities: Beloit Juvenile Correctional Facility, Larned Juvenile Correctional Facility, and Topeka Juvenile Correctional Facility. The fourth facility, the Atchison Juvenile Correctional Facility, suspended operations as a juvenile correctional facility on December 8, 2008. JJA will be pursuing an alternative use for the facility as a Youth Residential Center II.

The Committee is composed of 14 members: seven members each from the House and Senate. The statutory duties, found in KSA 46-2801, of the Committee include:

- Monitor the inmate population and review the programs, activities and plans of the KDOC including the implementation of expansion projects, the operation of correctional and other programs for inmates and the operation of correctional institutions and other facilities under the control and supervision of the KDOC;

- Monitor the establishment and review the programs, activities and plans of the Juvenile Justice Authority including the responsibility for the care, custody, control and rehabilitation of juvenile offenders and the condition and operation of the state juvenile correctional facilities under the control and supervision of the JJA;
- Review the adult correctional programs, activities and facilities of counties, cities, school districts, other local governmental entities, and private entities including programs for the reduction and prevention of juvenile crime and delinquency.

2006 HB 2555 repealed the provision in KSA 46-2801 requiring the Committee to expire on December 2005. There have been no further revisions to the statute to this date.

COMMITTEE ACTIVITIES

The Committee met on six occasions: August 28 and 29, September 24 and 25, and November 12 and 13.

The August meeting dates were dedicated to discharging the statutory duties of the Committee related to the adult corrections system.

The September meeting dates were dedicated to discharging the statutory duties related to the juvenile justice system.

The November meetings covered the Larned Correctional Mental Health Facility (LCMH) facility, sex offender treatment programs, the Sex Predator Treatment Program (SPTP) at Larned, reentry initiatives and sentencing proportionality.

Items discussed by the 2008 Interim Committee relating to its statutory duties are reviewed in the following material, along with the

Committee conclusions and recommendations to the 2009 Legislature.

August 28 and 29

Overview on Adult Population Projections

Helen Pedigo, Executive Director, Kansas Sentencing Commission, provided the Committee with an overview on adult population projections. Prison projections involve the use of two major data variables: the number of offenders admitted to prison and the length of the sentence imposed for each. Any time a sentencing policy changes or a court makes a ruling that targets either the admission rates or sentence lengths, there is either an increase or decrease in prison population levels. Identifying the specific impact of policy changes involves the simultaneous incorporation of valid data, accurate assumptions, and realistic implementation.

Director Pedigo stated the major policy changes that have impacted the population projections and that are included in the model are the policies enacted in Senate Substitute for HB 2576 (Jessica's Law) effective on July 1, 2006, House Sub. for SB 14 (corrections initiatives) effective on July 1, 2007, and HB 2707 (third or subsequent felony theft, burglary, or drug violation conviction) effective on July 1, 2008.

Director Pedigo reported to the Committee that the most dramatic increase is primarily due to the enactment of Jessica's Law. The impact of this law will result in approximately 71 off-grid offenders (based on FY 2008 data and 50 percent downward departure to guidelines) being sentenced to prison each year from the year 2009. Offenders are required under this law to serve a minimum term of imprisonment of not less than 25 years or 300 months.

The decrease in probation condition violators reflected the positive impact of 2007 House Sub. for SB 14, which requires at least a 20 percent reduction from that of FY 2006. The projected

number of probation condition violators being returned to prison will continue to decrease with the continuous implementation of 2007 House Sub. for SB 14.

In summary:

- Prison admissions have decreased;
- Releases have increased;
- The number of condition violators revoked to prison was reduced; and
- The most significant change in the model is the increase of off-grid prison population, which will increase by 910 inmates over the ten-year forecast period.

Overview of the Kansas Department of Corrections

Roger Werholtz, Secretary of KDOC, provided updated information on the condition and operation of the correctional institutions and other facilities, and the prison expansion projects in adult corrections.

Secretary Werholtz informed the Committee that the population projection reflects that, even with the passage of HB 2707, there is a significant change in estimating the demand for bed space. The Council of State Governments estimated that the actions taken legislatively, combined with what KDOC has done in supervision and community corrections, probably are going to allow the state to avoid \$80 million in additional cost over the next five years.

With that said, Secretary Werholtz reported that four capacity expansion projects were approved by the Legislature with a total original bonding authority of \$39.525 million. The 2008 Legislature reduced bonding authority to \$19.525 million and limited any expenditures prior to July 1, 2009, to planning, land, or soil surveys. An estimated \$994,057 will be

expended from bond proceeds to do planning for the four projects. The Secretary informed the Committee that although no construction is scheduled until population projections (annual or legislative impact estimates) indicate the need exists, having the designs done in advance will cut time from authorization to opening of the facility by six to eight months depending on the project.

Staffing Levels and Infrastructure Decline of the KDOC

The turnover rates for uniformed staff and non-uniformed staff were provided to the Committee. The impact of turnover rates is shown below:

- Every new officer must complete 240 hours of training prior to assuming a post independently. With the current turnover rate, 61 uniformed positions are open all year;
- It takes on average about 30 days to fill each uniformed position; with the current turnover rate, that equates to an additional 44.7 days; and
- 105.7 uniformed positions open up all year, due solely to turnover.

The turnover issue is exacerbated by vacancies; personnel on extended sick leave, Family and Medical Leave Act (FMLA), shared leave, or return to work status; workers compensation; and military leave. Another issue of concern is the aging staff and years of experience at the facilities.

Finally, the Secretary also raised concerns about the physical infrastructure being in decline, obsolete systems needing to be replaced, vehicle fleets decaying, radios so obsolete that they use frequencies no one else in the state uses, and staff who are worn out. All of these issues are

of budgetary concern to the Secretary and to KDOC.

Overview of Medical and Food Contracts

Roger Haden, Deputy Secretary for Programs, Research, and Staff Development, KDOC, provided the Committee with an overview on KDOC's Food Service Contract and Health Care Services.

KDOC's contract with Aramark Correctional Services, Inc. was entered into in 1997 for food services for inmates, and extends through 2012.

Deputy Secretary Haden informed the Committee that payment for food services is based on daily populations. Aramark cooks food for all KDOC-operated facilities with the exception of the Larned Correctional Mental Health Facility, which receives food services from the Larned State Hospital. Aramark operates food service vocational programs at four KDOC facilities at no extra cost to the state. He mentioned that some facilities operate their own gardens with inmate labor which supplements the regular menu with fresh produce during the harvest season.

Deputy Secretary Haden reported to the Committee that KDOC entered into a nine-year contract with Correct Care Solutions, Inc. (CCS) effective July 1, 2005, for the delivery of medical, dental, and mental health care services to inmates. The bid term of the current contract allows for a three-year fixed term and up to three additional two-year renewals with an expiration date of June 30, 2014. KDOC is currently in the first of these renewal periods for FY 2009 and FY 2010.

Terms of the contract include:

- Payment is a fixed-price, per capita pricing model based on population capacities by correctional facility;
- The monthly payments of the contract

increase or decrease based on performance penalties and certain levels of population;

- Budgeted expenditures will be less than the contracted amount, not to exceed amounts resulting from these adjustments; and
- There are no deductibles, no caps on services or contractor expenditures, and no co-pays from KDOC (Inmates pay \$2.00 co-pay for initial sick call visits.)

Overview of Telephone Contract

Charles Simmons, Deputy Secretary for Management, KDOC, provided the Committee information on the inmate telephone contract with Embarq, effective December 2007. The contract provides for a minimum annual guaranteed payment to KDOC of \$1,057,000. A key feature of the contract is that calling rates are 40 percent lower than those provided in the previous contract. There are different rates for collect, prepaid, and inmate prepaid calls. Having the inmate prepaid calls is a new feature of the Embarq contract, having been implemented during February-April, 2008, and all customer fees have been eliminated under the new contract.

Inmate Intake/Assessment

The Committee was provided information on the Level of Services Inventory-Revised (LSI-R). LSI-R is a risk assessment tool to ensure that offender risk and criminogenic needs are identified to assess potential risk to reoffend, determine intervention targets, measure offender change, and establish the foundation for case management practices and ongoing risk, need assessment, responsiveness to program issues, case planning, case plan follow-up, and documentation. The LSI-R is a validated tool for both genders.

Rise Hanebarg, Chief Court Services Officer;
David Thomas, Director of Adult Services,

Johnson County Court Services; and Tom Dugan, Project Manager, Johnson County Department of Corrections, provided the Committee information on the Johnson County LSI-R Pilot Project.

Ms. Haneberg stated analysis indicates the LSI-R is identifying efficiently those offenders with higher criminogenic needs who tend to be the clients who are unsuccessful on supervision. She reported to the Committee that Court Services has seen a reduction in felony case assignments and Intensive Supervised Probation has seen an influx of cases. She stated that the top domains continue to be leisure and recreation, attitude and orientation, emotional and personal, and financial.

Ms. Haneberg recommends the Committee consider:

- More options for case plans for the top domains. Cognitive groups have been the main source of intervention, along with substance abuse treatment;
- Funding for staff because Court Services is very dependent on Corrections assisting in the LSI-R interview process to have all cases scored in time for sentencing;
- Continuous training on the LSI-R be available for staff turnover and refresher course because quality assurance is a constant concern;
- Reassessment policy needs to be consistent; and
- Private providers are key players in a client's case plan and need to be brought on board with the expectations of evidence-based practices.

Discussion of the LSI-R

Helen Pedigo, Executive Director, Kansas Sentencing Commission, stated that the

Sentencing Commission is very much interested in this project and the outcomes in order to take the assessment tool statewide. The Commission has been working with Johnson County since 2003.

This is a completely different shift of philosophy in terms of supervision because instead of supervising the severity level of the offense, Johnson County is supervising as to the needs of the individual offender and his or her risk to re-offend. There is a side benefit of using the LSI-R to target supervision: that is, it also can be used to target agency resources.

There are some hurdles to overcome to be used statewide, such as cost, training, and recertification. Another challenge is the data system used by the KDOC, Total Offender Activity Documentation System (TOADs), and the one used by Court Services are not accessible to each other. A subcommittee is working on the information technology portion to make offender information web-based and easily accessible to agencies that are authorized to have the information. The LSI-R is expected to roll out a statewide risk assessment model by 2010.

Update on 2007 H. Sub. for SB 14 and An Overview of Community Corrections and Parole

Keven Pellant, Deputy Secretary of Community and Field Service Division, KDOC, provided the Committee with an update on 2007 House Sub. for SB 14. The bill established funding to expand or create risk reduction efforts in community corrections and created incentives for inmates with selected offenses to participate in selected programs and treatment interventions targeted toward risk. The bill also increased the good time rate for inmates with lower severity level crimes.

It is anticipated that the initiative would have the following outcomes:

- Short Term: Increased knowledge of evidence-based practice, organizational development, strategic planning, data driven decision making, and collaboration;
- Intermediate: Institutionalization of the principles of evidence-based practice and risk reduction at the state and local levels; and
- Long Term: Reduced recidivism defined as technical violations and reconviction.

Deputy Secretary Pellant provided information and charts on local agency visits in FY 2008, risk reduction training, population for community corrections, budgets, upcoming events and parole services staffing, and caseloads. Local agency information was provided: grant awards by agency, number and percentage of community corrections offender files closed in FY 2008 by agency, and the reason for closure.

Cross-System Case Management

Missy Woodward, Program Consultant/Mental Health Substance Abuse Specialist, KDOC, and Charles Bartlett, Project and Policy Coordinator for Addiction and Prevention Services, Kansas Department of Social and Rehabilitation Services (SRS), provided the Committee with information on cross-system case management.

The substance abuse task force was charged with discussing issues regarding the interoperability of data systems, incorporating a universal substance abuse assessment, basing case plans on the LSI-R, and cross-training stakeholders.

The presenters provided the Committee with a snapshot of a real offender they called “Wally” to illustrate the problems caused by not sharing information or crossing systems for case management. In treating Wally in the current

system, it was discovered that Wally had 16 treatment plans and 20 case workers.

The presenters reported that the top four reasons to share data between agencies is to prevent consumers from getting lost in the shuffle, ensure that services delivered to the consumer are not affected by no or poor information, enhance consumers’ access to appropriate services, and ensure that consumer outcomes are tied directly to appropriate treatment at an appropriate dosage.

The goals for KDOC and SRS service delivery are accurate assessments for offenders with substance use issues, pre-release coordination through person-centered case management, and continuation of case coordination community during post release.

Working with SRS Regarding Child Support

Margie Phelps, Director of Reentry Services, KDOC, provided the Committee information on the work KDOC does with SRS regarding child support.

Ms. Phelps indicated the issues are as follows:

- Offenders owe large amounts of child support, often without knowing it, or tending to it;
- Kansas follows the majority rule, that incarceration is not a sufficient reason to reduce child support payments—some states say it is sufficient for a reduction; some say it is a factor to consider, but not the only factor; and
- Federal guidelines about strict and vigorous enforcement have discouraged legitimate employment and regular payment behaviors among many offenders.

Ms. Phelps was able to report that through the KDOC and SRS partnership, there is a written agreement for a child support enforcement specialist at the Reception and Diagnostic Unit (RDU). Additionally, there are other SRS child support enforcement offices near prisons working with offenders. The specialists work to increase paternity determinations; establish or serve court orders, or both; notify the assigned child support workers of an offender's location; and work with case managers to address manageable payment amounts.

The English Proficiency Program and the Prison Rape Elimination Act of 2003

Chuck Simmons, Deputy Secretary KDOC, Facilities Management Division, provided the Committee information on the English Proficiency Program and the Prison Rape Elimination Act (PREA) of 2003.

Deputy Secretary Simmons provided the Committee with information on Title VI of the Civil Rights Act of 1964 and the Omnibus Crime Control and Safe Streets Act which prohibits discrimination on the basis of national origin, including discrimination based on a person's inability to speak, read, write, or understand English.

Specifically, KDOC was notified by letter from the Justice Department regarding the requirement to take reasonable steps to ensure meaningful access to their programs and activities by limited English proficient (LEP) individuals. There are more than 100 LEP inmates in KDOC, with the majority of these individuals speaking Spanish (from Mexico, Guatemala, Honduras). There are inmates from southeast Asia (Vietnam, Laos, Thailand) and, in the past, KDOC has primarily met interpretation needs for these inmates by using staff. On a very infrequent basis, contract services have been used for translation.

Based on the letter from the Justice Department, KDOC has increased the emphasis in this area. KDOC has allocated \$25,000 from the Inmate Benefit Fund budget for this purpose; whether that will be sufficient is uncertain. If it becomes necessary to translate the Department's forms and publications into multiple languages, additional resources will be necessary to cover that expense.

The PREA of 2003 was enacted by Congress to establish a zero-tolerance standard for the incidence of inmate sexual assault and rape and makes prevention of inmate sexual assault and rape a top priority in each corrections facility.

The Act creates a national commission to develop standards and accountability measures. The National Prison Rape Reduction Commission recently issued proposed standards for public comment. There are 43 proposed standards, accompanied by 47 pages of compliance checklists. Combined, the standards and checklists set forth more than 500 requirements to be met in achieving compliance under the proposed standards.

KDOC has submitted comments to those standards that appeared to have the greatest potential impact on Department operations or funding. Some standards have the potential for a significant increase in staffing levels, while other proposed standards do not represent sound correction practice or good public policy.

If the standards are adopted substantially in their current form, KDOC will be placed in the position of being either in noncompliance or with seeking the funding and staffing authorizations necessary to achieve compliance. Being in noncompliance would result in the loss of some federal funding (5 percent); however, the loss would not be significant since KDOC's budget comes from the State General Fund. There is a potential that noncompliance could be used to prove liability in litigation should an incident

covered by PREA occur, which could result in a judgment for monetary damages.

Study the Condition and Operation of Jails and Other Local Government Facilities for the Incarceration of Adult Offenders

Major Phillip Livengood, Detention Administrator, Johnson County Sheriff's Office, provided the Committee with information on the challenges facing adult detention operations and with statistics on the Johnson County Adult Detention Center.

Johnson County has two jail facilities. Both facilities utilize "podular direct inmate supervision" management techniques, with a total bed capacity of 533 beds.

Detention centers are responsible for complying with two of the sheriff's statutory responsibilities: first, the operation of the county jail and, second, ensuring the attendance of inmates to the district court of the county. Approximately 65 percent of persons incarcerated in Johnson County Adult Detention are pre-trial detainees and 35 percent are sentenced prisoners. With such a transient inmate population, providing meaningful and useful programs is difficult.

The cost to house and care for a special-needs inmate in the Johnson County Adult Detention Center is estimated at \$95 per day, and for a minimum security inmate it is estimated at \$36 per day.

An increase in special needs inmates is a current challenge facing adult detention operation. Major Livengood stated that jails have effectively become America's new mental institutions, housing a larger volume of mentally ill people than all other programs combined. The average length of stay for special needs inmates is approximately 75 days, compared to 15 days for a regular inmate.

The special needs category of inmates is one of the most expensive and staff-intensive of all inmate categories to manage and requires more resources than most other classifications of inmates. It is equivalent to the maximum security classification. This class is most difficult to manage and is often violent, acts out physically, or exhibits bizarre behavior. This class also represents the greatest physical threat to staff.

Major Livengood suggested the Committee consider recommending the following legislative changes which could have a positive impact on detention operations:

- Legislation authorizing Medicaid billing for prisoner medical services;
- Ability for adult detention centers to purchase medications through state contract; and
- DNA collection on arrestees.

Additionally, Major Livengood requested Legislative assistance in adding beds at Larned State Security Hospital or other state locations to facilitate timely admission of mentally ill inmates for expedited evaluation and treatment.

Judy Wing, Pratt County Jail Administrator, informed the Committee that the Kansas Jail Association (KJA) was formed in the spring of 2004, to provide jail administrators and the line staff an organization by which issues of common concern could be addressed. KJA would like a bill like 2007 SB 339 (regarding retirement and pension of detention officers) to pass. The bill would allow detention staff or a person working with inmates in county jails the same opportunity for retirement as employees of the KDOC.

September 24 and 25

Overview of Juvenile Justice Authority

J. Russell Jennings, Commissioner, Juvenile Justice Authority, provided an overview to the

Committee on community services, the core programs, community residential placements, and the facilities under JJA control.

Community services for juveniles includes prevention and intervention programs, intake and assessment, court services, intensive supervision probation, and community case management.

The source of funding for prevention and intervention programs is the Children's Initiative Fund. The funding is almost \$9 million. The funds are allocated as follows:

- \$5.5 million goes to prevention;
- \$1.8 million goes to intervention; and
- \$1.6 million to graduated sanctions.

For FY 2009, \$3.5 million is appropriated for the core programs of intake and assessment, intensive supervision probation, and community case management. A \$1.0 million enhancement is appropriated for FY 2009 for incentive funds on a local cash match basis.

Commissioner Jennings noted the following trends in juvenile justice:

- The number of alleged juvenile offender (JO) intakes has gone up;
- The number of alleged child in need of care (CINC) intakes has gone down; and
- The average age of youth processed through intake and assessment is largely in the 15-to 17-year-old age group with the next highest age group in the 12-to14 -ear-old-age group.

Community Case Management Agency (CCMA) provides services to youth who are placed in custody of the Commissioner of JJA. The Commissioner manages placement of the youths who are in need of out-of-home placement and works with youth and family on reintegration plans. CCMA supports the youth and the family

while the youth is at home and ensures the youth has access to needed programs and treatment such as monthly face-to-face visits when the youth is in in-home and out-of-home placement. This is a federal mandate and federal grant funds assist in meeting this mandate. Additionally, every other month, CCMA conducts face-to-face visits when the youth is in a juvenile correctional facility, until the final three months, then face-to-face visits occur monthly. This is agency policy. The total number of youth, statewide, placed on Case Management through June 30, 2008, is 1,698.

Activities supporting and enhancing residential services are:

- Electronic submission of invoices;
- Technical assistance and training to provide "Thinking for a Change" programming;
- Community Based Standards (CBS); and
- New Service Model which limits the number of juvenile offenders in a foster home placement.

The assumption is that 70 percent of the Level V and Level VI will be screened into Psychiatric Residential Treatment Facility (PRTF) placement. A PRTF is any non-hospital facility with a provider agreement with a State Medicaid Agency to provide the inpatient services benefit to Medicaid-eligible individuals under the age of 21. However, the reality is the opposite of that assumption:

- 80.1 percent Youth Residential Center (YRC) II is funded exclusively with State General Fund (SGF);
- 1.7 percent YRCI is funded exclusively with SGF; and
- 17.5 percent PRTF – 60 percent funded federally and 40 percent SGF.

All YRC youth qualify for medical card coverage for health services as well as incidental mental health and substance abuse treatment.

This has a very significant implication on the JJA's budget since the agency is not a part of the consensus caseload process of determining how much money is available to pay for these services. JJA pays for these placements as part of its administration budget. When JJA is asked to cut 2 percent of its budget, the reduction includes the 25 percent spent on placements over which JJA has no option or control. The budget director for JJA and the Commissioner have purchased services for YRC and PRTF that the Commissioner suggests do not belong in JJA's general administration budget.

Commissioner Jennings provided the Committee with an overview of community-based residential facilities and Juvenile Correctional Facilities (JCF). The Commissioner stated improvements were being implemented in the JCF system. The improvements include:

- The development and implementation of standardized medical policies and health service protocols;
- The use of standardized educational testing and measurement; and
- Increased quality assurance through central office oversight.

The Commissioner stated the Larned Juvenile Correctional Facility (LJCF) use of force spiked in September of last year and has decreased markedly since that time. Additionally, the restraint chair can be used only with prior approved authority and only when genuinely needed to protect the youth from self injury, protect the youth from injuring someone else, and to protect property from substantial damage.

The Commissioner stated the Beloit Juvenile Correctional Facility is the only JJA facility

that serves female youth sentenced by the district courts of Kansas. Beloit has continued to decline in population. The Kansas Advisory Group is developing alternatives to reduce costs of operations at Beloit. A report with recommendations is anticipated by January 1, 2009.

The Commissioner stated JJA is evaluating programs at the Kansas Juvenile Correctional Complex (KJCC) to ensure public safety, accountability, and community reintegration. He mentioned a need to reduce the 30 percent turnover rate among staff by reducing forced overtime, integrating line staff in the decision-making process, strengthening the lines of communication, and improving the work environment through development of cross domain work groups.

The Commissioner addressed the proposed repurposing of the Atchison Juvenile Correctional Facility (AJCF) into a YRC II. JJA anticipated the suspension of operations at AJCF on December 8 will result in a savings of approximately \$1.96 million for the current fiscal year (FY 2009). Approximately \$575,000 and 16 of the total 93 state FTE positions will be transferred to the KJCC to follow the anticipated shift in population. The savings for Fiscal Year 2010 is projected to be \$3,743,030, with \$1,329,378 being transferred to KJCC and LJCF for the anticipated increases in population.

A request for proposal is being explored for AJCF's use as a YRCII with a capacity for 60 to 80 youth. The new use would reduce the cost for YRCII services. Additionally, it would include specific program requirements, such as Thinking for a Change, anger replacement training, and life skills. Prior to issuing a request for proposal (RFP), JJA will assess community support of a YRCII. If community support is lacking, JJA will determine community desires and alternatives that can be supported. If community support exists, JJA will proceed with development of an RFP, issue the RFP, and negotiate a contract

for operations so that the facility will become operational between April 1 and July 1, 2009.

Research and Program Development of the Youthful Level of Service/Case Management Inventory

Jennifer A. Pealer, Ph.D., Assistant Commissioner of Research and Program Development, JJA, provided the Committee with information on the implementation of the Youthful Level of Service Case Management Inventory (YLS/CMI) within the Juvenile Justice Authority. The YLS/CMI is an empirically derived risk/needs assessment instrument for juvenile offenders. It examines 42 items across eight domains (risk/need factors). The eight domains are:

- Criminal history;
- Family;
- Education;
- Peers;
- Substance abuse;
- Leisure/recreation;
- Personality; and
- Attitudes.

The results so far indicate that:

- A majority of the youth are a moderate risk of reoffending;
- There is no difference on overall risk of recidivism between females and males;
- There is no difference on overall risk of recidivism between whites and nonwhites; and
- 20 percent of the population is low risk indicating not much supervision or treatment is required for these youth.

Future steps with the YLS/CMI is implementation of the tool with all Court Services statewide to assist judges in making sentencing decisions based on risk and need factors. Currently, there are three Court Services

pilot sites, located in Johnson, Douglas, and Sedgwick counties.

Review of the Community Advisory Committee

Peggy Pratt, Chairman, Community Advisory Committee (CAC), provided the Committee with a review of the Annual CAC report to the Commissioner for SFY 2010. The purpose is to provide community prevention and graduated sanction service providers' participation in the JJA annual budget planning process.

The report includes the following recommendations:

- Implement a system for annual cost-of-living adjustment to grant funding;
- Develop and implement a Statewide Disproportionate Minority Contract Initiative;
- Introduce legislation to add time limits on juvenile court proceedings when youth are detained in detention facilities;
- Introduce legislation to limit terms in JJA custody following completion of residential care consistent with best practices;
- Implement evidence-based practices to reduce the risk of recidivism and increase client success across the juvenile justice system and must include training, technical assistance, and work with advisory boards, judges, district attorneys, and legislators; and
- Encourage the State Department of Education, in cooperation with JJA, to persuade all school districts to take the Communities That Care Youth Survey with no less than 80 percent participation from 6th, 8th, 10th, and 12th grade students.

Ms. Pratt informed the Committee of the need to removing the barriers for CAC clients to receive service. She stated the biggest issue is the distance between the client and services because of their location in Western Kansas and fuel costs.

Review of the Community Planning Process

Robert Sullivan, Director of the 5th Judicial District Community Corrections (Chase and Lyon counties), provided the Committee with information on Community Corrections. Mr. Sullivan shared with the Committee the process by which the 5th Judicial District is updating its juvenile comprehensive strategic plan, the lessons learned, and the adjustments made or intended to be made.

The Community Corrections Advisory Board approved the proposal submitted by Dr. John Paul Wright with the University of Cincinnati to draft an updated comprehensive plan and final report. The final report will take a closer look at the district's identified risk/protective factors, demographics for school-aged youth, and the gaps in the district's continuum of services. It will reevaluate the disproportionate amount of time and financial resources the community spends on low-risk offenders and reassess how juvenile justice resources might be better spent on multi-problem, high-risk families instead. A public hearing has been scheduled so Dr. Wright can present a final draft report to the Community Corrections Advisory Board, local stakeholders, and the public.

Review of Project S.T.A.R.

Dr. Jennifer Pealer, Assistant Commissioner of Research and Program Development, JJA, provided a review on project Success Through Achieving Reintegration (S.T.A.R.). The development of Project S.T.A.R. was part of a grant through the Serious and Violent Offender Reentry Initiative.

The goals of Project S.T.A.R. are:

- Reduce recidivism and enhance public safety;
- Increase the quality of programming throughout the system;
- Develop programming for families;
- Promote successful reintegration;
- Reduce supervision levels for successful youth; and
- Help promote sustainability.

The target population is the moderate-to high-risk males between the ages of 12 and 22 years of age who have at least a six-month sentence in a juvenile correctional facility (three of which must be served in the JCF). The target population also must complete six months of aftercare. The target youth would then be returned to one of the three pilot communities in the 10th, 18th, or 25th judicial districts.

To complete Project S.T.A.R., the youth must successfully complete the three phases. First, the institutional phase requires a good faith effort to complete the behavior change plan. Reduction in risk is measured by the In Program Behavioral Assessment (IPBA). The IPBA measures the change in risk level after the youth has been in the JCF. It is a validated risk/need tool and predicts behavior within the institution; and even when the youth is released, it can be used to determine risk in the community. The youth is assessed 30 days after being in the general population and then every 90 days thereafter.

Second, the transitional phase requires stable behaviors for 60 days in the community. That means no technical violations of release; progress on the youth's reintegration plan; and remaining stable in the home, school, and work environments.

Finally, the community phase requires the completion of the behavior change plan. Completion of the plan includes six months of supervision in the community, no new

adjudications, no technical violation for the last three months, no positive test for substance abuse in the last three months, a stable living environment, and a reduction in risk.

The Committee had a discussion on why school transcripts are not getting to the schools in a timely manner, or at all. A question was raised on whether legislation was needed to expedite the paperwork. The Revisor stated a statute addressing this concern already exists, KSA 38-2374.

Overview and Discussion on Juvenile Jury Trials

The Honorable Brenda Cameron, 10th Judicial District, Johnson County District Court, provided an overview of the case, *In the Matter of L.M.*, Docket No. 96,197, in which the Kansas Supreme Court held that juveniles have the constitutional right to demand jury trials.

Judge Cameron testified that the judges in Kansas will need guidance on the procedural aspect of carrying out the Kansas Supreme Court's ruling. Additionally, financial resources will be needed to implement this sweeping change in juvenile justice.

The Honorable James Burgess, 18th Judicial District, Sedgwick County District Court, discussed the potential effects of the Court's ruling with the Committee. He testified that the effect of the requirement for jury trial for juveniles remains largely unknown at this time. Additionally, there are many issues that the Supreme Court did not address regarding procedure as well as substantive matters.

The Committee discussed whether the issue should be referred to the Judicial Council for in-depth study and whether it will be considered at the end of the interim for formal recommendations by the Committee.

November 12 and 13

Joint Presentation on Proportionality in Sentencing

Tom Drees, Ellis County Attorney and Member, Kansas Sentencing Commission, and Ed Klumpp, Vice-Chairperson, Kansas Recodification Commission, provided a joint overview to the Committee on proportionality in sentencing.

In 2007, the Kansas Sentencing Commission formed a subcommittee to review proportionality of sentences. The Commission's specific charges included reviewing the changes in felony sentencing law since the inception of guidelines in 1993, reviewing the 2004 study by the Vera Institute of Justice, and making recommendations regarding realigning and appropriately placing felonies by severity level within various crime categories and overall.

Additionally, the proportionality subcommittee is charged with the responsibility of reviewing and analyzing all felony crimes in Kansas to ensure a systemwide overview in the comparison of offense severity for:

- Presumptive prison sentences;
- Similar treatment of property, drug, and sex offenses with similar degrees of harm;
- Proportionate sentences for repeat domestic violence offenders; and
- Proportionate sentences for drug and property crime offenses with similar degrees of harm and the actual financial loss to the victim.

Mr. Drees made several observations before presenting the Committee with the recommendations of the proportionality subcommittee. On sentencing departures, the proportionality subcommittee felt there was a

disconnect between what was happening in the field, in the courtroom, and with the sentencing guidelines. Also, Mr. Drees explained that border boxes contained on the sentencing grid are presumptive imprisonment border boxes (PIB). However, Judges sentence offenders in these boxes to probation in approximately 80 percent of the cases. He further stated, in his opinion, offender culpability does not seem to be proportional to the injury or harm to the victim regarding certain offenses such as repeat property crimes, domestic battery, and drug offenses.

In FY 2007, downward departures rates were as follows:

- Sentencing Level 1 Drug grid - 88 percent;
- Sentencing Level 2 Drug grid - 66 percent;
- Sentencing Level 3 Drug grid Border box to probation - 80 percent; and
- Jessica's Law in 2007, 4 of 7 (57 percent rate). Average sentencing length 92.5 months and in 2008, 33 of 57 (58 percent rate). Average sentencing length 87.7 months.

Changes are recommended with regard to drug offenses to advance uniformity, consistency, and proportionality in sentencing. The clarifying distinction between these offenses is whether the possession of the drug is for personal use or for distribution, manufacturing, or cultivating.

The subcommittee fashioned its recommendations to preserve the primary goal of the sentencing guidelines to reserve prison for violent or repeat offenders, or both. It also was important to analyze whether sentences are reasonably congruent with the seriousness of the offense and whether sentences bear a rational relationship to the degree of victim injury or harm. The findings of that analysis include, but are not limited to, the following suggestions for modification and improvement:

- Merge drug and nondrug grids into one;
- Return off-grid and nongrid crimes to the sentencing grid;
- Amend some severity levels, reemphasizing presumptive imprisonment for violent person felonies as well as for repeat and habitual offenders committing property, drug, domestic violence, and sex offenses;
- Adopt quantity and actual financial loss thresholds for drug and property offenses;
- Adopt general policy changes which reflect actual practice and appropriate proportional sentences;
- Increase aggravating and mitigating sentences within each grid box, originally set at 5 percent above and below the standard, to 10 percent;
- Increase from 8 border boxes to 16 PIB boxes which would provide a mechanism to address the repeat property offender and reduce the need for special rules; and
- Allow the court the discretion necessary to consider PIB sentencing on a case basis.

Mr. Drees indicated if all recommendations are adopted, this policy would likely increase the need for prison beds by approximately 300 to 460 in year 1, and 337 to 600 in year 10, above current projections.

Review of the Status of the Sexual Predator Treatment Program, Larned State Hospital and Osawatimie State Hospital

Don Jordan, Secretary, SRS, reviewed the status of the Sexual Predator Treatment Program at Larned State Hospital and Osawatimie State Hospital. The Sexual Predator Treatment Program (SPTP) was established in 1994 by the Sexual Predator Act (KSA 59-29a01 *et seq.*) to

provide treatment for convicted sex offenders who have finished their prison sentences, and who have been civilly committed by the courts to the SPTP inpatient treatment program at Larned State Hospital (LSH).

Secretary Jordan indicated that the purpose of committing sexually violent predators is twofold: first, to protect the public from any further victimization by sexual offenders committed to the program; second, to provide a program of treatment which would assist motivated offenders to reduce their risk for re-offense to the point that they could safely live in open society and become contributing citizens. The program is part of the child protection network within SRS, and is structured to meet the Constitutional requirements set out by the United States Supreme Court.

Phases 1 through 5 are located at LSH; phases 6 and 7 are located at Osawatomie State Hospital. It is a requirement of due process to provide available health treatment to a convicted individual with a mental condition.

SRS has requested a funding increase for several years through the normal process. However, if an unexpected increase in admissions occurs, SRS has had to request a Governor's budget amendment. The request for additional funding and staff is based on whether SRS will have to open an entirely new ward or section to a ward. The staffing ratio of total staff to residents for the SPTP is 1 staff per 55 residents, as compared to the 2 staff per 57 patients for the other programs provided at LSH.

Secretary Jordan stated the agency is requesting \$535,294 from the State General Fund as an FY 2009 supplemental request for the SPTP at Larned. The SPTP has surpassed its budgeted capacity. This supplemental request will fund treatment and care for the additional residents beyond the budgeted program capacity for six months in FY 2009. Also, SRS is requesting the following:

- \$332,947 - from the State General Fund (SGF) as an FY 2009 supplemental request for an additional six staff for the growth of the Transitional House Services (THS) at OSH. The THS has been funded to care for six residents and the program currently has 10, with a maximum capacity of 12 residents. The funding request is for 12 months and reflects current staffing;
- Additionally, SRS needs to fund staffing and Other Operating Expenditures for the growth of these programs; as previously stated, SRS is running out of physical space to treat the SPTP and THS residents. At the current growth rate, it will be out of space for SPTP at LSH sometime during FY 2012 and out of space at the THS at OSH by 2010.

To remedy this, SRS is requesting the following capital improvements:

- FY 2010 – \$2,538,800 from the State Institutions Building Fund (SIBF) for planning funds for a 90-bed expansion at LSH, and \$40,082,060 over FY 2011 and FY 2012 for the construction of the 90-bed expansion. This was the most economical and functional option.
- FY 2010 – \$263,350 from the SIBF to renovate an area adjacent to the existing THS program in the Biddle Building to add four additional beds. This can be done rather quickly for a short-term solution.
- FY 2010 – \$318,202 for planning money for the construction of a 28-bed expansion, which would consist of an apartment building with 14 two-bedroom apartments, and requesting in FY 2011 – \$5,073,143, for construction of the 28-bed facility.

The Kansas SPTP compares well with other programs across the country. A consultant, Robert J. McGrath, in July 2008 reviewed the program

and found that, overall, the program was sound and followed best practices. He further found the administrators and staff were knowledgeable and committed to the treatment of their patients. He also observed that the amount of treatment was average or slightly above average compared to other programs and that the rate of placement in the transitional release phase of the program (about 6 percent of the committed population) is similar to or slightly higher than that of other programs.

Secretary Jordan ended his presentation by stating that while admission rates to the SPTP may be difficult to predict with certainty, it is certain the program will continue to grow. With the increased growth will come the need for increased resources, and these resources will be critical to ensure the continued success of the program.

Discussion of Status and Progress on Repurposing the Atchison Facility

J. Russell Jennings, Commissioner, JJA, updated the Committee on the progress on repurposing the Atchison Juvenile Correctional Facility. He stated any remaining youth residents were removed from the facility on November 5, and the final day of work for remaining staff was December 8, 2008. Facility staff were in the process of cleaning the facility, storing records, and inventorying property.

A very small number of employees will be displaced without an immediate opportunity for employment. However, JJA will continue to work to support former employees who are seeking alternative employment. JJA also will require the successful contractor in the request for proposal (RFP) process to minimally offer an interview to any former employee of the facility who is seeking employment.

The RFP is in the final stages of preparation and will serve as the detailed outline of the scope of service and expectations JJA will have for

the successful contractor in operating a Youth Residential Center II (YRCII) at the AJCF. JJA anticipates operations to commence on or about May 1, 2009.

JJA is working with the Kansas Department of Education and USD 409 in Atchison to develop a proposal to aid the school district in the transition from providing education services at a state-operated correctional facility to providing education services to the YRCII students. Commissioner Jennings expects a specific proposal will be submitted for the Legislature's consideration in the 2009 Session.

Discussion of Proposed Statutory Changes for 2009 Legislative Session

J. Russell Jennings, Commissioner, JJA, updated the Committee on the progress of proposed statutory changes regarding the long-term placement of youth in custody who have completed all of their required programs and conditions. The Commissioner provided proposed legislation for consideration by the Committee.

KSA 38-2304 relates to matters concerning court jurisdiction regarding juveniles. KSA 38-2304(g) currently provides permissive language for the courts to continue jurisdiction in child-in-need-of-care proceedings when a youth is adjudicated as a juvenile offender. The proposed change will require an affirmative finding by the court that the best interest of the child will not be served by jurisdiction remaining in the child-in-need-of-care case. However, an exception to this requirement would be when a youth is committed to a juvenile correctional facility.

KSA 38-2315 relates to the responsibility for cost of care of juveniles subject to the revised Kansas Juvenile Justice Code. The proposed changes in this statute are necessary in order to align this statute with other statutory changes in the event they are adopted.

KSA 38-2343 relates to the issue of temporary custody of an alleged juvenile offender at the time of a detention hearing. JJA seeks to establish a firm time limit of 90 days for temporary custody prior to adjudication. JJA also believes it is important for judicial review of the temporary custody order every 30 days to ensure the best interest of the youth continues to be met through the temporary custody status.

KSA 38-2361 is related to the sentencing alternatives available to the court for adjudicated juvenile offenders. KSA 38-2361(a)(10) currently provides for open-ended custody orders not to exceed the age of 21 years unless the youth is serving a term of aftercare following commitment to a juvenile correctional facility, and the maximum term for aftercare or conditional release is 24 months from the time of discharge from a juvenile correctional facility. JJA seeks to limit the authority of the court to order custody to the Commissioner only in cases where out-of-home placement is required at the time of the sentencing hearing and to limit the period of custody. A further statutory change to KSA 38-2365 would establish a custody termination date of 60 days following the earliest of return of the youth to his or her home successfully, 18 months in custody, or turning age 21.

Discussion of the Final Adoption of the Interstate Compact for Juveniles

J. Russell Jennings, Commissioner, JJA, updated the Committee on the final adoption of the Interstate Compact for Juveniles. In September 2008, Kansas was the 35th state to adopt provisions of the Interstate Compact for Juveniles and it will be implemented over the next 13 months. JJA is seeking to establish a process for appointment of the Compact Administrator as well as the establishment of the Kansas Council for Interstate Juvenile supervision. JJA looked to the adult compact provisions for guidance in making recommendations for appointment of the compact administrator and the Council.

The proposed legislation will authorize the Governor to appoint the Compact Administrator, and applies primarily to the juvenile offender population. The proposed membership of the juvenile state level council differs from the adult model. JJA is recommending that membership be limited to the number of individuals required to meet the membership requirement as stated in the interstate compact. JJA also is recommending one legislative member be appointed by the Governor rather than four members, two from each chamber. Limiting the size of the Council will reduce the cost of operations and scheduling conflicts which makes meeting a quorum requirement difficult.

The Committee recommended changing the provision regarding the appointment of the legislative member. The member would be appointed by the Legislative Coordinating Council instead of the Governor.

It should be noted that the state will have a \$17,000 annual dues requirement to support operations at the national level. Additionally, annual dues and attendance by the Compact Administrator will be required at certain national meetings. Expenses for per diem and travel for state council members also will be required. Implementation of the new compact will require training of community level agencies and staff as well, and JJA anticipates an additional operational expense of \$25,000 annually to fully implement the new compact.

Overview of Larned Correctional Mental Health Facility

Charles Simmons, Deputy Secretary of Facilities Management, KDOC, provided the Committee with an overview of Larned Correctional Mental Health Facility (LCMHF). The primary role of the LCMHF Central Unit is to restore the ability of mentally ill inmates to function normally in a general prison population. This is accomplished through the provision of mental health treatment services and programs

providing the opportunity for rehabilitation. The West Unit is dedicated for the housing of the minimum security inmates while at the same time providing jobs that simulate the regular hours and routines usually associated with employment found in the community.

The diagnoses for the Central population are as follows:

- Bipolar Disorder - 10 inmates, average age 44;
- Borderline Personality Disorder - 13 (inmates with co-existing disorders);
- Mental Retardation - 9 (inmates with co-existing disorders);
- Delusional Disorders - 7 inmates, average age 44;
- Dementia - 1 (inmates with co-existing disorders);
- Major Depressive - 11 inmates, average age 38;
- Borderline Intellectual Functioning - 18 (inmates with co-existing disorders);
- Pedophilia - 2 inmates, average age 38;
- Post-Traumatic Stress Disorder - 3 inmates, average age 33;
- Psychotic Disorder, not otherwise specified - 3 inmates, average age 45.5;
- Schizoaffective Disorder - 25 inmates, average age 45;
- Schizophrenia - 57 inmates, average age 43.5; and
- Other - 27 inmates, average age 43.5.

Given the population, individualized treatment plans are critical tools used in helping inmates with long-term and intensive treatment needs. Behavioral issues often accompany major mental illness and these needs effectively are addressed through the coordination between mental health and correctional staff.

Larned State Hospital - Isaac Ray Unit has 93 male and female inmates. Funding is through SRS. The programs cover substance abuse treatment, vocational training, mental health services, community reintegration, discharge readiness, and upon release, offenders receive a 30-day supply of medication.

LCMHF West Unit Chemical Dependency Recovery Program (CDRP) was transferred from SRS oversight to KDOC oversight and placed at LCMHF by the Kansas Legislature in 2000. The CDRP program is an 18-week Intensive Outpatient Program and is now the only short-term program the KDOC offers for male offenders. Statistics verify that inmates who complete the CDRP return to prison at a lower rate than those who were identified as needing substance abuse treatment, but did not participate, or participated in other substance abuse programs, or participated in CDRP, but did not complete the program.

There are currently 27 inmates employed in non-prison-based private industries work release. Current employers are Great Bend Packing, Larned Veterinary Clinic, LaCrosse Furniture, and Great Bend Industries.

Overview of Sex Offender Treatment Program

Roger Haden, Deputy Secretary of Programs and Staff Development, KDOC, provided the Committee with a quick reference fact sheet on the KDOC Sex Offender Treatment Program (SOTP). The total incarcerated population as of November 2008 is 8,630 with 31 percent, or 2,642, classified as sex offenders. The total

number of offenders on parole or post-release supervision is 5,776 with 18 percent, or 1,042, classified as sex offenders. The total number of program slots is 312:

- Lansing Correctional Facility - 140;
- Hutchinson Correctional Facility - 120;
- Norton Correctional Facility - 40; and
- Topeka Correctional Facility - 12.

Community based SOTP has no slot limitation, with all sex offenders afforded the opportunity to participate in treatment. In FY 2008, the approximate number of participants per month was 559. The total number of participants was 1,007. The contract provider is DCCCA, Inc. from Lawrence, Kansas. It provides both facility-based and community-based treatment programs. The contract with DCCCA expires June 30, 2012.

Rik Kendall, Sex Offender Treatment Program State Director, DCCCA, Inc., provided the Committee with an overview of the KDOC Sex Offender Treatment Program. In the SOTP, safety is the paramount goal and is based on the principle of risk, needs, and responsivity.

Facility-based SOTP is a highly structured group treatment that is cognitive behavior based. The program is approximately 18 months in length and has three distinct phases: the evaluation and assessment phase; the intensive treatment phase; and the transition and aftercare planning phase.

Community Based SOTP has no "slot" limits and is available to all sex offenders on supervision. There are 13 outpatient locations throughout the state. The program includes the use of polygraphs every six months, ongoing assessments, and risk-based treatment using dynamic and static factors. The goals of Community Based SOTP is attaining and maintaining a low level of risk in the community, progressing to the lowest

treatment level (Level III), having consistent non-deceptive polygraphs, and having consensus among the key members of the containment team regarding reduction of risk.

Community based treatment - Intensive Case Management (ICM) group is an additional intervention prior to revocation which focuses on those offenders not treatment ready, based on resistance to treatment, and those offenders continually in violation of conditions, but who have not necessarily increased their risk to sexually reoffend. There are weekly meetings with the offender, parole officer, and therapist.

Risk is assessed by actuarial testing. The two types of risk are:

- Static Risk - (1) historical, (2) quantifiable, (3) easy to measure its presence; and
- Dynamic Risk - (1) changeable, (2) fluid/situational/circumstantial, (3) able to measure its presence, though not always easy.

KDOC determines an individual's needs. If the criminogenic needs are met, then it lowers the risk to offend. The two instruments used for assigning risk are the Level of Services Inventory-Revised (LSI-R) and the sex offender instrument, Stable 2007. Another component of treatment is responsivity, which tells what factors could impact how the offender responds to treatment. A tool used to test for responsivity is the Acute-2007 factors.

COMMITTEE DISCUSSION

The question was raised whether there are any studies on the effectiveness of residency restrictions on recidivism rates of sex offenders and the sex offender registry. Studies have shown that in states that have a residency restriction, there is a negative impact, which actually increases recidivism by driving the offender

underground, taking them away from the location where treatment is available. According to Mr. Kendall, residency restrictions do not promote the safety of children.

Mr. Kendall was asked whether the availability of internet pornography increased the number of sex offenders. He stated that sex offense is a behavior not caused by external forces or availability. If the tendency toward sexual offenses is not there, the availability of pornography on the internet does not affect the person.

Mr. Kendall also was asked whether preferential pedophiles have the highest recidivism rate. The answer was the preferential pedophile does have the highest recidivism rate.

Overview of the Automated Information Mapping System (AIMS)

Hannes Zacharias, Deputy County Manager, Johnson County, introduced John Harrenstein, Management Assistant, Johnson County Manager's Office, who provided the Committee with a PowerPoint presentation on the Johnson County Human Services Geographic Information System Referral Map and Client Coordination Project. The vision of the project is to empower caseworkers with information about the individuals they service so that they may better meet the needs of each individual and improve the likelihood of their success. The benefits of working with the Automated Information Mapping System (AIMS) is it provides Juvenile Intensive Supervision Program and adult residential centers the ability to locate employers, major employers, transportation services, and driving directions for their clients.

The methodology is to start small to gain acceptance and enthusiasm through prototyping. Johnson County had no new major software purchase or installation cost in implementing this mapping system. Johnson County was

able to extract the data from existing systems to create a central repository and allow users to view and query the data. The use of information from existing systems keeps costs to an absolute minimum. The repository currently contains data on 84,472 unique individuals; 2,953 (3.5 percent) of these individuals have received services from more than one program. Johnson County believes that the percentage of "mutual clients" among programs is around 10-20 percent.

Committee Discussion of the Final Report Recommendations

The Committee discussed the current practice of providing sex offender programs and substance abuse programs to offenders when they are approaching their release date. Ideally, needed programs would start earlier but these programs cost money. The lack of funding has required these programs to be offered shortly before the offender's release from prison. The Committee wanted to emphasize the importance of starting earlier in sex offender programming and the substance abuse programming in order to manage offenders better and reduce the recidivism rate. It was discussed that if these programs were started earlier, there would be less of a need to create new facilities to house offenders.

Secretary Werholtz brought to the attention of the Committee the concern of systems and infrastructure that are worn out and outdated. He mentioned the need for capital expenditures to replace and update these systems. The Committee concluded that this issue is a priority and this is something that the Legislature should be made aware of. Also, Secretary Werholtz had a request that he be provided the means to complete the task of creating a treatment prison, not necessarily building a physical plant, but to give the support needed to build a program.

The Committee heard from numerous conferees during its six meeting days that the LSI-R is an extremely effective risk assessment

tool. The Committee agrees that treating and placing offenders based on their risk to reoffend is more effective than basing the strategy on their length of sentence or severity of their crime of conviction. The Committee notes the potential savings from its use.

The Committee would like to commend Commissioner Jennings, JJA, for his truthfulness in revealing problems to the Committee and for winning the 2008 Performance-based Standards (PbS) Barbara Allen-Hagen Award. It is a national award recognizing exceptional work to ensure that facilities are safe for youths and staff, hold youths accountable, and provide effective rehabilitation services that prevent future crime. The Committee would like to commend Deputy Commissioner Pealer for pursuing programs that work in assessing the juveniles.

The Committee authorized the Chairperson of the Joint Committee on Corrections and Juvenile Justice Oversight to send a letter on its behalf to the Judicial Council for an in-depth study of issues caused by the opinion of the Kansas Supreme Court authorizing juvenile jury trials. The letter will request the Judicial Council make recommendations on legislation needed to comprehensively implement juvenile jury trials in Kansas. Finally, the Committee suggests the Judicial Council move quickly on this study so that the Legislature may review

the recommendations during the Legislative Session.

The Committee recognizes that proportionality is a work in progress but endorses the effort of the Proportionality Subcommittee of the Kansas Sentencing Commission in combining the drug and non-drug sentencing grids into one grid. The Committee encourages the introduction of such a bill.

The Committee recommends the pre-filing of two bills based on the draft legislation provided by JJA. The first bill concerns the Court-ordered custody of juveniles to the Commissioner of Juvenile Justice, and the second bill concerns the implementation of the Interstate Juvenile Compact.