MINUTES

JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT

October 28-29, 2009
Room 545-N—Statehouse

Members Present

Representative Pat Colloton, Chairperson
Senator Pete Brungardt, Vice-Chairperson
Senator Karin Brownlee
Senator Terry Bruce
Senator David Haley
Senator Dick Kelsey
Senator Janis Lee
Senator Tim Owens
Representative Barbara Craft
Representative Doug Gatewood
Representative John Grange
Representative Jerry Henry
Representative Joe Patton
Representative Jim Ward

Staff Present

Athena Andaya, Kansas Legislative Research Department
Jerry Ann Donaldson, Kansas Legislative Research Department
Jarod Waltner, Kansas Legislative Research Department
Christina Butler, Kansas Legislative Research Department
Doug Taylor, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Jason Thompson, Office of the Revisor of Statutes
Connie Burns, Committee Assistant

Conferees

Hon. Ernest L. Johnson, Judge of the 29th Judicial District (Wyandotte)
Hon. Steven L. Hornbaker, Judge of the 8th Judicial District (Geary)
Tom Drees, Member of the Kansas Sentencing Commission, Chair of Proportionality Subcommittee
Helen Pedigo, Executive Director, Kansas Sentencing Commission
Melissa "Missy" Woodward, Risk Reduction and Reentry Mental Health/Substance Abuse Specialist, Kansas Department of Corrections
Andrea "Andi" Bright, Risk Reduction and Reentry Coordinator at Larned Correctional Mental Health Facility

Roger Werholtz, Secretary, Kansas Department of Corrections
Roger Haden, Deputy Secretary of Programs, Kansas Department of Corrections
Keven Pellant, Deputy Secretary of Field and Community Services, Kansas Department of Corrections
Dinah Pennington, Shawnee County Community Corrections
Phillip Lockman, Department of Community Corrections, Wyandotte County
Dick Beasley, Finney County Community Corrections
Jay Holmes, Sedgwick County Department of Corrections
Representative Bill Feuerborn
Mr. Carrol Droddy, Ottawa, Kansas
Mark Gleeson, Office of Judicial Administration
Donna Hoener-Queal, 30th Judicial District Court Services Officer
Kathleen Rieth, 10th Judical District Court Services Officer
Chris Mechler, Office of Judicial Administration
J. Russell Jennings, Commissioner, Juvenile Justice Authority

Others Attending

See attached list.

Wednesday, October 28, 2009
Morning Session

The meeting was called to order by Chairperson Pat Colloton. The Chairperson provided an overview of the meeting and the statutory requirements of the Committee for the final report. The Chairperson stated for background information that the Sentencing Commission was looking at ways to reduce prison population due to the closing of several prison facilities. She further stated they are looking at prison reentry, specialty courts, treatment, probation, and parole sanctions.

Approval of Minutes

Senator Kelsey made the motion to approve the Committee minutes from the July meeting. Senator Brungardt seconded the motion. The motion carried.

Overview of Specialty Courts

The Hon. Ernest L. Johnson, Judge of the 29th Judicial District (Wyandotte County) and Chairperson of the Kansas Sentencing Commission, provided an overview on specialty courts (Attachment 1), Judge Johnson provided a packet of information containing:

- Definitions of Problem-Solving Courts;
- National Association of Drug Court Professionals – Facts;
- Ten Key components of Drug Court;
- New Supreme Court Rule 109A;
- Missouri drug Court Revised Statutes;
- The Guiding Principles of DWI Courts;

- Logic Model for DWI Courts;
- An Excerpt from Evidence Based Sentencing;
- The Abstract from Treatment to Drug-Involved Offenders; and
- The face page from the Mental Health Court publication.

The Kansas Sentencing Commission (KSC) has been studying these courts. The KSC currently is in the application process for a grant to study how best to enable and implement specialty courts in Kansas.

Examples of specialty courts, also known as problem-solving courts, include: Adult Drug Court, Back on TRAC: Treatment, Community Court, Domestic Violence Court, Driving While Intoxicated Court, Family Dependency Treatment Court, Federal District Drug Court, Gambling Court, Juvenile Drug Court, Reentry Drug Court, and Tribal Healing to Wellness Court.

Drug Court Facts:

- Drug Courts reduce crime;
- Drug Courts save money;
- Drug Courts ensure compliance;
- Drug Courts combat methamphetamine addiction; and
- Drug Courts restore families.

The Committee requested the full report on the study from the Journal of Criminal Justice and CSG Study on Mental Illness. Judge Johnson agreed to provide the documents electronically to the Committee.

An Example of a Specialty Court in Kansas

The Hon. Steven Hornbaker, Judge of the 8th Judicial District (Geary), provided the Committee information on the specialty court in his county (Attachment 2). Judge Hornbaker stated that drug courts save money and save people. Drug courts were established with a team approach between the criminal justice system and the drug treatment organizations. The partnership structures treatment intervention around the influence and personal involvement of a single drug court judge. The judge and a dedicated team of professionals work together toward a similar goal of stopping the cycle of drug abuse and criminal behavior. The Geary County Drug Court Program consists of three phases:

- Phase I – Assessment and Primary Treatment phase is a minimum of 30 days and a maximum of 90 days;
- Phase II – Treatment phase is a minimum of six months and;
- Phase III – Continuing Care and Graduation will last at least six months.

A critical component of successful drug court participation involves intensive supervision and random testing to determine compliance with the rules of the Drug Court Program. Recognition of progress also is very important as is prompt response to negative behaviors. Imposition of sanctions and consequences for non-compliance of drug court conditions will ensure participants learn that immediate consequences will occur for failure to comply with conditions.

Specialty Court Draft Legislation

Jason Thompson, Revisor of Statutes Offices, provided the Committee with a copy of draft legislation concerning drug courts, therapeutic, or problem-solving courts (Attachment 3).

Afternoon Session

Recommendations of the Kansas Sentencing Commission (KSC) Subcommittee on Proportionality

Tom Drees, Member of the Kansas Sentencing Commission and Chairperson of the Subcommittee on Proportionality, provided the Committee with a summary of 2010 proportionality recommendations by the Kansas Sentencing Commission Proportionality Committee (Attachment 4). Information and graphs on the sentencing range for nondrug and drug offenses, a comparison of FY 2006 versus FY 2009 admissions, and why new court commitments are increasing was provided to the Committee. The recommendation from the KSC will be to improve the administration of justice and keeping under the 50-bed impact increase.

The KSC has been notified by Secretary Werholtz that the prisons are within 3 percent of full capacity. By statute, the KSC has to start making recommendations on how to correct this situation; options include more money to the Kansas Department of Corrections for additional prison beds, or looking at ways to decrease the rate of offenders going into prison, or increase the rate of offenders coming out of prison. Two options could be to look at increasing good time credits and making adjustments on sentencing for crimes that have high departure rates.

Long-term Solitary Confinement

Sister Therese Bangert, Kansas Catholic Conference, provided the Committee with an article on inmates in long-term solitary confinement. "HELLHOLE" by Atul Gawande, *The New Yorker*, March 2009 (Attachment 5).

Post Release Supervision of High Maintenance or Mentally Ill Parolees

Missy Woodward and Andrea Bright, Risk Reduction and Reentry, Kansas Department of Corrections (KDOC), provided a PowerPoint presentation on changing systems in KDOC (Attachment 6). Ms. Woodward stated that due to recent budget cuts in Kansas, vital services and programs have ended and resources are now more limited:

- KDOC community residential beds closed April 1, 2009;
- State officials have notified more than 1,500 adults, effective July 1, 2009, they will no longer be eligible for MediKan or cash assistance;
- Another 3,000 have been told to expect deep cuts in their cash-assistance checks; receiving $100 compared to $142-$190; and
- Most of those affected by the cuts are homeless or nearly homeless.

Characteristics of this population:

- Mental Illness;
- Alcohol and drug addiction;
- Homeless;
- Mental retardation/development disabilities;
- Traumatic brain injury;
- Physical health problems;
- Limited education;
- Limited family support;
- Poor work history; or
- Fetal alcohol syndrome.

A detailed case study of a real offender, referred to by a fictional name "Jack," was provided to the Committee. The case study described the effect on this population when Mirror, Inc. closed; KDOC had 47 offenders to place in the community without that resource. Ms. Woodward stated that multi-agency collaboration can change outcomes on these offenders. Services can be continuous rather than interrupted or repetitive.

Roger Werholtz, Secretary, KDOC, provided the Committee with additional information on high-risk/high-need offenders (Attachment 7).

The Committee requested the number of high-risk/high-need offenders who are in the system. The Secretary will forward that information as soon as it is available.

Discussion of Possible Legislation

Jarod Waltner, Legislative Research Department, provided a table to the Committee on approximate remittances of District Court Fines, Penalties, and Forfeitures pursuant to KSA 74-7336 (Attachment 8). There are nine funds that receive a portion of these fines.

Sean Ostrow, Revisor of Statutes Office, provided the Committee with two bill drafts at the request of the Chairperson. The bill drafts show the changes in district court fine allocation required to fund the therapeutic communities in prison, 7.83 percent, and DUI alcohol treatment, 8.51 percent (Attachment 9). Based on these increases, it would raise roughly $1,163,646 to fund the therapeutic communities, and $1.3 million to fund the DUI alcohol treatment program.

Senator Brungardt moved to endorse the concept of taking fees for DUI alcohol treatment. Representative Grange seconded the motion. The motion carried.

Representative Henry moved to have bill draft 9rs1208 pre-filed for the 2010 Legislative Session as a House bill. Representative Ward seconded the motion. The motion carried.

Thursday, October 29, 2009
Morning Session

As requested, the Committee was provided copies of The Council of State Governments report on Mental Health Courts and Improving Responses to People with Mental Illnesses (Attachment 10).

Population Projections

Helen Pedigo, Executive Director, Kansas Sentencing Commission (KSC), provided the Committee with an update on adult inmate prison population projections (Attachment 11). Ms. Pedigo stated this is the fourth consecutive year that releases have gone down. Comparison graphs and spreadsheets were provided:

- Guideline on New Commitment admission Characteristics – FY 2009;
- Prison Population Characteristics;
- Comparison of Guideline New Commitments by Severity Level and average length of sentence;
- Parole/post release supervision condition violators between FY 2008 and FY 2009;
- Kansas Prison Population Trends;
- Admissions vs. releases;
- Admission Trends;
- Prison Admission Trends – Probation Condition Violators, Parole/Post release Condition Violators, Admissions by Type, Comparison between Probation and Parole/Post release Violators with New Sentence, Trends by type FY 1996 thru FY 2009;
- FY 2010 Adult inmate prison population projections, actual and projected, male prison population trends actual and projected, female prison population trend actual and projected; and
- Projected Drug Inmate Prison Population, Projected Violent Inmate Prison Population, Projected N4 – N6 Inmate Prison Population, Projected Nonviolent Inmate Prison Population.

Discussion of KSC Recommendations Regarding Proportionality Recommendations

Helen Pedigo, KSC, reviewed the recommendations regarding proportionality recommendations provided by the Kansas Sentencing Commission Proportionality Committee.

An overview of the Subcommittee recommendations:

- Sex Crimes – no changes to Article 35 will be considered during the 2009 Legislative Session.

- Sentencing Grids – merge the non-drug and drug sentencing grids into one Kansas Sentencing Grid, increase presumptive imprisonment border boxes from 3 to 16. Decrease the presumptive probation boxes from 30 to 17, increase aggravated/mitigated sentences from 5 percent to 10 percent, and minimum felony prison sentence is increased to 12 months in length.

- Sentencing Statutes – sentencing statues amended to place as many felonies on the grid as possible (FY 2007 felony sentences: 57 percent guidelines, 43 percent off-grid/non-grid), designate drug manufacture and distribution felonies as person offenses, Court Services should supervise all class A misdemeanors who are not sentenced to jail.

- Drug Laws – manufacturing methamphetamine would be a level 3 person felony. Manufacturing all other drugs would be a level 5 felony, sale, distribution, and

possession with intent to distribute are set at 4 levels based on quantity of drugs possessed to be sold or actually sold [FY 2007 sentencing data shows departure rates of 88 percent on current level 1 drug grid, 66 percent on current level 2 drug grid and 80 percent of current level 3 drug sentences (border box)] are placed on probation, sale designated as person felony, weight to be determined by the products as packaged for distribution, mandatory treatment program for personal use possession (SB 123) remains intact.

- Property Offenses – a large number of special sentencing rules for property offenders are reduced or eliminated, standardization of all theft statutes so that theft, no matter how it is committed, has a uniform and proportional punishment.

- Domestic battery – a first domestic battery remains a class B person misdemeanor, a second domestic battery is a class A person misdemeanor, and a third or subsequent domestic battery is a level 7 person felony with mandatory jail sanctions as a condition of probation (third violation - 30 days jail, fourth violation – 90 days jail, and fifth violation – 1 year incarceration in prison).

Based on FY 2008 data, implementation of all recommendations would result in utilization of 265 to 458 additional beds in the first year of implementation, with a need for 430 to 719 additional prison beds in the next 10 years. Passage of this proposal would further the goals of proportional sentences, based upon the degree of harm to the victim and to the public, reserve prison for violent offenders and repeat non-violent offenders, and promote offender reformation through appropriate community sanctions.

Representative Henry moved to encompass the visions that the KSC proposed and be introduced as a House bill for the 2010 Legislative Session. Senator Brownlee seconded the motion. The motion carried.

Senator Bruce moved the Committee recommend moving forward with Specialty Courts for further development. Representative Ward seconded the motion. The motion carried.

Community Corrections Update

Keven Pellant, Deputy Secretary of Field and Community Services, KDOC, provided testimony on community and field services (Attachment 12).

FY 2008 Community Corrections Risk Reduction Activities:

- Directors Conference and Training;
- Stakeholders Conferences;
- Competitive Grant Application;
- Off hours across the state;
- Two resource workshops;
- Case Management staff Conferences; and
- Targeted Skills development Implementation.

In parole services, the primary focus is risk reduction. The number of offenders supervised by parole staff as of September 28, 2009 is 5,999. This is an increase of 242 offenders since

September 2008. Of the 5,999, there are 1,932 offenders from other states being supervised in Kansas. The breakdown of the 5,999 offenders is:

- 730 are being supervised for a 4th or greater DUI offense;
- 5,195 male offenders;
- 804 female offenders;
- Not included in the 5,999 are 311 DUI offenders who have not yet reached post release supervision, but are in county jails, making the actual supervised total at 6,310; and
- 2,375 Kansas offenders being supervised out of state, of these 1,468 are probationers and 907 are parolees.

The supervision level for offenders supervised in Kansas is:

- High Level – 468 males and 53 females - Total 521;
- Moderate Level – 2,840 males and 364 females – Total 3,204;
- Reduced or Low Level – 1,585 males and 357 females – Total 1,942; and
- Offenders not yet assessed for risk – 331.

There is electronic monitoring GPS of offenders with two or more counts of sex offenses against children at $7.00 a day. About 300 offenders are being monitored across the state.

Discussion points for Community Corrections Update:

- Discuss success rate from 2006;
- Current success rate in 2009;
- Discuss unsuccessful closure since 2006;
- Rate of revocation and risk reeducation initiative of 20 percent; and
- What were some of the challenges.

Annie Grevas, Director of Community Corrections, 28th Judicial District, provided a written update on program outcomes in Saline and Ottawa counties (Attachment 13).

Dina Pennington, Director, Shawnee County and 2nd District Community Corrections, provided information on the success rate for Shawnee County and the 2nd district (Attachment 14). The mission statement is to enhance public safety and promote client success through the use of evidence-based supervision. An overview of data:

- Success rate increased from 58.7 percent in FY 2006 to 77.5 percent in FY 2009;
- Unsuccessful closures decreased from 5.9 percent in FY 2006 to 2 percent in FY 2009;
- Revocation rate decreased from 32.9 percent in FY 2006 to 20.3 percent in FY 2009; and
- FY 2009 was the first year the 20 percent Revocation Reduction was met.

High caseloads are a challenge to community corrections officers (about 42 last year for each officer). Additionally, judges and prosecutors get frustrated seeing offenders with multiple appearances before the court on the same case.

Phillip L. Lockman, Director of Community Corrections, Unified Government of Wyandotte County and KCKS, spoke on the implementation of evidence based practices (EBP) in the local criminal justice system in Wyandotte County (Attachment 15). A summary of the data includes:

- 32.3 percent increase in successful completion rate;
- 9.7 percent decrease in unsuccessful completion rate;
- 24 percent reduction in overall revocation rate; and
- The agency met the 20 percent reduction goal in FY 2008 and FY 2009.

Mr. Lockman strongly urged that funds should be reinstated to parole services and community corrections agencies so that the gains made in reducing the prison population and decreasing the risk to public safety will not be lost. The Office of Judicial Administration should be encouraged and adequately funded by the Legislature to implement a uniform standardized risk instrument prior to sentencing across the state. Additionally, drug, mental health, and problem solving courts should be proposed and funded in geographic areas where there are none and expanded in the areas where they currently exist.

Discussion of Early Release of a Terminally Ill Inmate

Representative Bill Feuerborn provided testimony on the possibility of an early release for terminally ill inmates. Representative Feuerborn also provided to the Committee a list of statutes from other states with an early release procedure based upon an exceptional circumstance such as a medical condition (Attachment 16). Current law requires a lengthy process and he believes, in some clearly defined cases, there should be an expedited process. Representative Feuerborn provided a letter from Secretary Werholtz, KDOC, on Functional Incapacitation Releases/Imminent Death, and stated the Department has identified several factors that should be taken into consideration in deliberating a release statute for inmates facing imminent death:

- Length of time to process release applications;
- Provision for release supervision in lieu of custodial type supervision;
- Issues of responsibility for continued medical care costs;
- Whether there should be requirements for having served a minimum amount of time and custody level; and
- Whether there should be limitations regarding type of conviction offenses.

The Secretary stated that the Department is not endorsing or proposing any particular position with regard to statutory early release authority. He noted that Kansas has adopted a functional incapacitation release statute (KSA 22-3728), and he informed the Committee of the process involved in requesting release under this statute.

Mr. Carrol Droddy, Ottawa, Kansas, stated that his daughter was dying of cancer while incarcerated in prison. He stated that in the last three to four weeks of her life, she could hardly stand and was not a threat. He felt all the attempts to get her released so she could be at home when she died were in vain. When she was finally released, she was so close to death that the family was not sure she knew she was home. Mr. Droddy stated that it serves no purpose to hold a dying person in prison when they cannot even stand alone (Attachment 17).

Representative Gatewood moved to introduce a bill in the House on early release of terminally ill inmates. Representative Henry seconded the motion. The motion carried.

Afternoon Session

Community Corrections Update (Continued)

William R. "Dick" Beasley, Director, 25th Judicial District Community Corrections (Finney County), provided graphs to support the update on community corrections (Attachment 18)

Jay Holmes, Administrator, Sedgwick County Department of Corrections, provided testimony on the progress and challenges of implementing the risk reduction initiative funded through 2008 SB 14 (Attachment 19). Sedgwick County clients have achieved a 29 percent reduction in revocations in FY 2008 and a 16 percent reduction in FY 2009 from the baseline year of 2006. Successful completions increased by 17 percent and 12 percent, respectively. During this two-year period, the population of clients increased 13 percent, from 1,446 to 1,634.

Mr. Holmes stated major challenges that were high-risk clients spent an average of 435 days on supervision before experiencing revocation to prison. He stated 29 percent of assigned clients are either presumptive prison or border box sentences.

Senator Brownlee moved a recommendation of appreciation; urged that community corrections would be a high priority of the Legislature; and that acknowledged that the prison population will be impacted if funding is not available. Representative Gatewood seconded the motion. The motion carried.

Program Restoration

Roger Haden, Deputy Secretary of Programs and Staff Development, KDOC, updated the Committee on KDOC health care services and food service contracts. He also provided an update on restoration of funding for offender treatment, education, and supportive services (Attachment 20). The funding restrictions in the last quarter of FY 2009 and FY 2010 resulted in the elimination of many program service areas and significantly reduced any remaining programs or services. These reductions significantly restrict the resources available to corrections case managers to effectively carry out their supervision and risk reduction duties. He said it is fair to predict that the lack of resources will result in increasing revocations as options for release preparation and transition decrease. More importantly, an inverse relationship exists between the availability of intervention and support resources and the risk to staff and public safety. Major resource areas to be restored include:

- Community Transitional Housing;
- Substance Abuse Treatment Services;
- Sex Offender Treatment Services;
- Academic and Vocational Education Program;
- Miscellaneous Programs and Specific Services; and
- DUI Treatment Funding (This enhancement request funds the DUI treatment funding at the currently projected amount to meet actual demand for these treatment services).

Secretary Werholtz, KDOC, provided an updated FY 2010 Budget Adjustment for the Department revised on October 12, 2009 (Attachment 21).

These requests have been sent as an enhancement request to the Governor's budget.

The Committee stated that failure to fund some of the enhancement budget programs results in additional cost to public safety and prison bed costs.

Overview of Court services Operations and Programs

Mark Gleeson, Family and Children Program Coordinator, provided an overview of Court services operations and programs (Attachment 22). Currently, there are 351 FTE Court Services positions, all of which are funded from the State General Fund. These positions are supported by state dollars for personnel costs only; and all other operating expenses are provided by counties. Statewide, each judicial district has a court services division. A court services officer may not be located in each of the 105 counties, however, services are provided to each county by a court services officer located somewhere within each judicial district.

The primary role of court services is to assist the district courts by performing investigations and supervision. Kansas statutes provide a general definition of responsibilities of court services officers. Chief Judges, within the limits of fiscal resources, in individual judicial districts are able to emphasize certain roles of court services officers from district to district in order to best serve each individual judicial district. Duties performed by court services officers are governed by statute, administrative rule, and court policy; detailed duties and data tables were provided.

Donna Hoener-Queal, Chief Court Services Officer, 30th Judicial District (Barber, Harper, Kingman, Pratt, and Sumner), provided testimony on Court Services in rural areas of Kansas (Attachment 23). In rural areas, the lack of available resources for the offenders can present a unique set of problems:

- Each of the five counties is served by a mental health provider and a substance abuse provider; and
- In two counties, the services provided are limited to between one and three days per week, which can make long waiting lists, and does not allow for flexibility to schedule appointments with offenders on their days off from work.

These resources provide an excellent service to the courts and the community. However, if an offender is not compatible with a particular counselor, referrals to other resources are made. The other resources may be up to 70 miles away. Court services officers cannot relieve an offender from a condition of probation imposed by the Court because of inconvenience.

Kathleen Rieth, Chief Court Services Officer, 10th Judicial District (Johnson), provided a detailed description of the multiple roles a court services officer has and the many services that the judges have come to expect (Attachment 24). Ms. Rieth stated that the job is helping people to make positive changes so that they can reclaim their lives as well as keeping the community safe.

Discussion on Increasing the Probation Fee to Pay for Risk Assessment of Offenders

Chris Mechler, Courts Services Officer Specialist, Office of Judicial Administration, provided testimony on increasing the probation fee to pay for risk assessments of offenders (Attachment 25). Statewide mandatory use of the Level of Service Inventory-Revised (LSI-R) has been an issue for several years in Kansas. The Kansas Sentencing Commission has chosen the LSI-R as the standardized risk assessment tool or instrument to use for sentencing purposes to determine

offender risks and needs. Ms. Mechler stated the LSI-R has been determined to be an effective risk assessment tool and the Kansas Judicial Branch and its court services officers would like to use it; however, funding has been a roadblock in this process for several years.

Ms. Mechler stated the Department of Corrections used state funds and some grant funding to provide the necessary training and other costs for community corrections personnel. The Judicial Branch has not been provided with funding for the LSI-R implementation costs. The Judicial Branch has included a request for State General Fund financing of this project for several years. The approved budget each year allocates resources for implementation of this program. The Judicial Branch has applied for Byrne Grant funding on three occasions, but grant funding was not awarded by the Criminal Justice Coordinating Council.

Ms. Mechler advised that the Kansas Sentencing Commission has proposed an increase in probation fees to fund the LSI-R for the Judicial Branch. The recommendation would increase the current $25 misdemeanor probation fee to $125, and would increase the current felony probation fee from $50 to $250. The current probation fee amounts are set in KSA 21-4610a, and were provided. The Supreme Court is open to considering the use of probation fees to fund the LSI-R, as mandated by the Legislature. The Judicial Branch's FY 2011 maintenance budget includes a total of $229,338 from the State General Fund for first-year LSI-R training and implementations costs. Two requests for proposal (RFPs) will be issued as soon as funding has been obtained.

She further stated the Judicial Branch's current budget underfunding must be considered; due to which the Judicial Branch began a hiring freeze at the beginning of FY 2009, which is still in effect. Some positions have been held open for over one year, which means each time an employee quits or retires, no one is hired to replace them. If the Judicial Branch does not receive supplemental funding early in the 2010 Legislative Session, it will be forced to begin a series of as many as 27 furlough days for all non-judicial employees; on those days, Judicial Branch employees will not be paid, and court offices will be closed statewide.

Doug Taylor, Revisor of Statutes Office, provided a bill draft and the statute on probation services fee and community correctional services fee as requested by the Chairperson (Attachment 26). The bill draft provided has the lesser amount than that proposed by the Kansas Sentencing Commission. The bill draft provides for a change in probation service fee from $25 to $50, and community corrections services fee from $50 to $100.

Senator Bruce moved to prepare a Senate bill that would raise the probation fee an amount that would cover approximately $300,000 needed to institute risk assessment tools in Court Services. Senator Brungardt seconded the motion. The motion carried.

Discussion of Possible Additional Legislation

Jason Thompson, Revisor of Statutes Office, provided a bill draft concerning the Department of Corrections relating to the transfer of certain offenders, as requested by the Chairperson (Attachment 27). The bill draft provides that offenders who have 10 days or less to be served in the state prison would not be transferred and would be retained in the county jail.

The Committee requested information on what the cost would be for a one-day turnaround processing. Secretary Werholtz responded that information would be provided.

Senator Brownlee moved to prepare a Senate Bill (9rs1090) for offenders, who have 10 days or less to be served in the state prison, the offender would not be transferred and would be retained in the county jail. Senator Bruce seconded the motion. The motion carried.

Discussion of Recommendations on Topics from the July Meeting for the Final Report

KDOC Equipment

The Federal Communications Commission (FCC) has mandated that all non-Federal public safety licensees using 25 kHz radio systems migrate to narrowband (12.5 kHz) channels by January 1, 2013, and failure to comply with this deadline will result in cancellation of license and possible loss of communication capabilities. The FCC has indicated that it will not easily grant waivers for continued wideband operation after the deadline. The total cost of replacing non-compliant radios and supporting equipment will likely run $750,000 or more.

Representative Gatewood moved that the Public Safety Budget Committee strongly consider approving the $750,000 for the radios. Representative Grange seconded the motion. The motion carried.

Population Growth

Suggestion for controlling prison population growth:

- Increase the amount of good time credit that can be earned and apply it retroactively to the prison portion of the sentence, and provide that good time credits that reduce the prison portion of the sentence not be added to extend the length of the post release supervision period;
- Cut the length of post release supervision for certain offenders or eliminate it completely;
- Cut off admissions to prison if the offender has less than a certain number of days remaining on his/her prison sentence, *e.g.*, 30-60 days;
- Accelerate release from prison eligibility for release from prison for certain offenders based on severity level or type of offense;
- Review all "old law" inmates subject to proportionality issues for possible early release;
- When DUI offenders are revoked from parole supervision, have them serve their revocation period in the county jail where they were convicted. If DUI offenders are to serve supervision violation penalties in the county jail, district courts rather than the KPB would be more suitable to conduct the revocation hearings; and
- Reexamine the offender registry and the penalties for failing to register.

Senator Kelsey moved the suggestion on good time earned and apply retroactively working through the Parole Board and truth in sentencing. Representative Doug Gatewood seconded the motion.

Senator Brungardt made a substitute motion to examine ways to control offender population growth prior to running out of beds and what options are available to the Legislature. Representative Craft seconded the motion. The motion carried.

Special Needs or Mentally Ill Inmates

Recommendations:

- Create an appropriate therapeutic environment for aggressive or mentally ill inmates;
- Two additional housing units (male and female) servicing this high acuity, difficult to treat inmate population are needed; and
- When accounting for increase in the classification of mentally ill or special needs beds, there has been an increase of 24 percent over the past three years.

Senator Brungardt moved for a recommendation to the Legislature for a further study of nonfunctioning mentally ill inmates. Representative Grange seconded the motion. The motion carried.

Pre-2003 SB 123

Representative Gatewood moved for a recommendation the Parole Board consider pre SB 123 offenders, and to bring them into compliance with the balance of the current guidelines of SB 123. Senator Kelsey seconded the motion. The motion carried.

The Committee also requested that the Kansas Sentencing Commission respond on how many offenders are affected by the pre SB 123.

YLS/CMI and Youth Residential Provider Issues

J. Russell Jennings, Commissioner, Juvenile Justice Authority (JJA), provided the Committee with an update on YLS/CMI and Youth Residential Provider issues (Attachment 28). The YLS/CMI is a research based risk/needs assessment. It is the juvenile equivalent of the Level of Service Inventory Revised (LSI-R) used for adult offenders. The YLS/CMI can provide:

- A basis for making decisions – reduces biases - standardization across the state;
- Help to identify targets for change to determine case plan – examines known risk factors – streamlines programming for youth;
- Help to track changes in the youth;
- Economy of resources – identify which youth should be targeted and what they need to reduce risk; and
- Inspire confidence in public safety.

Four districts have implemented the YLS/CMI with Court Services. Information from the YLS/CMI is incorporated into Pre-disposition Investigation to help provide standardization and to assist judges in determining:

- Which youth is more likely to reoffend;
- Which youth require more structure/supervision;
- What criminogenic needs should be addressed to reduce risk and increase public safety.

Commissioner Jennings stated that Community Based Standards (CbS) provide a blueprint of best practices for secure facilities based on national standards and regular collection and review of outcomes tracking performance. CbS is a research based and statistically sound evaluation process for residential providers, and to the state it validates third-party monitoring and evaluation, provider accountability, and functions as an early warning system. Based on this criteria, there will be a residential system study and reorganization to evaluate offender population needs, YLS/CMI data based on risk and needs of youth in YRCIIs, determine the levels of service and programs components, capacity needs, and engage providers in dialogue.

The proposed changes:

- Moving away from a "one size fits all" model to best practices to separate low/moderate/high risk juvenile offenders to prevent contamination of low risk juvenile offenders;

- Require evidence based practices such as Cognitive Based Treatment (CBT) groups to address needs and staff training on "what works";

- Length of stay stabilization be tied to risk level to allow time for behavioral change and stability; and

- Intensity of interventions varies by risk level to ensure that higher risk youth receive more interventions to adequately change the risk of recidivism.

The benefits for youth:

- Prevent contamination of low risk youth;
- Require groups to match the criminogenic needs of the youth, therefore appropriately allocating resources;
- Reduce the instability of placements via adequate initial length; and
- Reduce the risk levels via appropriate intensity.

The benefit for staff is a more streamline operation. The benefit for society is it is economical while providing for public safety by reducing the known risk of the juvenile offender.

Committee Recommendations

Senator Kelsey moved that the Committee support, encourage, and recommend a collaboration between the Kansas Juvenile Justice Authority (JJA) and the Kansas Supreme Court to implement the use of the Youthful Level of Service/Case Management Inventory (YLS/CMI) at the court services level prior to disposition of juvenile offender cases. Senator Brownlee seconded the motion. The motion carried.

Senator Brownlee moved that the Committee support and encourage the JJA to implement a contract condition for all YRCII providers that require participation in the Community Based Standards (CbS) facility evaluation process and acknowledge that there will be a cost associated with it. Representative Henry seconded the motion. The motion carried.

The Committee discussed supporting JJA in the reorganization of Youth Residential Center II (YRCII) services to provide for multiple levels of service that will strengthen the services provided

to youth placed in YRCIIs. The Committee believes the reorganization of the YRCII service level will reduce the instances of movement of youth from one placement to another, provide for stronger and more intense program opportunities for youth, and will provide for an adequate length of stay to achieve beneficial outcomes. JJA will begin working towards YRCII reorganization by July 1, 2010. JJA will involve stakeholders in the discussion while developing a model for Kansas YRCIIs. JJA will provide periodic updates on its progress to the Committee.

Representative Patton moved to support JJA's move away from the one size fits all approach to move toward what is described as best practices of the three tier system of level of risk in order to contain the problem described and to keep the contact between the juvenile offenders. Senator Kelsey seconded the motion. The motion carried.

The Committee meeting was adjourned at 4:30 p.m.

Prepared by Connie Burns
Edited by Athena Andaya

Approved by Committee on:

December 23, 2009
(Date)

JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT

GUEST LIST

DATE 10-28-09

NAME	REPRESENTING
Chris Mechler	OJA
Dennis Kriesel	KS Assn of Counties
[illegible]	Kearney & Assoc.
Helen Pedigo	Ks Sentencing Commission
Steven Hornbaker	Judge - Geary Co
[illegible] Johnson	Judge WyCo, Chair KSC
Mark Gleeson	Judicial Branch
Sheli Sweeney	Assoc. of CMHC's of KS.
Sister Therese Bangert	KS. Cath. Conference
Barry Feaker	Topeka Rescue Mission
Jessica Hosman	Topeka Rescue Mission
Duane Kratochvil	
Jeremy S Barclay	KDOC
Marilyn Scafe	KRPC
Megan O Ward	The Salvation Army
Stuart Little	Community Corrections Assoc
Kevin Keatley & Melissa Wangemann	Kansas Association of Counties

JOINT COMMITTEE ON
CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT
GUEST LIST

DATE 10-29-09

NAME	REPRESENTING
Dick Beasley	25JD CC
Jay Holmes	Sedgwick County
Roger Werholtz	KDOC
Roger Haden	KDOC
Keven Pellant	KDOC
Dina Pennington	Shawnee Co + 2nd Dist Corr Cor
Barry Billings	SNCO & 2nd Dist ComCorr
Chris Mechler	OJA
Carrol Dreddy	
Imogene Dreddy	
Bill Feuerborn	
Kevin Murray	KACSO
Donna Hoener-Queal	Court Service 30th JD
Kathleen Rieth	Court Services 10th JD
Mark Gleeson	Judicial Branch
Randy Bowman	KJJA
Jeff Duncan	Kansas Juvenile Justice Authority
Dennis Casarona	JJA
Debi Hatfield	KDHE
Brian K. Dempsey	SRS

KANSAS SENTENCING COMMISSION

Honorable Ernest L. Johnson, Chairman
Helen Pedigo, Executive Director

MARK PARKINSON, GOVERNOR

JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT
The Honorable Pat Colloton, Chair

TESTIMONY PROVIDING AN OVERVIEW OF SPECIALTY COURTS

Hon. Ernest L. Johnson, Kansas Sentencing Commission Chair
October 28, 2009

Madame Chair, and to you all, members of this committee, thank you for the opportunity to testify regarding specialty courts. The Kansas Sentencing Commission (KSC) has been studying these courts, at many times intensely, over the last several months. We have been assisted in that study by many both in and outside Kansas. For example, Chief Justice William R. Price of the Missouri Supreme Court, who chairs the National Association of Drug Court Professionals, spoke to KSC in early September this year. West Huddleston, the CEO of NADCP, travelled to Kansas from Virginia at his own expense, as did Laura Klaversma, the drug court program coordinator for the National Center for State Courts. Ms. Klaversma, who is currently involved with KSC and our Chief Justice, Robert Davis, in the application process for a grant to study how best to enable and implement specialty courts in Kansas. These national organizations not only open doors for us to their expertise on the specialty court approach to the administration of justice, they, we hope, will open doors for our access to federal funds that are available to these courts.

There is considerable interest federally and among the States in specialty courts. What are they? Why should we be interested? To help me answer those questions in this brief overview, I refer you to the packet of materials Ms. Andaya has provided you for me. I'll discuss them briefly in this order:

1. Definitions of Problem-Solving Courts
2. National Association of Drug Court Professionals – Facts
3. Ten Key Components of Drug Court
4. New Supreme Court Rule 109A
5. Missouri Drug Court Revised Statutes

700 SW Jackson Street, Suite 501, Topeka, KS 66603-3757
Voice 785-296-0923 Fax 785-296-0927 http://www.kansas.gov/ksc

6. The Guiding Principles of DWI Courts

7. Logic Model for DWI Courts

8. An Excerpt From Evidence Based Sentencing

9. The Abstract from Treatment to Drug-Involved Offenders

10. The face page from the Mental Health Court publication

I hope this review of these documents gives you an answer to what specialty courts are and why they can be viable options to the traditional methods of the administration of justice. If you have questions now I will try to answer them. If you review the documents further and have questions I hope you will call me at 913-573-2917, or email me at ejohnson@wycokck.org.

Thank you.

Ernest L. Johnson
Chairman, Kansas Sentencing Commission
Judge, 29th Judicial District

Attachments of Hon. Ernest Johnson

Overview of Specialty Courts
Before the Joint Committee on Corrections and Juvenile Justice Oversight

October 28, 2009

- Definitions of Problem-Solving Courts
- National Association of Drug Court Professionals – Facts
- Ten Key Components of Drug Court
- Kansas Supreme Court Rule
- Missouri Drug Court Revised Statutes
- The Guiding Principles of DWI Courts
- Logic Model for DWI Courts
- An Excerpt From Evidence Based Sentencing
- The Abstract from Treatment to Drug-Involved Offenders
- The face page from the Mental Health Court publication

Definitions of Problem-Solving Courts

The definitions of problem-solving courts, as found in the scientific and scholarly literature, are included below.

- **Adult Drug Court:** "A specially designed court calendar or docket, the purposes of which are to achieve a reduction in recidivism and substance abuse among nonviolent substance abusing offenders and to increase the offender's likelihood of successful habilitation through early, continuous, and intense judicially supervised treatment, mandatory periodic drug testing, community supervision, and use of appropriate sanctions and other habilitation services" (Bureau of Justice Assistance, 2005, p. 3).

- **Back on TRAC: Treatment, Accountability: Back on TRAC-** The Back on TRAC clinical justice model adopts the integrated public health-public safety principles and components of the successful drug court model and applies them to the college environment. It targets college students whose excessive use of substances has continued despite higher education's best efforts at education, prevention, or treatment and has ultimately created serious consequences for themselves or others. Back on TRAC operates within the confines of existing resources and without interrupting the student's educational process. It unites campus leaders, student development practitioners, treatment providers, and health professionals with their governmental, judicial, and treatment counterparts in the surrounding community (Monchick & Gehring, 2006).

- **Community Court** Community courts bring the court and community closer by locating the court within the community where "quality of life crimes" are committed (e.g., petty theft, turnstile jumping, vandalism, etc.). With community boards and the local police as partners, community courts have the bifurcated goal of solving the problems of defendants appearing before the court, while using the leverage of the court to encourage offenders to "give back" to the community in compensation for damage they and others have caused (Lee, 2000).

- **Domestic Violence Court:** A felony domestic violence court is designed to address traditional problems of domestic violence such as low reports, withdrawn charges, threats to victim, lack of defendant accountability, and high recidivism, by intense judicial scrutiny of the defendant and close cooperation between the judiciary and social services. A permanent judge works with the prosecution, assigned victim advocates, social services, and the defense to ensure physical separation between the victim and all forms of intimidation from the defendant or defendant's family throughout the entirety of the judicial process provide the victim with the housing and job training needed to begin an independent existence from the offender (Mazur and Aldrich, 2003); and continuously monitor the defendant in terms of compliance with protective orders and substance abuse treatment (Winick, 2000). Additionally, a case manager ascertains the victim's needs and monitors cooperation by the defendant, and close collaboration with defense counsel ensures compliance with due process safeguards and protects defendant's rights.

Variants include the misdemeanor domestic violence court which handles larger volumes of cases and is designed to combat the progressive nature of the crime to preempt later felonies, and the integrated domestic violence court in which a single judge handles all judicial aspects relating to one family, including criminal cases, protective orders, custody, visitation, and even divorce (Mazur and Aldrich, 2003).

- **DWI Court:** A DWI court is a distinct post-conviction court system dedicated to changing the behavior of the alcohol-dependent repeat offender arrested for driving while impaired (DWI). The goal of the DWI court is to protect public safety by using the drug court model to address the root cause of impaired driving: alcohol and other drugs of abuse. Variants of DWI courts include drug courts that also take DWI offenders, which are commonly referred to as "hybrid" DWI courts or DWI/drug courts. (Loeffler & Huddleston, 2003). DWI courts often enhance their close monitoring of offenders using home and field visits, as well as technological innovations such as Ignition Interlock devices and the SCRAM transdermal alcohol detection device (Harberts & Waters, 2006).

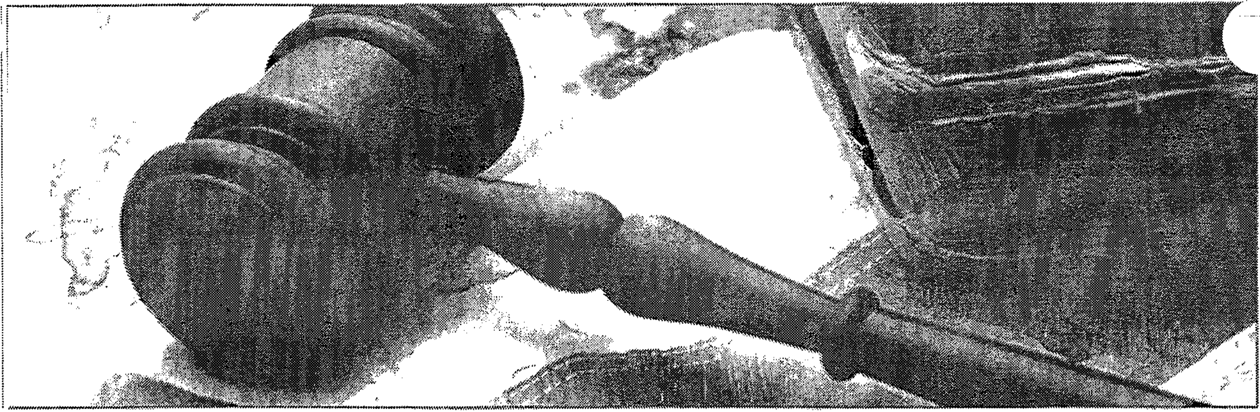
- **Family Dependency Treatment Court** Family dependency treatment court is a juvenile or family court docket of which selected abuse, neglect, and dependency cases are identified where parental substance abuse is a primary factor. Judges, attorneys, child protection services, and treatment personnel unite with the goal of providing safe, nurturing, and permanent homes for children while simultaneously providing parents the necessary support and services to become drug and alcohol abstinent. Family dependency treatment courts aid parents in regaining control of their lives and promote long-term stabilized recovery to enhance the possibility of family reunification within mandatory legal timeframes (Wheeler & Siegerist, 2003).

- **Federal District Drug Court:** Federal district drug court is a post-adjudication, cooperative effort of the Court, Probation, Federal Public Defenders, and U.S. Attorneys' Offices to provide a blend of treatment and sanction alternatives to address behavior, rehabilitation and community re-integration for non-violent, substance-abusing offenders. These courts typically incorporate an early-discharge program designed to replace the final year of incarceration with strictly-supervised release into the drug court regimen. The Federal programs incorporate the Ten Key Components in a voluntary, but contractual, program of intense supervision and drug testing lasting a minimum of 12-18 months.'

- **Gambling Court:** Operating under the same protocols and guidelines utilized within the drug court model, gambling courts intervene in a therapeutic fashion as a result of pending criminal charges with those individuals who are suffering from a pathological or compulsive gambling disorder. Participants enroll in a contract-based, judicially supervised gambling recovery program and are exposed to an array of services including Gamblers Anonymous (GA), extensive psychotherapeutic intervention, debt counseling, group and one-on-one counseling participation and, if necessary, drug or alcohol treatment within a drug court setting. Participation by family members or significant others is encouraged through direct participation in counseling with offenders and the availability of support programs such as GAM-ANON (M. Farrell, personal communication, April 7, 2005).

- **Juvenile Drug Court:** "A juvenile drug court is a docket within a juvenile court to which selected delinquency cases, and in some instances status offenders, are referred for handling by a designated judge. The youth referred to this docket are identified as having problems with alcohol and/or other drugs... Over the course of a year or more, the team meets frequently (often weekly), determining how best to address the substance abuse and related problems of the youth and his or her family that have brought the youth into contact with the justice system" (National Drug Court Institute & National Council of Juvenile and Family Court Judges, 2003, p. 7).

- **Mental Health Court:** Modeled after drug courts and developed in response to the overrepresentation of people with mental



illnesses in the criminal justice system, mental health courts divert select defendants with mental illnesses into judicially supervised, community-based treatment. Currently, all mental health courts are voluntary. Defendants are invited to participate in the mental health court following a specialized screening and assessment, and they may choose to decline participation. For those who agree to the terms and conditions of community-based supervision, a team of court staff and mental health professionals works together to develop treatment plans and supervise participants in the community (Council of State Governments, 2005).

- Reentry Drug Court Reentry drug courts utilize the drug court model, as defined in The Key Components, to facilitate the reintegration of drug-involved offenders into communities upon their release from local or state correctional facilities. Reentry drug court participants are provided with specialized ancillary services needed for successful reentry into the community. These are distinct from reentry courts, which do not utilize the drug court model, but work with a similar population (Tauber & Huddleston, 1999).

- Tribal Healing to Wellness Court: A Tribal Healing to Wellness Court is a component of the tribal justice system that incorporates and adapts the wellness concept to meet the specific substance abuse needs of each tribal community (Tribal Law & Policy Institute, 2003). The tribal healing to wellness court team includes not only tribal judges, advocates, prosecutors, police officers, educators, and substance abuse and mental health professionals, but also tribal elders and traditional healers. "The concept borrows from traditional problem-solving methods utilized since time immemorial... [and] utilizes the unique strengths and history of each tribe" (Native American Alliance Foundation).

- Reprinted with permission, from Painting the Current Picture: A National Report Card on Drug Courts and Other Problem-Solving Court Programs in the United States, May 2008, Volume II, No.1, National Drug Court Institute.

National Association of Drug Court Professionals – DRUG COURT FACTS

+ Drug Courts Reduce Crime

- FACT: Nationwide, 75% of Drug Court graduates remain arrest-free at least two years after leaving the program.
- FACT: Rigorous studies examining long-term outcomes of individual Drug Courts have found that reductions in crime last at least 3 years and can endure for over 14 years.
- FACT: The most rigorous and conservative scientific "meta-analyses" have all concluded that Drug Courts significantly reduce crime as much as 35 percent more than other sentencing options.

+ Drug Courts Save Money

- FACT: Nationwide, for every $1.00 invested in Drug Court, taxpayers save as much as $3.36 in avoided criminal justice costs alone.
- FACT: When considering other cost offsets such as savings from reduced victimization and healthcare service utilization, studies have shown benefits range up to $12 for every $1 invested.
- FACT: Drug Courts produce cost savings ranging from $4,000 to $12,000 per client. These cost savings reflect reduced prison costs, reduced revolving-door arrests and trials, and reduced victimization.
- FACT: In 2007, for every Federal dollar invested in Drug Court, $9.00 was leveraged in state funding.

+ Drug Courts Ensure Compliance

- FACT: Unless substance abusing/addicted offenders are regularly supervised by a judge and held accountable, 70% drop out of treatment prematurely.
- FACT: Drug Courts provide more comprehensive and closer supervision than other community-based supervision programs.
- FACT: Drug Courts are six times more likely to keep offenders in treatment long enough for them to get better.

+ Drug Courts Combat meth addiction

- FACT: For methamphetamine-addicted people, Drug Courts increase treatment program graduation rates by nearly 80%.

- FACT: When compared to eight other programs, Drug Courts quadrupled the length of abstinence from methamphetamine.
- FACT: Drug Courts reduce methamphetamine use by more than 50% compared to outpatient treatment alone.

+ Drug Courts Restore Families

- FACT: Parents in Family Drug Court are more likely to go to treatment and complete it.
- FACT: Children of Family Drug Court participants spend significantly less time in out-of-home placements such as foster care.
- FACT: Family re-unification rates are 50% higher for Family Drug Court participants.

TEN KEY COMPONENTS OF DRUG COURT

Key Component #1: Drug courts integrate alcohol and other drug treatment services with justice system case processing.

Key Component #2: Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

Key Component #3: Eligible participants are identified early and promptly placed in the drug court program.

Key Component #4: Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

Key Component #5: Abstinence is monitored by frequent alcohol and other drug testing.

Key Component #6: A coordinated strategy governs drug court responses to participants' compliance.

Key Component #7: Ongoing judicial interaction with each drug court participant is essential.

Key Component #8: Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.

Key Component #9: Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.

Component #10: Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court effectiveness

2009 SC 7

IN THE SUPREME COURT OF THE STATE OF KANSAS

RULES RELATING TO DISTRICT COURTS

RULE 109A

THERAPEUTIC OR PROBLEM-SOLVING COURTS

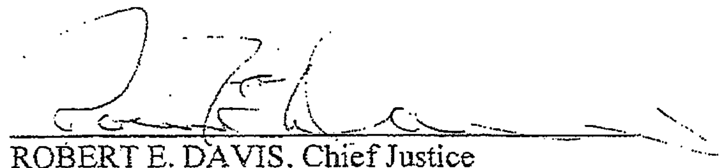
New Supreme Court Rule 109A is hereby adopted, effective the date of this order:

(a) Each judicial district is hereby authorized to establish a specially designed court calendar for criminal or juvenile cases, the purposes of which are to achieve a reduction in recidivism and to increase the likelihood of successful rehabilitation through early, continuous, and intense judicial supervision. Such therapeutic or problem-solving procedures may target offenders with a mental illness or with drug, alcohol, or other addictions. Procedures may include treatment, mandatory periodic testing for prohibited drugs and other substances, community supervision, and the use of appropriate sanctions and incentives, all as allowed by law.

(b) A judge presiding over such a court calendar may initiate, permit, or consider ex parte communications with probation officers, case managers, treatment providers, or other members of the problem-solving court team at team meetings, or by written documents provided to all members of the problem-solving court team. A judge who has received any such ex parte communication regarding the defendant or juvenile may preside over any subsequent proceeding if the judge discloses the existence and, if known, the nature of the ex parte communication to the defendant and the State and both the defendant and the State consent to the judge hearing the matter.

BY ORDER OF THE COURT, this 28th day of January, 2009.

FOR THE COURT



ROBERT E. DAVIS, Chief Justice

Missouri Revised Statutes

Chapter 478
Circuit Courts

August 28, 2008

Drug courts, establishment, purpose--referrals to certified treatment programs required, exceptions--completion of treatment program, effect.

478.001. Drug courts may be established by any circuit court pursuant to sections 478.001 to 478.006 to provide an alternative for the judicial system to dispose of cases which stem from drug use. A drug court shall combine judicial supervision, drug testing and treatment of drug court participants. Except for good cause found by the court, a drug court making a referral for substance abuse treatment, when such program will receive state or federal funds in connection with such referral, shall refer the person only to a program which is certified by the department of mental health, unless no appropriate certified treatment program is located within the same county as the drug court. Upon successful completion of the treatment program, the charges, petition or penalty against a drug court participant may be dismissed, reduced or modified. Any fees received by a court from a defendant as payment for substance treatment programs shall not be considered court costs, charges or fines.

(L. 1998 H.B. 1147, et al. § 5 subsec. 1, A.L. 1999 S.B. 1, et al.)

Administration--commissioners, appointment, term, removal, powers, duties, qualifications, compensation--orders of commissioners, confirmation or rejection by judges, effect.

478.003. In any judicial circuit of this state, a majority of the judges of the circuit court may designate a judge to hear cases arising in the circuit subject to the provisions of sections 478.001 to 478.006. In lieu thereof and subject to appropriations or other funds available for such purpose, a majority of the judges of the circuit court may appoint a person or persons to act as drug court commissioners. Each commissioner shall be appointed for a term of four years, but may be removed at any time by a majority of the judges of the circuit court. The qualifications and compensation of the commissioner shall be the same as that of an associate circuit judge. If the compensation of a commissioner appointed pursuant to this section is provided from other than state funds, the source of such fund shall pay to and reimburse the state for the actual costs of the salary and benefits of the commissioner. The commissioner shall have all the powers and duties of a circuit judge, except that any order, judgment or decree of the commissioner shall be

confirmed or rejected by an associate circuit or circuit judge by order of record entered within the time the judge could set aside such order, judgment or decree had the same been made by the judge. If so confirmed, the order, judgment or decree shall have the same effect as if made by the judge on the date of its confirmation.

(L. 1998 H.B. 1147, et al. § 5 subsec. 2)

Conditions for referral--statements by participant not to be used as evidence, when--records, access to staff, closed, when.

478.005. 1. Each circuit court shall establish conditions for referral of proceedings to the drug court. The defendant in any criminal proceeding accepted by a drug court for disposition shall be a nonviolent person, as determined by the prosecuting attorney. Any proceeding accepted by the drug court program for disposition shall be upon agreement of the parties.

2. Any statement made by a participant as part of participation in the drug court program, or any report made by the staff of the program, shall not be admissible as evidence against the participant in any criminal, juvenile or civil proceeding. Notwithstanding the foregoing, termination from the drug court program and the reasons for termination may be considered in sentencing or disposition.

3. Notwithstanding any other provision of law to the contrary, drug court staff shall be provided with access to all records of any state or local government agency relevant to the treatment of any program participant. Upon general request, employees of all such agencies shall fully inform a drug court staff of all matters relevant to the treatment of the participant. All such records and reports and the contents thereof shall be treated as closed records and shall not be disclosed to any person outside of the drug court, and shall be maintained by the court in a confidential file not available to the public.

(L. 1998 H.B. 1147, et al. § 5 subsecs. 3, 4, 5)

Jackson County, provisions of drug court law may apply, when.

478.006. Any provision or provisions of sections 478.001 to 478.006 may be applied by local circuit court rule to proceedings in the sixteenth judicial circuit subject to section 478.466.

(L. 1998 H.B. 1147, et al. § 5 subsec. 6)

Drug courts coordinating commission established, members, meetings --fund created.

478.009. 1. In order to coordinate the allocation of resources available to drug courts throughout the state, there is hereby established a "Drug Courts Coordinating Commission" in the judicial

department. The drug courts coordinating commission shall consist of one member selected by the director of the department of corrections; one member selected by the director of the department of social services; one member selected by the director of the department of mental health; one member selected by the director of the department of public safety; one member selected by the state courts administrator; and three members selected by the supreme court. The supreme court shall designate the chair of the commission. The commission shall periodically meet at the call of the chair; evaluate resources available for assessment and treatment of persons assigned to drug courts or for operation of drug courts; secure grants, funds and other property and services necessary or desirable to facilitate drug court operation; and allocate such resources among the various drug courts operating within the state.

2. There is hereby established in the state treasury a "Drug Court Resources Fund", which shall be administered by the drug courts coordinating commission. Funds available for allocation or distribution by the drug courts coordinating commission may be deposited into the drug court resources fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the drug court resources fund shall not be transferred or placed to the credit of the general revenue fund of the state at the end of each biennium, but shall remain deposited to the credit of the drug court resources fund.

(L. 2001 H.B. 471 merged with S.B. 89 & 37)

The Guiding Principles of DWI Courts

GUIDING PRINCIPLE #1: Determine the Population

Targeting is the process of identifying a subset of the DWI offender population for inclusion in the DWI Court program. This is a complex task given that DWI Courts, in comparison to traditional Drug Court programs, accept only one type of offender: the hardcore impaired driver. The DWI court target population, therefore, must be clearly defined, with eligibility criteria clearly documented.

GUIDING PRINCIPLE #2: Perform a Clinical Assessment

A clinically competent and objective assessment of the impaired-driving offender must address a number of bio-psychosocial domains including alcohol use severity and drug involvement, the level of needed care, medical and mental health status, extent of social support systems, and individual motivation to change. Without clearly identifying a client's needs, strengths, and resources along each of these important bio-psychosocial domains, the clinician will have considerable difficulty in developing a clinically sound treatment plan.

GUIDING PRINCIPLE #3: Develop the Treatment Plan

Substance dependence is a chronic, relapsing condition that can be effectively treated with the right type and length of treatment regimen. In addition to having a substance abuse problem, a significant proportion of the DWI population also suffers from a variety of co-occurring mental health disorders. Therefore, DWI Courts must carefully select and implement treatment strategies demonstrated through research to be effective with the hardcore impaired driver to ensure long-term success.

GUIDING PRINCIPLE #4: Supervise the Offender

Driving while impaired presents a significant danger to the public. Increased supervision and monitoring by the court, probation department, and treatment provider must occur as part of a coordinated strategy to intervene with hardcore DWI offenders and to protect against future impaired driving.

GUIDING PRINCIPLE #5: Forge Agency, Organization, and Community Partnerships

Partnerships are an essential component of the DWI Court model as they enhance credibility, bolster support, and broaden available resources. Because the DWI Court model is built on and dependent upon a strong team approach, both within the court and beyond, the court should solicit the cooperation of other agencies, as well as community organizations to form a partnership in support of the goals of the DWI Court program.

GUIDING PRINCIPLE #6: Take a Judicial Leadership Role

Judges are a vital part of the DWI Court team. As leader of this team, the judge's role is paramount to the success of the DWI Court program. The judge must be committed to the sobriety of program participants, possess exceptional knowledge and skill in behavioral science, own recognizable leadership skills as well as the capability to motivate team members and elicit buy-in from various stakeholders. The selection of the judge to lead the DWI Court team, therefore, is of utmost importance.

GUIDING PRINCIPLE #7: Develop Case Management Strategies

Case management, the series of inter-related functions that provides for a coordinated team strategy and seamless collaboration across the treatment and justice systems, is essential for an integrated and effective DWI Court program.

GUIDING PRINCIPLE #8: Address Transportation Issues

Though nearly every state revokes or suspends a person's driving license upon conviction for an impaired driving offense, the loss of driving privileges poses a significant issue for those individuals involved in a DWI Court program. In many cases, the participant and court team can solve the transportation problem created by the loss of their driver's license through a number of strategies. The court must hold participants accountable and detect those who attempt to drive without a license and/or insurance.

GUIDING PRINCIPLE #9: Evaluate the Program

To convince stakeholders about the power and efficacy of DWI Court, program planners must design a DWI Court evaluation model capable of documenting behavioral change and linking that change to the program's existence. A credible evaluation is the only mechanism for mapping the road to program success or failure. To prove whether a program is efficient and effective requires the assistance of a competent evaluator, an understanding of and control over all relevant variables that can systematically contribute to behavioral change, and a commitment from the DWI Court team to rigorously abide by the rules of the evaluation design.

GUIDING PRINCIPLE #10: Ensure a Sustainable Program

The foundation for sustainability is laid, to a considerable degree, by careful and strategic planning. Such planning includes considerations of structure and scale, organization and participation and, of course, funding. Becoming an integral and proven approach to the DWI problem in the community however is the ultimate key to sustainability.

Logic Model for DWI Courts

In 2005, The National Drug Court Institute (NDCI) convened a nationally recognized expert panel of researchers and evaluators to develop a logic model and performance indicators for DWI Court program evaluations. A logic model is a depiction of how a program is believed to exert its effects. DWI Courts are hypothesized to improve outcomes for DWI offenders by combining mandatory substance abuse treatment with a strict program of behavioral monitoring and accountability. The essential components of a DWI Court include (NADCP, 2005):

- continuous judicial supervision via regularly scheduled status hearings in court;
- mandatory completion of substance abuse treatment and other indicated services;
- continuous or random biological testing for alcohol and other drug ingestion;
- imposition of a progressively escalating sequence of punitive sanctions for infractions and positive incentives for achievements;
- satisfaction of applicable legal restrictions and obligations, such as installation of ignition interlock devices, sales of relevant vehicles or payment of fines and fees.

Performance indicators are quantifiable measures of each component of the logic model. Program-level performance indicators reveal what services a program is actually providing and client-level performance indicators reveal how well participants in the program are faring. Examples of program-level performance indicators might include how often status hearings are held or how often participants receive substance abuse treatment services. Examples of client-level performance indicators might include how often participants test negative for alcohol and other drugs or graduate successfully from the program.

AN EXCERPT FROM

EVIDENCE-BASED SENTENCING FOR DRUG OFFENDERS:
AN ANALYSIS OF PROGNOSTIC RISKS AND CRIMINOGENIC NEEDS

DOUGLAS B. MARLOWE[1]

I. INTRODUCTION

Substance abusers are disproportionately represented in the criminal justice system. Approximately 80% of offenders in the U.S. meet a broad definition of substance involvement[2] and between one half and two thirds satisfy official diagnostic criteria for substance abuse or dependence.[3] In a national sample of U.S. booking facilities, positive urine drug screens were obtained from approximately 65% of the arrestees in most jurisdictions.[4] The positive urine results were not merely

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Chief of Science, Policy & Law, National Association of Drug Court Professionals; Senior Scientist, Treatment Research Institute; Adjunct Associate Professor of Psychiatry, University of Pennsylvania School of Medicine. B.A., Brandeis University; J.D., Villanova University School of Law; Ph.D., Hahnemann University.

[2] *See* NAT'L. CTR. ADDICTION & SUBSTANCE ABUSE, BEHIND BARS: SUBSTANCE ABUSE AND AMERICA'S PRISON POPULATION 28 tbl.1 (1998) (finding approximately 80% of prison and jail inmates were convicted of a drug or alcohol-related offense, were intoxicated at the time of their offense, reported committing the offense to support a drug habit, or have a significant history of substance abuse); CHRISTOPHER J. MUMOLA & THOMAS P. BONCZAR, BUREAU JUST. ASSISTANCE, SUBSTANCE ABUSE AND TREATMENT OF ADULTS ON PROBATION, 1995 at 7 (1998) (finding two thirds of probationers are drug or alcohol involved); TIMOTHY A. HUGHES ET AL., BUREAU JUST. STATISTICS, TRENDS IN STATE PAROLE, 1990-2000 8 tbl.10 (2001) (finding 83.9% of parolees are drug or alcohol involved).

[3] *See* Seena Fazel et *al.*, ,*Substance Abuse and Dependence in Prisoners: A Systematic Review,* 101 ADDICTION 181, 183 & 186 (2006) (concluding from multiple studies that 17.7% to 30% of male prisoners met diagnostic criteria for alcohol abuse or dependence and 10% to 48% met criteria for drug abuse or dependence; for female prisoners, rates were 10% to 23.9% for alcohol abuse or dependence and 30.3% to 60.4% for drug abuse or dependence); JENNIFER C. KARBERG & DORIS J. JAMES, BUREAU JUST. STATISTICS, SUBSTANCE DEPENDENCE, ABUSE, AND TREATMENT OF JAIL INMATES, 2002 1 tbl.1 (2005) (finding 45% of jail inmates met diagnostic criteria for drug or alcohol dependence, 23% met criteria for drug or alcohol abuse, and 68% met criteria for either abuse or dependence); Linda A. Teplin, *Psychiatric and Substance Abuse Disorders Among Male Urban Jail Detainees,* 84 AMER. J. PUB. HEALTH 290, 290 (1994) (finding 61.3% of male urban jail detainees met criteria for current substance abuse or dependence); Linda A. Teplin et al., *Prevalence of Psychiatric Disorders Among Incarcerated Women,* 53 ARCHIVES GEN. PSYCHIATRY 505, 508 (1996) (finding 63.6% of female inmates met criteria for drug abuse or dependence and 32.3% met criteria for alcohol abuse or dependence). For a discussion of the diagnostic criteria for substance abuse and dependence, see *infra* notes 78-79 and accompanying text.

See NAT'L INST. JUST., ANNUAL REPORT: 2000 ARRESTEE DRUG ABUSE MONITORING *7 &* 93 (2003) (reporting urine drug test results from arrestees in 35 booking facilities). Rates of drug-positive urine samples ranged from 52% to 80% across jurisdictions for male arrestees and from 31% to 80% for female arrestees. *Id.* Cocaine, marijuana, methamphetamine and opiates were the most commonly detected drugs. *Id.* at 8 & 93. In addition, 35% to 70% of the arrestees reported heavy alcohol binge drinking in the month immediately preceding their arrest. *Id.* at 41.

attributable to drug offenders, but rather were obtained from the majority of arrestees for most categories of crimes, including violent crimes[5] and theft and property crimes.[6]

Substance abuse is associated with a several-fold increase in the likelihood of continued criminal offending.[7] Fortunately, providing substance abuse treatment can cut recidivism rates substantially;[8] however, drug offenders are notorious for failing to comply with conditions to attend substance abuse treatment.[9] Left to their own devices without intensive supervision, approximately 25% of offenders referred to substance abuse treatment fail to enroll[10] and of those who do arrive for treatment approximately half drop out before receiving a minimally sufficient dosage[11] of 3 months of services.[12]

In Los Angeles, for example, 48.6% of male arrestees and 34% of female arrestees for violent crimes, including robbery, assault and weapons offenses, tested positive for illicit drugs. *See* NAT'L INST. JUST., 1999 ANNUAL REPORT ON DRUG USE AMONG ADULT AND JUVENILE ARRESTEES 50 tbl.3. (2000).

6 In Los Angeles, 63.3% of male arrestees and 50% of female arrestees for property crimes, including theft, larceny, burglary and stolen vehicles, tested positive for illicit drugs. *Id.*

See Trevor Bennett et al., *The Statistical Association Between Drug Misuse and Crime: A Meta-analysis,* 13 AGGRESSION & VIOL. BEHAV. 107, 112 (2008) (concluding illicit drug abuse increases odds of re-offending by 2.8 to 3.8 times). The odds of re-offending are particularly high for certain drugs. The risk of recidivism is more than 6 times greater for crack cocaine abusers and 3.0 to 3.5 times greater for heroin abusers. *Id.* at 112-113. *See also* Adele Harrell & John Roman, *Reducing Drug Use and Crime Among Offenders: The Impact of Graduated Sanctions,* 31 J. DRUG ISSUES 207, 20708 (2001) (noting active narcotic users commit crimes four to six times more often than when not using drugs); David N. Nurco et al., *The Drugs-Crime Connection,* in HANDBOOK OF DRUG CONTROL IN THE UNITED STATES 71, 79 (James A. Inciardi ed., 1990) (reporting 40% to 75% reduction in crime-days for narcotic addicts during periods of abstinence).

8 *See* Katy R. Holloway et al., *The Effectiveness of Drug Treatment Programs in Reducing Criminal Behavior,* 18 PSICOTHEMA 620, 623 (2006) (concluding drug abuse treatment reduces odds of re-offending by 29% to 36%); Michael L. Prendergast et al., *The Effectiveness of Drug Abuse Treatment: A Meta-analysis of Comparison Group Studies,* 67 DRUG & ALCOHOL DEPENDENCE 53, 61 & 63 (2002) (concluding drug abuse treatment reduces crime by 6 percentage points); Michael Gossop et al., *Reductions in Criminal Convictions After Addiction Treatment: 5-Year Follow-up,* 79 DRUG & ALCOHOL DEPENDENCE 295, 298 (2005) (finding significantly lower conviction rates 5 years after addiction treatment).

9 *See generally* Douglas B. Marlowe, *Effective Strategies for Intervening With Drug Abusing Offenders,* 47 VILL. L. REV. 989, 1006-10 (2002) (reviewing high treatment dropout and noncompliance rates among drug abusing offenders).

10 *See, e.g.,* UNIV. CAL. LOS ANGELES, INTEGRATED SUBSTANCE ABUSE PROG., EVALUATION OF THE SUBSTANCE ABUSE AND CRIME PREVENTION ACT: FINAL REPORT 3 (2007) [hereafter SACPA EVALUATION] (finding 25% of offenders diverted to treatment in lieu of incarceration never arrived for treatment).

11 *See id.* at 4, 48 (finding 50% of drug offenders dropped out of treatment within 90 days); *see also* Samuel A. Ball et al., *Reasons for Dropout From Drug Abuse Treatment: Symptoms, Personality, and Motivation,* 31 ADDICTIVE BEHAV. 320, 320-21 (2006) (concluding approximately 50% of drug abuse clients drop out of treatment within first month); Michael J. Stark, *Dropping Out of Substance Abuse Treatment: A Clinically Oriented Review,* 12 CLIN. PSYCHOL. REV. 93, 94 (1992) (noting majority of investigators reported over 50% attrition within first month of drug abuse treatment and 52% to 75%

A major goal, therefore, of effective correctional programming is to ensure that drug offenders comply with their treatment and supervisory conditions.[13] A range of sentencing dispositions has been created to identify drug problems among offenders, refer them to treatment, and hold them accountable for showing up and paying attention to the clinical interventions.[14] The challenge is to select from among this array of options the best disposition for each offender that will optimize outcomes at the least cost to taxpayers and with the least threat to public safety.

This article begins by describing the sentencing options that are available in most states for drug-involved offenders, and the benefits and burdens associated with each. A model of evidence-based sentencing is presented that attempts to match drug offenders to dispositions that optimally balance impacts on cost, public safety, and the welfare of the offender. Implementing this model in practice requires an assessment of each offender's risk of dangerousness, prognosis for success in standard treatment, and clinical needs. A typology is presented of four sub-groups of drug offenders characterized by distinct risk-and-need profiles. Specific recommendations are offered for the clinical and supervisory interventions that should be included in sentencing orders for each offender subtype.

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attrition from alcoholism treatment); Yih-Ing Hser et al., *Effects of Program and Patient Characteristics on Retention of Drug Treatment Patients,* 24 EVAL. & PROG. PLANNING 331, 336-37 (2001) (finding in study of over 26,000 clients that approximately 82% in residential drug abuse treatment and 73% in outpatient treatment failed to complete treatment); Michael Wierzbicki & Gene Pekarik, *A Meta-Analysis of Psychotherapy Dropout,* 24 PROF. PSYCHOL. RES. & PRACT. 190, 192 (1993) (finding mean dropout rate in psychotherapy of 46.86%).

[12] Three months of outpatient substance abuse treatment appears to be the minimum threshold for detecting dose-response effects from the interventions. *See* D. Dwayne Simpson et al., *Treatment Retention and Follow-up Outcomes in the Drug Abuse Treatment Outcome Study (DATOS),* 11 PSYCHOL. ADDICTIVE BEHAV. 294, 299 & 304 (1997) (finding in national study of outpatient substance abuse treatment programs that 90 days was necessary for improved outcomes).

[13] Traditional "wisdom" held that addicts could not be coerced to get well. *See, e.g.,* Richard S. Schottenfeld, *Involuntary Treatment of Substance Abuse Disorders—Impediments to Success,* 52 PSYCHIATRY 164, 168-171 (1989) (suggesting coercion undermines therapeutic relationship). This notion turns out to be false. Dozens of studies have found that individuals who entered substance abuse treatment under the threat of a legal sanction performed at least as well, and often appreciably better, than those entering voluntarily. *See, e.g.,* John F. Kelly et al., *Substance Use Disorder Patients Who Are Mandated to Treatment: Characteristics, Treatment Process, and 1- and 5-Year Outcomes,* 28 J. SUBSTANCE ABUSE TREATMENT 213, 221 (2005) (finding offenders in mandated substance treatment had better outcomes than non-mandated clients 5 years after entry); Brian E. Perron & Charlotte L. Bright, *The Influence of Legal Coercion on Dropout From Substance Abuse Treatment: Results From a National Survey,* 92 DRUG & ALCOHOL DEPENDENCE 123,128 (2008) (finding legally mandated clients had longer retention in drug abuse treatment than non-mandated clients).

[14] For a discussion of these sentencing options, see *infra* notes 15-48 and accompanying text.

TREATMENT TO DRUG-INVOLVED OFFENDERS
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Abstract

Despite a growing consensus among scholars that substance abuse treatment is effective in reducing offending, strict eligibility rules have limited the impact of current models of therapeutic jurisprudence on public safety. This research effort was aimed at providing policy makers some guidance on whether expanding this model to more drug-involved offenders is cost-beneficial.
Since data needed for providing evidence-based analysis of this issue are not readily available, micro-level data from three nationally representative sources were used to construct a synthetic dataset—defined using population profiles rather than sampled observation—that was used to analyze this issue. Data from the National Survey on Drug Use and Health (NSDUH) and the Arrestee Drug Abuse Monitoring (ADAM) program were used to develop profile prevalence estimates. Data from the Drug Abuse Treatment Outcome Study (DATOS) were used to compute expected crime reduction benefits of treating clients with particular profiles. The resulting synthetic dataset—comprising of over 40,000 distinct profiles—permitted the benefit-cost analysis of a limited number of simulated policy options.
We find that roughly 1.5 million arrestees who are probably guilty (the population most likely to participate in court monitored substance abuse treatment) are currently at risk of drug dependence or abuse and that several million crimes could be averted if current eligibility limitations were suspended and all at-risk arrestees were treated. Under the current policy regime (which substantially limits access to treatment for the population we are studying) there are about 55,000 individuals treated annually—about 32,000 are at risk of dependence and 23,500 at risk of drug abuse. In total, about $515 million dollars is spent annually to treat those drug court clients yielding a reduction in offending which creates more than $1 billion dollars in annual savings. Overall, the current adult drug court treatment regime produces about $2.21 in benefits for every $1 in costs,

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for a net benefit to society of about $624 million. Every policy change simulated in this study yields a cost-effective expansion of drug treatment. That is, removing existing program eligibility restrictions would continue to produce public safety benefits that exceed associated costs. In particular, removing all eligibility restrictions and allowing access to treatment for all 1.47 million at risk arrestees would be most cost effective—producing more than $46 billion in benefits at a cost of $13.7 billion

21-4729
Statutes and Session Law
Chapter 21. -- CRIMES AND PUNISHMENTS
Article 47. -- SENTENCING GUIDELINES
21-4729 Nonprison sanction; certified drug abuse treatment programs; assessment; supervision by community corrections; discharge from program; exceptions to placement in program.

21-4729. Nonprison sanction; certified drug abuse treatment programs; assessment; supervision by community corrections; discharge from program; exceptions to placement in program.

(a) There is hereby established a nonprison sanction of certified drug abuse treatment programs for certain offenders who are sentenced on or after November 1, 2003. Placement of offenders in certified drug abuse treatment programs by the court shall be limited to placement of adult offenders, convicted of, *or placed on diversion,* a felony violation of K.S.A. 65-4160 or 65-4162, and amendments thereto;

(1) Whose offense is classified in grid blocks 4-E, 4-F, 4-G, 4-H or 4-1 of the sentencing guidelines grid for drug crimes and such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, and amendments thereto or any substantially similar offense from another jurisdiction; or

(2) whose offense is classified in grid blocks 4-A, 4-B, 4-C or 4-D of the sentencing guidelines grid for drug crimes and such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, and amendments thereto, or any substantially similar offense from another jurisdiction, if such person felonies committed by the offender were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for nondrug crimes and the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not jeopardized by such placement in a drug abuse treatment program.

(b) As a part of the presentence investigation pursuant to K.S.A. 21-4714, and amendments thereto, offenders who meet the requirements of subsection (a) shall be subject to:

(1) A drug abuse assessment which shall include a clinical interview with a mental health professional and a recommendation concerning drug abuse treatment for the offender; and

(2) a criminal risk-need assessment, unless otherwise specifically ordered by the court. The criminal risk-need assessment shall assign a high or low risk status to the offender.

(c) The sentencing court shall commit the offender to treatment in a drug abuse treatment program until determined suitable for discharge by the court but the term of treatment shall not exceed 18 months.

(d) Offenders shall be supervised by community correctional services.

(e) Placement of offenders under subsection (a)(2) shall be subject to the departure sentencing statutes of the Kansas sentencing guidelines act.

(f) An offender who otherwise qualifies for treatment under this section may be placed upon pre conviction diversion for a period of not to exceed 18 month upon the condition that said offender meet the diversion guidelines established by the prosecuting attorney and that the offender successfully complete an established drug court sanctioned by the Supreme Court of Kansas.

(g) For the purposes of this section, an established drug court sanctioned by the Supreme Court of Kansas shall be deemed to be a certified treatment provider.

(h) Upon successful completion of Drug Court, the charges against the offender shall be dismissed; however, the charge dismissed shall be admitted and considered upon a subsequent conviction;

(i) An offender shall only be eligible for diversion under this section one time.

(h)(1) Offenders in drug abuse treatment programs shall be discharged from such program if the offender:

(A) Is convicted of a new felony; or

(B) has a pattern of intentional conduct that demonstrates the offender's refusal to comply with or participate in the treatment program, as established by judicial finding.

(2) Offenders who are discharged from such program shall be subject to the revocation provisions of subsection (n) of K.S.A. 21-4603d, and amendments thereto.

(g) As used in this section, "mental health professional" includes licensed social workers, licensed psychiatrists, licensed psychologists, licensed professional counselors or registered alcohol and other drug abuse counselors licensed or certified as addition counselors who have been certified by the secretary of corrections to treat offenders pursuant to K.S.A. 2007. 75-52, 144, and amendments thereto.

(h)(1) The following offenders who meet the requirements of subsection (a) shall not be subject to the provisions of this section and shall be sentenced as otherwise provided by law:

(A) Offenders who are residents of another state and are returning to such state pursuant to the interstate corrections compact or the interstate compact for adult offender supervision; or

(B) offenders who are not lawfully present in the United States and being detained for deportation.

(2) Such sentence shall not be considered a departure and shall not be subject to appeal.

History: L.2003, ch. 135, § 1; L. 2006, ch. 211, § 7; July 1.

(2a)

8th Judicial District Community Corrections
Geary County Drug Court

Manual

Building Today's Foundation for Tomorrow's Success

8th Judicial District
Community Corrections
801 N. Washington, Suite E
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I. Mission Statement

Geary County Drug Court will strive to reduce recidivism of alcohol and drug offenders in the criminal justice system and provide community protection with a cost effective, integrated continuum of care through the development and utilization of community resources. Drug Court will hold defendants accountable and will assist them to achieve long-term recovery to become law-abiding citizens and successful family/community members.

II. Introduction

The Geary County Drug Court Program is a court that is designed to manage cases involving non-violent drug offenders. The program will be a court-supervised, comprehensive program for select chemically dependent defendants. The Drug Court concept was based on a program established in Miami, Florida in 1989, with the goal of reducing both substance abuse and criminal behavior.

Drug Courts are established by a team approach between the criminal justice system and the drug treatment organizations. This partnership structures treatment intervention around the influence and personal involvement of a single Drug Court Judge. The Judge and a dedicated team of professionals work together toward a similar goal of stopping the cycle of drug abuse and criminal behavior.

Unique problems and opportunities may arise while working with criminal offenders using drugs, therefore treatment and rehabilitation strategies must recognize:

- Relapse and periodic advancements are part of recovery, therefore, progressive sanctions and incentives must be integral to the Drug Court strategy.
- The addiction to alcohol and drugs is usually accompanied by other serious problems that threaten rehabilitation, so treatment will need to include other services and resources such as educational and vocational assessment.
- Treatment for addiction to drugs and alcohol must be long-term and comprehensive.
- Communication is key to assuring offenders accountability and success. Court supervision must be highly coordinated and comprehensive.
- Addicts are most vulnerable to successful intervention when they are in the crisis of initial arrest and incarceration, so intervention must be immediate and up-front.

Goals of the Geary County Drug Court Program

1. Assist participants in the Drug Court Program to stop the cycle of chemical dependency and addiction.
2. Increase community safety by reducing drug and alcohol related crimes.
3. Offer sanctions, rewards, and treatment programming that are effective.
4. Assure Drug Court participants begin the program as soon as possible.
5. Assist participants in obtaining their education and in gaining/maintaining employment.
6. Increase family stability and improve interpersonal relationships.
7. Assure Drug Court participants make appropriate contributions to all Court related costs.
8. Provide resources to participants to ensure continued progress both during and after completion of program.

III. KEY COMPONENTS OF A DRUG COURT PROGRAM

A. Drug Courts integrate alcohol and other drug treatment services with criminal justice system case processing.
B. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting each participant's due process rights.
C. Eligible participants are identified early and are promptly placed in the drug court program.
D. Drug Courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
E. Abstinence is monitored by frequent alcohol and drug testing.
F. A coordinated strategy governs drug court responses to participants' compliance.
G. Ongoing judicial interaction with each drug court participant is essential.
H. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
I. Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.
J. Forming partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

IV. THE DRUG COURT TREATMENT TEAM MEMBERS

- Drug Court Judge
- Drug Court Coordinator
- Intensive Supervision Officer(s)
- Law Enforcement Representatives
- County Attorney's Representative
- Treatment Providers
- Health Department Representative
- Court Services Representative
- Defense Counsel

Roles and Responsibilities of Drug Court Treatment Team

Judge:

- Provide explanation of program requirements
- Impose appropriate sanctions and incentives
- Communicate and work with treatment team
- Review progress of treatment and address it directly with participant in Court, considering the recommendations of the treatment team.
- Preside over termination proceedings
- Ensure compliance with drug court program rules by participants
- Grant final decision in outcome of participant's progress or termination

Drug Court Coordinator/ISO/Probation Officer(s):

- Evaluate potential participants for eligibility
- Conduct assessment and intake
- Verify & Monitor compliance of participant with the program and treatment requirements
- Collect all relevant information and distribute at treatment team meetings
- Review policies and practices and monitor need for changes
- Facilitate team/staff meetings
- Set agenda for meetings
- Community liaison
- Gather data for evaluator
- Supervise day-to-day operations
- Maintain a confidential file on each participant
- Case management and community supervision of each participant
- Referral to community resources
- Drug and Alcohol testing
- Home/School/Employment visits
- Collateral Contacts
- Monitor and encourage participant's compliance with the program
- Imposition of sanctions and rewards
- Attend treatment team meetings and drug court
- Coordinate with law enforcement

Senate Bill 123 Certified Treatment Providers:

- Assessment and referral as needed
- Use strength-based methodology
- Update team members on progress of participants in a timely fashion
- Establish rapport with participant
- Maintain confidentiality protection
- Ensure signing of all confidential releases required for communication with Drug Court Team
- Provide group and individual sessions for participants
- Coordinate/Advocate for pro-social activities

Law Enforcement:

- Partner with community agencies to achieve drug court goals
- Provide possible referrals for drug court program
- Assist probation officer in home visits and checks on participants
- Community policing (officers will get to know participants)
- Attend meetings as needed

- Comply with grant/state regulations
- Notify the Treatment team of violations committed by participants
- Escort incarcerated participants to and from Drug Court proceedings and supervises them during proceedings

County Attorney:

- Review potential participants for eligibility
- Make referrals to Drug Court
- Maintain a non-adversarial role during Court proceedings
- Ensure compliance with State law
- Actively participate in staffing when necessary
- Negotiate and complete plea agreements on behalf of the State
- Recommend appropriate sanctions and incentives
- Educate peer professionals on effectiveness of program and changes in state laws that affect the program
- Community advocate for effectiveness of the program
- Make recommendations for sentencing at revocation if the participant is terminated from the program

Defense Attorney:

- Attend team meetings as necessary
- Review pros and cons with potential participants before entering the Drug Court program
- Review cases for potential legal issues
- Discuss resolution of case with District Attorney before entering the drug court
- Remain accessible to participant
- Advocate for fair process
- Provide representation for the participant in termination proceedings if eligible

V. ELIGIBILITY STANDARDS

Potential candidates meeting the following criteria will be considered for admission to the Geary County Drug Court Program:

- Adult offenders
- Geary County resident
- Convicted in the 8th Judicial District for a drug possession, not including: manufacturing, drug trafficking or drug possession with intent to sell offenses; All other drug-related convictions will be reviewed on case-by-case basis
- A history of drug or substance dependency
- Physically able to participate in treatment

- Resolution of pending felony charges
- No documented history of violent felonies or domestic abuse
- No history of violent behavior
- No severe untreated psychological problems
- Viable chance of recovery and least risk to public safety
- Must sign all releases requested of the Probation and the Drug Court

VI. INTAKE

The Geary County District Court at sentencing will place participants into the Drug Court Program. Participants will initially meet with the Geary County Drug Court Coordinator to submit all necessary information to begin the program. The information will be reviewed with the Drug Court Team at the next available Drug Court Team Meeting.

VII. DRUG COURT PROCEEDINGS

The Drug Court calendar is a priority and will be a specialized, separate court, operating on a weekly basis and dedicated to the assessment, treatment, and supervision of eligible candidates. The treatment team will meet each Wednesday, prior to court at 1:00 pm. The Drug Court Team will staff Drug Court participants and advise the Drug Court Judge of the successful progress or any violation(s). Drug Court shall be held in the Geary County Courthouse on Wednesday at 2:00 pm. During the Drug Court hearing, the Judge will discuss each case with the participant and grant sanctions and rewards as deemed appropriate by the Team.

Other individuals, including family and sponsors who wish to observe Drug Court proceedings, must obtain prior approval from the Drug Court Team. Those individuals present in the courtroom may observe but not participate in proceedings. Individuals wishing to provide input to the Team are encouraged to communicate in writing via the Drug Court Coordinator. Drug Court participants are expected to remain in Court until **all** participants have gone before the Drug Court Judge, unless they have prior approval from the Judge or Drug Court Coordinator.

VIII. CONFIDENTIALITY

Drug Court participants will be required to sign a release of information authorizing the exchange of mental health, criminal, employment, and educational records. Participants will sign the waiver of confidentiality during the initial visit with the Drug Court Coordinator and it will be updated as necessary. Failure to sign a waiver of confidentiality will result in rejection into or termination from the program, as this is a mandatory condition of supervision for Drug Court participants.

IX. TREATMENT AND TESTING

The Geary County Drug Court Program shall consist of three phases. The first phase will be the assessment and primary treatment phase and will be a minimum of 30 days and a maximum of 90 days. Phase II will be a minimum of 6 months and a maximum of 12 months. Phase III will last up to 6 months. The Drug Court Team, upon recommendation of the treatment counselor and probation officer/coordinator will determine when promotion to a higher phase is appropriate.

A critical component of successful Drug Court participation involves intensive supervision and random testing to determine compliance with the rules of Drug Court Program. The frequency of the random tests will be determined by the phase each participant is in and is subject to change based on violations and the recommendation of the treatment team. If a test returns positive and the participant requests a confirmation test be done, the participant will be required to pay for the lab fees. If the lab results return negative, the money will be refunded to the participant

Note: Drug Court Program is a minimum of 13 months and a maximum of 18 months.

X. PHASE I- ASSESSMENT AND PRIMARY TREATMENT PHASE

The **minimum** requirements for successful completion of phase I are:

- Successful participation of program phase for minimum of one month
- 30 consecutive days of total abstinence from the use of drugs and alcohol
- The initial assessment will be done and will be staffed with the entire treatment team
- Develop and individualized treatment plan
- Begin treatment
- Individual counseling as needed (must be documented)
- Group therapy three to four hours per week
- 2 AA/NA meetings per week (must be documented)
- Call in daily for UA instructions and submit to testing as directed
- Probation meetings twice a week or as instructed after LSI'R completed
- Follow recommendations as determined by the Drug Court Team
- Obtain a sober sponsor
- Drug Court appearances weekly
- Comply with orders by the Judge
- Comply with rules of probation
- Be current with all Court related financial obligations
- Gain/Maintain full time employment and/or educational pursuits
- Recommendation of treatment team for movement to Phase II

XI. PHASE II – TREATMENT PHASE

The **minimum** requirements for successful completion of Phase II are:

- Successful participation of program phase for a minimum of 6 months
- 180 additional consecutive days of total abstinence from the use of drugs and alcohol
- Treatment plan will be updated
- Individual counseling as needed
- Group therapy two hours per week (must be documented)
- 2 AA/NA meetings per week (must be documented)
- Call in daily for UA instructions and submit to testing as directed
- Probation meetings per LSI'R level
- Drug Court appearances every 2-6 weeks. This will be determined by each participant's progress
- Follow all other recommendations as determined by the Drug Court Team
- Comply with any orders by judge
- Comply with rules of probation
- Be current with all Court related financial obligations
- Have a payment plan for all other financial obligations and show responsibility towards complying with that plan
- Have a sober sponsor
- Maintain full time employment and/or educational pursuit
- Recommendation of treatment team for movement to Phase III

XII. PHASE III – CONTINUING CARE AND GRADUATION

The **minimum** requirements for successful completion of Phase III are:

- Successful participation of program phase for minimum of 6 months
- Be current with all Court related financial obligations
- Continued sobriety
- Completion of treatment and aftercare
- Individual counseling as needed
- Group therapy two hours per week (must be documented)
- 2 AA/NA meetings per week
- Call in for UA instructions and submit to testing as directed
- Probation meetings per LSI'R
- Drug Court appearances every 1 to 2 months
- Maintain full time employment and/or educational pursuits
- Graduation

XIII. GRADUATION

Upon successful completion of all three phases, including the payment of all assessed fees, the participant will need to request an application of graduation from the Drug Court Coordinator. A checklist will be completed by the Drug Court Coordinator to ensure

graduation is suitable. The application should be completed a minimum of six weeks before the anticipated graduation. The treatment team will review the application, and the treatment team shall declare the Drug Court participant a graduate of the Drug Court Program. The graduation ceremony will be a celebration of completing all established guidelines as listed below:

- Participate in program at least 13 months
- Acceptable level of sobriety (to include no positive drug tests, including missed or tampered tests)
- Maintain consistent employment or sufficiently be involved in a vocational/educational training program
- No unexcused absences from Drug Court or other mandatory programming
- Achieve stable living arrangements and healthy interpersonal relationships
- Achieve understanding of personal problems of addiction and relapse prevention as demonstrated through a written graduation application
- Accomplishment of goals stated in individuals treatment plan or positive progress toward appropriate long-term life goals.
- Proof of attendance at all other events required by the Drug Court Team
- Completion of community service work
- Be paid in full on all Court related financial obligations
- Approval of application for graduation by the Drug Court Team

XIV. REWARDS

Reward – A reward is an acknowledgement by the Drug Court Team that participants have accomplished a specific goal.

Why Rewards are given? – It is important to recognize achievements and progress in some way. Receiving rewards help participants build self-esteem, provides motivation, as well as, encourages continue progress.

Are rewards the same for all participants? – No. There are several possible rewards that can be received by participants in the program for their achievements. The Drug Court Team decides which reward is the most appropriate for each case.

XV. VIOLATIONS AND SANCTIONS

Recognition of progress is very important, however, it is also important to respond promptly to negative behaviors. Imposition of sanctions and consequences for non-compliance of Drug Court conditions will ensure participants learn that immediate consequences will occur for failure to comply with conditions. The objective is to not only encourage participants to continue working through the recovery and treatment process but to also hold them accountable for their actions.

Violation – a negative action that is in breach of the conditions of supervision or rules of the Drug Court Program.

Sanction– a punishment in response to a violation. The seriousness of the violation determines the consequence imposed. Not only are more severe consequences imposed for more serious violations, but also, if violations continue to accumulate, the consequences become more severe.

Any violation of the rules of the program or conditions of supervision will result in the immediate imposition of sanctions, as determined by the Drug Court Judge and/or treatment team. The Team may also individualize sanctions as deemed appropriate.

Sanctions may include but are not limited to:

- Written essays
- Modification of conditions
- Fine
- Increase urine/alcohol-testing
- Increase support meetings
- Increased supervision
- Community service work
- Phase reduction
- Make up treatment
- Team interventions
- Increase group participation
- Journaling
- Change of outpatient treatment site
- Written letter of apology
- Warrant issued
- Verbal Warning
- Curfew
- Decrease in privileges
- Take away driving privileges
- Jail/Job search
- Inpatient treatment participation
- Extension/Revocation of probation

Any time served as a sanction for the drug court program DOES NOT count toward credit for time served on sentence.

VIOLATION	SANCTION
Positive Drug/Alcohol Test	
1st offense	• Serve 48 hours in Geary County Jail • One page report presented to Drug Court and follow recommendations of the Drug Court Team • Complete 8 hours of community service work by the following Drug Court date
2nd offense	• Serve (2) 48 hours in Geary County Jail • Daily drug testing for one week at clients expense • 6 p.m. curfew • Follow recommendations of Drug Court Team
3rd offense	• Serve 7 days in Geary County Jail • Daily drug testing for one week at clients expense • 24 hour curfew • Daily reporting for 30 days • Follow recommendations of the Drug Court Team
4th offense	• Possible termination for the program
Tampered Urine Sample	
1st offense	• Serve 48 hours in Geary County Jail • Increase testing at the expense of offender
2nd offense	• Possible termination for the program
	Unemployed
First two weeks	• Complete 3 applications per day • Spend a minimum of one hour per day at the Workforce Center working on resume, interview, and cover letter assistance
Each week thereafter	• Daily reporting • Complete 3 applications per day • Spend a minimum of one hour per day at the Workforce Center working on resume, interview, and cover letter assistance • 20 hours of community service work per week at the discretion of the Drug Court Team.
Failure to report to Drug Court	

1st offense	• Warrant issued • Complete 10 hours of community service work before next Drug Court date • Phase Reduction • 3 page report on strengths of Drug Courts
2nd offense	• Removal from Drug Court Program
Missed appointments with probation officer on a random basis	
1st offense	• Verbal Warning
2nd offense	• Increased supervision
3rd offense	• Curfew
4th offense	• Phase Reduction
5th offense	• Drug Court Team decision
	Missed Treament
1st offense	• Make up treatment
2nd offense	• Increased treatment if Drug Court team deems necessary
3rd offense	• Presentation for Drug Court on Drug Court Teams choice
4th offense	• Phase Reduction
5th offense	• Serve 48 hours in Geary County Jail
Inappropriate Behavior in Treatment	
1st offense	• Written letter of apology, approved by ISO
2nd offense	• Community Service Work before next Drug Court appearance
3rd offense	• Possible termination from program
Failure to Complete Residential Treamtent	
1st offense	• Warrant issued • Returned to treatment if Drug Court team finds it necessary
2nd offense	• Geary County Jail / Termination from program

Forged Drug Court Planner	
1st offense	• Phase reduction • Make up treatment • Increase participation • 48 hours in Geary County Jail
2nd offense	• Removal from Drug Court Program
	New arrest
1st offense	• Possible removal from Drug Court program based on seriousness of offense
Abscond Probation	
1st offense	• If an offender misses two Drug Court appearances in a row an offender will be removed from the Drug Court Program and a Motion to Revoke Probation will be filed.
Minor Violations of Drug Court	
1st offense	• Presentation to Drug Court on Drug Court Team's choice
2nd offense	• Curfew
3rd offense	• Daily reporting and additional community service work before next Drug Court appearance
4th offense	• Phase reduction

XVI. DRESS CODE and OTHER REGULATIONS

Participants are required to follow the following rules in the courtroom and/or probation office:

1. Shorts or short skirts (above the knee) are **NOT** allowed in the courtroom or probation office.
2. Revealing shirts, tank style shirts and tube tops are **NOT** allowed in the courtroom or probation office.
3. Baggy pants are NOT allowed in the courtroom or probation office.
4. All undergarments must be worn including underwear and bras.
5. Caps, hats, or bandanas of any kind may not be worn in the courtroom or probation office.
6. Appropriate footwear does not include slippers, house shoes, wheelies or flip flops.
7. Purses, handbags and/or backpacks are not allowed in the courtroom or probation office.
8. No food or beverages (including gum and candy) are allowed in the courtroom or probation office.
9. Visitors may only attend a drug court session if they have obtained prior approval from the Drug Court Coordinator and have signed a confidentiality agreement.
10. No weapons, of any kind, are allowed in the courtroom or probation office.
11. No cell phones or pagers are allowed in the courtroom. In the probation office, cell phones and pagers must be turned off, not just silenced.
12. Clothing bearing drug or alcohol related themes, promoting or advertising alcohol or drug use is not allowed in courtroom or probation office.
13. Sunglasses are not to be worn inside the courtroom or probation office.
14. Should a participant need assistance with appropriate clothing or hygiene items, he/she should contact the Drug Court Coordinator as soon as possible in advance of meeting or court appearance.

Any violation of these regulations will result in the participant being sanctioned immediately for failure to comply with the requirements of the Drug Court Program.

XVII. UNSUCCESSFUL TERMINATION/REVOCATION

A Drug Court Participant can be terminated from the Drug Court Program for any of the following:

- Commission of a violent crime
- Failure to attend scheduled Drug Court hearings
- Evidence that a participant is involved with drug use, drug dealings or driving while under the influence
- Evidence that a participant has been involved in any threatening, abusive, or violent verbal/physical behavior towards anyone
- Tampering of drug/alcohol tests
- Revocation of Probation or Parole
- Other grounds that the Drug Court finds sufficient for termination

XVIII. PROCESS FOR TERMINATION/REVOCATION

Any member of the Drug Court Team may make a request for termination. When appropriate, the Drug Court Team may give the participant advanced warning that termination is being considered. The Drug Court Team will discuss the request for termination and a vote will take place on the proposed termination from the Drug Court Program. The participant will return to the sentencing Judge for revocation proceedings.

XIX. VOLUNTARY REMOVAL

A Drug Court Participant will **not** have the option to quit the Drug Court Program. Successful completion of the program or unsuccessful terminations of the program are the only acceptable ways to leave Drug Court. Participants who wish to terminate the program are encouraged to discuss their thoughts with the Drug Court Team.

XX. COSTS

There will be a Drug Court Program fee of $300.00, to participate in the program. Participants will be expected to be current with all Court ordered financial obligations before moving to the next phase of the program. All financial obligations, including treatment costs are required to be paid in full in order to graduate.

XXI. GENERAL DRUG COURT RULES

Attend all ordered treatment sessions.
This includes individual and group counseling, educational sessions and other treatment as directed. Unexcused missed treatment sessions will result in a sanction.

Be on time.
If a participant is late for appointments or treatment he/she will not be allowed to participate and will be considered non-compliant. Participants must contact their counselor/ISO if there is a possibility that they may be late.

Do not make threats toward other participants or staff or act in a violent manner.
Violent or inappropriate behavior will not be tolerated and will be reported to the Court. This behavior will result in a sanction and/or termination from the Drug Court Program.

Attend all scheduled Drug Court sessions.
Participants must attend all court sessions as directed by the Judge or ISO. Participants must dress appropriately for court. Clothing bearing drug or alcohol related themes, promoting or advertising alcohol or drug use is considered inappropriate. Sunglasses, hats and bandanas are not to be worn inside the Court.

Submit to urinalysis and/or breath tests as requested.
Participants will be tested throughout the entire program. During the first phase, you will be tested frequently and randomly. As they progress through the program, testing will be required on a less frequent basis. Adulterated urine, which may include diluting, tampering or falsifying, will be considered as a positive test and will result in sanctions and/or termination from the program. The goal of the Drug Court Program is to help the individual achieve total abstinence from alcohol and illicit drugs. Dishonesty concerning use will result in a harsher sanction.

Always tell the truth.
Overcoming chemical dependency is not easy. This will take participants' best efforts. Always remember that the end result is to assist them in maintaining a clean and sober life.

Reside in Geary County.
Participants will be actively involved in treatment, meetings, community service work, court attendance and reporting to their supervision officer. Therefore, each participant shall reside in Geary County throughout the entire term of supervision under the Drug Court Program unless other permissions are granted by the Drug Court Judge.

CRIMINAL PROCEDURE
CHAPTER 22
KANSAS DRUG COURT ACT

22-____. SHORT TITLE. This chapter shall be known and may be cited as the"Kansas Drug Court Act."

CRIMINAL PROCEDURE
CHAPTER 22
KANSAS DRUG COURT ACT

22-____. STATEMENT OF POLICY. The legislature finds that:

(1) Substance abuse is a contributing cause for much of the crime in Kansas,costs millions of dollars in productivity, contributes to the ever increasing jail and prison populations and adversely impacts Kansas children;

(2) Drug courts which closely supervise, monitor, test and treat substance abusers have proven effective in certain judicial districts in Kansas and in other states in reducing the incidence of drug use, drug addiction, and crimes committed as a result of drug use and drug addiction. Successful drug courts are based on partnerships among the courts, law enforcement, corrections and social welfare agencies; and

(3) It is in the best interests of the citizens of this state to expand the use of drug courts.

The goals of the drug courts created by this chapter are to reduce the overcrowding of jails and prisons, to reduce alcohol and drug abuse and dependency among criminal offenders, to hold offenders accountable, to reduce recidivism, and to promote effective interaction and use of resources among the courts, justice system personnel community agencies.

CRIMINAL PROCEDURE
CHAPTER 22
KANSAS DRUG COURT ACT

22-____. DRUG COURT -- ESTABLISHMENT. The district court in each county may establish a drug court which shall include a regimen of graduated sanctions and rewards, substance abuse treatment, close court monitoring and supervision of progress, educational or vocational counseling as appropriate, and other requirements as may be established by the district court, in accordance with standards developed by the Kansas Supreme Court drug court coordinating committee.

CRIMINAL PROCEDURE
CHAPTER 22
KANSAS DRUG COURT ACT

22-____. ELIGIBILITY. No person has a right to be admitted into drug court. The drug court in each county shall determine the eligibility of persons who may be admitted into drug court except that each candidate, prior to being admitted, must undergo: (a) a substance abuse assessment; and (b) a criminal risk assessment. No person shall be eligible to participate in drug court if any of the following apply:

(1) The person is currently charged with, has pled or has been adjudicated or found guilty of, a felony crime of violence or a felony crime in which the person used either a firearm or a deadly weapon or instrument.

(2) The person is currently charged with, or has pled or been found guilty of, a felony in which the person committed, attempted to commit, conspired to commit, or intended to commit a sex offense.

(3) Drug court participants must meet the criteria of K.S.A. 21-4729.

CRIMINAL PROCEDURE
CHAPTER 22
KANSAS DRUG COURT ACT

22-____. DRUG COURT EVALUATION. The district court of each county which has implemented a drug court program shall annually evaluate the program's effectiveness and provide a report to the supreme court as requested. A report evaluating the effectiveness of drug courts in the state shall be submitted to the governor and to the legislature by the first day of the legislative session each year.

CRIMINAL PROCEDURE
CHAPTER 22
KANSAS DRUG COURT ACT

22-_____ IMPLEMENTATION OF DRUG COURTS. The Supreme Court shall establish and appoint a drug court coordinating committee consisting of two District Court Judges, one appellate Judge, one court administrator, one drug court coordinator, One prosecuting attorney, one public defender, one community corrections official and two treatment providers which shall establish a drug court implementation plan and oversee ongoing drug court programs. The implementation plan shall include a strategy to forge partnerships among drug courts, public agencies, and community-based organizations to enhance drug court effectiveness. The committee shall also develop guidelines for drug courts and mental health courts addressing eligibility, identification and screening, assessment, treatment and treatment providers, case management and supervision, and evaluation. The coordinating committee shall also solicit specific drug court plans, and recommend funding priorities and decisions per judicial district; pursue all available alternate funding; provide technical assistance, develop procedural manuals, and schedule training opportunities for the drug court teams; design an evaluation strategy, including participation in the statewide substance abuse evaluation plan; and design an automated drug court and mental health court management information system, which promotes information sharing with other entities.

Contiguous Judicial Districts may agree to implementation a drug court between Districts.

CRIMINAL PROCEDURE
CHAPTER 22
KANSAS DRUG COURT ACT

22___. DRUG COURT FUNDING. Subject to the appropriation power of the legislature, the Supreme Court shall be responsible for administering, allocating and apportioning funding from the legislature for drug courts.

CRIMINAL PROCEDURE
CHAPTER 22
KANSAS DRUG COURT ACT

22-____. DRUG COURT FEE. Each person admitted into a drug court shall pay the drug court fee as established by the Supreme Court.

DRAFT

AN ACT concerning courts; relating to therapeutic or problem-solving courts; establishing a therapeutic diversion; amending K.S.A. 22-2906 and repealing the existing section.

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

New Section 1. (a) Each judicial district may establish a specially designed court calendar for criminal or juvenile cases, the purposes of which are to achieve a reduction in recidivism and to increase the likelihood of successful rehabilitation through early, continuous and intense judicial supervision. Such therapeutic or problem-solving procedures may target offenders with a mental illness or with drug, alcohol or other addictions. Procedures may include treatment, mandatory periodic testing for prohibited drugs and other substances, community supervision and the use of appropriate sanctions and incentives, all as allowed by law.

(b) A judge presiding over such a court calendar may initiate, permit or consider ex parte communications with probation officers, case managers, treatment providers or other members of the problem-solving court team at team meetings, or by written documents provided to all members of the problem-solving court team. A judge who has received any such ex parte communication regarding the defendant or juvenile may preside

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over any subsequent proceeding if the judge discloses the existence and, if known, the nature of the ex parte communication to the defendant and the State and both the defendant and the State consent to the judge hearing the matter.

New Sec. 2. (a) There is hereby established a therapeutic diversion option for certain offenders who are charged on or after July 1, 2010, in any judicial district that has established a therapeutic or problem-solving court pursuant to section 1, and amendments thereto.

(b) Placement of offenders on therapeutic diversion shall be subject to the discretion of the district court. Nothing in this section shall be construed to create any right for an offender to be granted placement on therapeutic diversion.

(c) A person may enter into a therapeutic diversion agreement in lieu of further criminal proceedings only once during the person's lifetime.

New Sec. 3. (a) In any judicial district that has established a therapeutic or problem-solving court pursuant to section 1, and amendments thereto, after a complaint has been filed in a criminal or juvenile case, and prior to conviction in such case, if it appears to the county or district attorney that placement of the offender on therapeutic diversion would be in the interests of justice and of benefit to the offender and the community, the county or district attorney may propose a

therapeutic diversion agreement to the offender.

(b) The terms of each therapeutic diversion agreement shall be established by the therapeutic or problem-solving court.

(c) Each therapeutic or problem-solving court shall adopt written policies and guidelines for the implementation of a therapeutic diversion program. Such policies and guidelines shall provide for a therapeutic diversion conference and other procedures in those cases where the county or district attorney elects to offer therapeutic diversion in lieu of further criminal proceedings on the complaint.

(d) The county or district attorney may require any offender requesting therapeutic diversion to provide information regarding prior criminal charges, education, work experience and training, family, residence in the community, medical history, including any psychiatric or psychological treatment or counseling, and other information relating to the therapeutic diversion program.

(e) In all cases, the offender shall be present and shall have the right to be represented by counsel at the therapeutic diversion conference with the county or district attorney.

New Sec. 4. (a) A therapeutic diversion agreement shall provide that if the offender fulfills the obligations described therein, as determined by the therapeutic or problem-solving court, the county or district attorney shall act to have the criminal charges against the offender dismissed with prejudice.

The therapeutic diversion agreement shall include specifically the waiver of all rights under the law or the constitution of Kansas or of the United States to a speedy arraignment, preliminary examinations and hearings, a speedy trial and waiver of the rights to counsel and trial by jury.

(b) The drug offense diversion agreement shall state: (1) The offender's full name; (2) the offender's full name at the time the complaint was filed, if different from the offender's current name; (3) the offender's sex, race and date of birth; (4) the crime with which the defendant is charged; (5) the date the complaint was filed; and (6) the district court with which the agreement is filed.

(c) The therapeutic diversion agreement shall include a stipulation, agreed to by the offender, the offender's attorney, if the offender is represented by an attorney, and the county or district attorney, of the facts upon which the charge is based and a provision that if the offender fails to fulfill the terms of the specific therapeutic diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint.

(d) If the county or district attorney elects to offer therapeutic diversion in lieu of further criminal proceedings on the complaint, the therapeutic or problem-solving court agrees to

grant therapeutic diversion and the offender agrees to all of the terms of the proposed agreement, the therapeutic diversion agreement shall be filed with the district court and the district court shall stay further proceedings on the complaint. If the offender declines to accept therapeutic diversion, the district court shall resume the criminal proceedings on the complaint.

(e) The county or district attorney shall forward to the Kansas bureau of investigation a copy of the therapeutic diversion agreement at the time such agreement is filed with the district court. The copy of the agreement shall be made available upon request to the attorney general or any county, district or city attorney or court.

New Sec. 5. (a) No offender shall be required to enter any plea to a criminal charge as a condition for therapeutic diversion.

(b) No statements made by the offender or counsel in any therapeutic diversion conference or in any other discussion of a proposed therapeutic diversion agreement shall be admissible as evidence in criminal proceedings on crimes charged or facts alleged in the complaint.

(c) Except for sentencing proceedings, and as otherwise provided in subsection (d), and as otherwise provided in subsection (c) of section 4, and amendments thereto, the following shall not be admissible as evidence in criminal

proceedings which are resumed under section 6, and amendments thereto: (1) Participation in a therapeutic diversion program; (2) the facts of such participation; or (3) the therapeutic diversion agreement entered into.

New Sec. 6. (a) If the therapeutic or problem-solving court finds at the termination of the therapeutic diversion period or any time prior to the termination of the therapeutic diversion period that the offender has failed to fulfill the terms of the specific therapeutic diversion agreement, the therapeutic or problem-solving court shall inform the district court of such finding and the district court, after finding that the offender has failed to fulfill the terms of the specific therapeutic diversion agreement at a hearing thereon, shall resume the criminal proceedings on the complaint.

(b) If the offender has fulfilled the terms of the therapeutic diversion agreement, the district court shall dismiss with prejudice the criminal charges filed against the offender.

(c) The county or district attorney shall forward to the Kansas bureau of investigation a record of the fact that an offender did or did not fulfill the terms of a therapeutic diversion agreement. Such record shall be made available upon request to the attorney general or any county, district or city attorney or court.

Sec. 7. K.S.A. 22-2906 is hereby amended to read as follows: 22-2906. (a) As used in K.S.A. 22-2907 ~~to~~ through 22-2911, ~~inclusive~~ and amendments thereto:

(1) "District attorney" means district attorney or county attorney.

(2) "Complaint" means complaint, indictment or information.

(3) "Diversion" means referral of a defendant in a criminal case to a supervised performance program prior to adjudication.

(4) "Diversion agreement" means the specification of formal terms and conditions which a defendant must fulfill in order to have the charges against him or her dismissed.

(b) The provisions of K.S.A. 22-2907 through 22-2911, and amendments thereto, shall not apply to offenders placed on therapeutic diversion pursuant to sections 2 through 6, and amendments thereto.

Sec. 8. K.S.A. 22-2906 is hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

DRAFT

AN ACT enacting the Kansas drug court act; creating the drug court fund; establishing a drug offense diversion; amending K.S.A. 22-2906 and K.S.A. 2009 Supp. 75-52,144 and repealing the existing sections.

WHEREAS, Substance abuse is a contributing cause for much of the crime in Kansas, costs millions of dollars in productivity, contributes to the ever increasing jail and prison populations and adversely impacts Kansas children; and

WHEREAS, Drug courts which closely supervise, monitor, test and treat substance abusers have proven effective in certain judicial districts in Kansas and in other states in reducing the incidence of drug use, drug addiction and crimes committed as a result of drug use and drug addiction; and

WHEREAS, Successful drug courts are based on partnerships among the courts, law enforcement, corrections and social welfare agencies; and

WHEREAS, It is in the best interests of the citizens of this state to expand the use of drug courts; and

WHEREAS, The goals of drug courts are to reduce the overcrowding of jails and prisons, to reduce alcohol and drug abuse and dependency among criminal offenders, to hold offenders accountable, to reduce recidivism, and to promote effective

interaction and use of resources among the courts, justice system personnel and community agencies: Now, therefore,

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

New Section 1. This act shall be known and may be cited as the Kansas drug court act.

New Sec. 2. (a) The district court in any judicial district, or two or more district courts in contiguous judicial districts, may establish a drug court which shall include the following, in accordance with standards developed by the drug court coordinating committee: (1) A regimen of graduated sanctions and rewards; (2) substance abuse treatment, close court monitoring and supervision of progress; (3) educational or vocational counseling as appropriate; and (4) any other requirements as may be established by the district court or district courts.

(b) The district court in any judicial district which has implemented a drug court program shall evaluate the program's effectiveness annually and provide a report to the supreme court as requested.

(c) The supreme court shall submit an annual report evaluating the effectiveness of drug courts in the state to the governor and to the legislature at the beginning of each regular legislative session.

New Sec. 3. (a) The supreme court shall establish and appoint a drug court coordinating committee consisting of two district court judges, one appellate court judge, one court administrator, one drug court coordinator, one prosecuting attorney, one public defender, one community corrections official and two treatment providers.

(b) The committee shall:

(1) Establish a drug court implementation plan which shall include a strategy to forge partnerships among drug courts, public agencies, and community-based organizations to enhance drug court effectiveness;

(2) oversee ongoing drug court programs;

(3) develop guidelines for drug courts which shall address eligibility, identification and screening; assessment, treatment and treatment providers; case management and supervision; and evaluation;

(4) solicit specific drug court plans;

(5) recommend funding priorities;

(6) pursue all available alternate funding for drug courts;

(7) provide technical assistance to drug courts;

(8) develop procedural manuals for drug courts;

(9) schedule training opportunities for drug court personnel;

(10) design an evaluation strategy, including participation in the statewide substance abuse evaluation plan;

(11) design an automated drug court management information system to promote information sharing with other entities: and

(12) set the drug court fee to be paid by each offender placed on drug offense diversion.

New Sec. 4. (a) Subject to appropriations therefor, the supreme court shall be responsible for administering and allocating funding from all available sources for drug courts.

(b) There is hereby created in the state treasury the drug court fund. Money credited to the fund shall be used solely for the purposes set forth in section 3, and amendments thereto.

(c) All expenditures from the drug court fund shall be made in accordance with appropriations acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chief justice of the Kansas supreme court or by a person or persons designated by the chief justice.

(d) The chief justice may apply for, receive and accept money from any source for the purposes for which money in the drug court fund may be expended. Upon receipt of each such remittance, the chief justice shall remit the entire amount to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount

in the state treasury to the credit of the drug court fund.

New Sec. 5. (a) There is hereby established a drug offense diversion option for certain offenders who are charged on or after November 1, 2010, in any judicial district that has established a drug court pursuant to section 2, and amendments thereto. Placement of offenders on drug offense diversion shall be limited to placement of adult offenders, charged with a felony violation of K.S.A. 2009 Supp. 21-36a06, and amendments thereto:

(1) Whose offense, if such offender was convicted, would be classified in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes and such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to such sections repeal, or K.S.A. 2009 Supp. 21-36a03, 21-36a05 or 21-36a16, and amendments thereto, or any substantially similar offense from another jurisdiction; or

(2) whose offense, if such offender was convicted, would be classified in grid blocks 4-A, 4-B, 4-C or 4-D of the sentencing guidelines grid for drug crimes and such offender has no felony conviction of K.S.A. 65-4142, 65-4159, 65-4161, 65-4163 or 65-4164, prior to such sections repeal, or K.S.A. 2009 Supp. 21-36a03, 21-36a05 or 21-36a16, and amendments thereto, or any substantially similar offense from another jurisdiction, if such person felonies committed by the offender were severity level 8, 9 or 10 or nongrid offenses of the sentencing guidelines grid for

nondrug crimes and the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will not be jeopardized by such placement on drug offense diversion.

(b) Offenders who meet the requirements of subsection (a) shall be subject to:

(1) A drug abuse assessment which shall include a clinical interview with a mental health professional and a recommendation concerning drug abuse treatment for the offender; and

(2) a criminal risk-need assessment which shall assign a high or low risk status to the offender.

(c) Each offender placed on drug offense diversion shall pay the drug court fee as established by the drug court coordinating committee. The drug court fee imposed by this section shall be charged and collected by the district court. The clerk of the district court shall remit all revenues received under this section from drug court fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the drug court fund.

(d) Placement of offenders on drug offense diversion under subsection (a) shall be subject to the discretion of the drug court. Nothing in this section shall be construed to create any

right for an offender to be granted placement on drug offense diversion.

(e) A person may enter into a drug offense diversion agreement in lieu of further criminal proceedings for a felony violation of K.S.A. 2009 Supp. 21-36a06, and amendments thereto, only once during the person's lifetime.

(f) Any offender who meets the requirements of subsection (a) shall not be subject to the provisions of this section and shall not be eligible for placement on drug offense diversion if any of the following apply:

(1) The offender is currently charged with, has pled or has been adjudicated or found guilty of, a felony crime of violence [define] or a felony crime in which the person used either a firearm or a deadly weapon or instrument; or

(2) the offender is currently charged with, has pled or has been adjudicated or found guilty of, a felony in which the person committed, attempted to commit, conspired to commit, or intended to commit a sex offense [define]; or

(3) the offender is a resident of another state; or

(4) the offender is not lawfully present in the United States and is being detained for deportation.

(g) As used in this section, "mental health professional" includes licensed social workers, licensed psychiatrists, licensed psychologists, licensed professional counselors or

registered alcohol and other drug abuse counselors licensed or certified as addiction counselors who have been certified by the secretary of corrections to treat offenders pursuant to K.S.A. 2009 Supp. 75-52,144, and amendments thereto.

New Sec. 6. (a) After a complaint has been filed charging an adult offender with a felony violation of K.S.A. 2009 Supp. 21-36a06, and amendments thereto, and prior to conviction thereof, and after the county or district attorney has considered the requirements in section 5, and amendments thereto, if it appears to the county or district attorney that placement of the offender on drug offense diversion would be in the interests of justice and of benefit to the offender and the community, the county or district attorney may propose a drug offense diversion agreement to the offender.

(b) The terms of each drug offense diversion agreement shall be established by the drug court.

(c) Each drug court shall adopt written policies and guidelines for the implementation of a drug offense diversion program. Such policies and guidelines shall provide for a drug offense diversion conference and other procedures in those cases where the county or district attorney elects to offer drug offense diversion in lieu of further criminal proceedings on the complaint.

(d) Each adult offender charged with a felony violation of K.S.A. 2009 Supp. 21-36a06, and amendments thereto, shall be informed in writing of the drug offense diversion program and the policies and guidelines adopted by the drug court. The county or district attorney may require any offender requesting drug offense diversion to provide information regarding prior criminal charges, education, work experience and training, family, residence in the community, medical history, including any psychiatric or psychological treatment or counseling, and other information relating to the drug offense diversion program. In all cases, the offender shall be present and shall have the right to be represented by counsel at the drug offense diversion conference with the county or district attorney.

New Sec. 7. (a) A drug offense diversion agreement shall provide that if the offender fulfills the obligations described therein, as determined by the drug court, the county or district attorney shall act to have the criminal charges against the offender dismissed with prejudice. The drug offense diversion agreement shall include specifically the waiver of all rights under the law or the constitution of Kansas or of the United States to a speedy arraignment, preliminary examinations and hearings, a speedy trial and waiver of the rights to counsel and trial by jury.

(b) The drug offense diversion agreement shall state: (1) The offender's full name; (2) the offender's full name at the time the complaint was filed, if different from the offender's current name; (3) the offender's sex, race and date of birth; (4) the crime with which the defendant is charged; (5) the date the complaint was filed; and (6) the district court with which the agreement is filed.

(c) The drug offense diversion agreement shall include a stipulation, agreed to by the offender, the offender's attorney, if the offender is represented by an attorney, and the county or district attorney, of the facts upon which the charge is based and a provision that if the offender fails to fulfill the terms of the specific drug offense diversion agreement and the criminal proceedings on the complaint are resumed, the proceedings, including any proceedings on appeal, shall be conducted on the record of the stipulation of facts relating to the complaint.

(d) If the county or district attorney elects to offer drug offense diversion in lieu of further criminal proceedings on the complaint, the drug court agrees to grant drug offense diversion and the offender agrees to all of the terms of the proposed agreement, the drug offense diversion agreement shall be filed with the district court and the district court shall stay further proceedings on the complaint. If the offender declines to accept drug offense diversion, the district court shall resume the

criminal proceedings on the complaint.

(e) The county or district attorney shall forward to the Kansas bureau of investigation a copy of the drug offense diversion agreement at the time such agreement is filed with the district court. The copy of the agreement shall be made available upon request to the attorney general or any county, district or city attorney or court.

New Sec. 8. (a) No offender shall be required to enter any plea to a criminal charge as a condition for drug offense diversion.

(b) No statements made by the offender or counsel in any drug offense diversion conference or in any other discussion of a proposed drug offense diversion agreement shall be admissible as evidence in criminal proceedings on crimes charged or facts alleged in the complaint.

(c) Except for sentencing proceedings, and as otherwise provided in subsection (d), and as otherwise provided in subsection (c) of section 7, and amendments thereto, the following shall not be admissible as evidence in criminal proceedings which are resumed under section 9, and amendments thereto: (1) Participation in a drug offense diversion program; (2) the facts of such participation; or (3) the drug offense diversion agreement entered into.

New Sec. 9. (a) If the drug court finds at the termination of the drug offense diversion period or any time prior to the termination of the drug offense diversion period that the offender has failed to fulfill the terms of the specific drug offense diversion agreement, the drug court shall inform the district court of such finding and the district court, after finding that the offender has failed to fulfill the terms of the specific drug offense diversion agreement at a hearing thereon, shall resume the criminal proceedings on the complaint.

(b) If the offender has fulfilled the terms of the drug offense diversion agreement, the district court shall dismiss with prejudice the criminal charges filed against the offender.

(c) The county or district attorney shall forward to the Kansas bureau of investigation a record of the fact that an offender did or did not fulfill the terms of a drug offense diversion agreement. Such record shall be made available upon request to the attorney general or any county, district or city attorney or court.

Sec. 10. K.S.A. 22-2906 is hereby amended to read as follows: 22-2906. (a) As used in K.S.A. 22-2907 ~~to~~ through 22-2911, ~~inclusive~~ and amendments thereto:

(1) "District attorney" means district attorney or county attorney.

(2) "Complaint" means complaint, indictment or information.

(3) "Diversion" means referral of a defendant in a criminal case to a supervised performance program prior to adjudication.

(4) "Diversion agreement" means the specification of formal terms and conditions which a defendant must fulfill in order to have the charges against him or her dismissed.

(b) The provisions of K.S.A. 22-2907 through 22-2911, and amendments thereto, shall not apply to offenders placed on drug offense diversion pursuant to sections 5 through 9, and amendments thereto.

Sec. 11. K.S.A. 2009 Supp. 75-52,144 is hereby amended to read as follows: 75-52,144. (a) Drug abuse treatment programs certified in accordance with subsection (b) shall provide:

(1) Presentence drug abuse assessments of any person who is convicted of a felony violation of K.S.A. 65-4160 or 65-4162, prior to such sections repeal or K.S.A. 2009 Supp. 21-36a06, and amendments thereto, and meets the requirements of K.S.A. 21-4729, and amendments thereto;

(2) treatment of all persons who are convicted of a felony violation of K.S.A. 65-4160 or 65-4162, prior to such sections repeal or K.S.A. 2009 Supp. 21-36a06, and amendments thereto, meet the requirements of K.S.A. 21-4729, and amendments thereto, and whose sentence requires completion of a certified drug abuse treatment program, as provided in this section;

(3) one or more treatment options in the continuum of services needed to reach recovery: Detoxification, rehabilitation, continuing care and aftercare, and relapse prevention;

(4) treatment options to incorporate family and auxiliary support services; and

(5) treatment options for alcohol abuse when indicated by the assessment of the offender or required by the court.

(b) The presentence criminal risk-need assessment shall be conducted by a court services officer or a community corrections officer. The presentence drug abuse treatment program placement assessment shall be conducted by a drug abuse treatment program certified in accordance with the provisions of this subsection to provide assessment and treatment services. A drug abuse treatment program shall be certified by the secretary of corrections. The secretary may establish qualifications for the certification of programs, which may include requirements for supervision and monitoring of clients; fee reimbursement procedures; handling of conflicts of interest; delivery of services to clients unable to pay; and other matters relating to quality and delivery of services by the program. Drug abuse treatment may include community based and faith based programs. The certification shall be for a four-year period. Recertification of a program shall be by the secretary. To be eligible for certification under this

subsection, the secretary shall determine that a drug abuse treatment program: (1) Meets the qualifications established by the secretary; (2) is capable of providing the assessments, supervision and monitoring required under subsection (a); (3) has employed or contracted with certified treatment providers; and (4) meets any other functions and duties specified by law.

(c) Any treatment provider who is employed or has contracted with a certified drug abuse treatment program who provides services to offenders shall be certified by the secretary of corrections. The secretary shall require education and training which shall include, but not be limited to, case management and cognitive behavior training. The duties of providers who prepare the presentence drug abuse assessment may also include appearing at sentencing and probation hearings in accordance with the orders of the court, monitoring offenders in the treatment programs, notifying the probation department and the court of any offender failing to meet the conditions of probation or referrals to treatment, appearing at revocation hearings as may be required and providing assistance and data reporting and program evaluation.

(d) (1) The cost for all drug abuse assessments and certified drug abuse treatment programs for any person shall be paid by the Kansas sentencing commission from funds appropriated for such purpose. The Kansas sentencing commission shall contract

for payment for such services with the supervising agency. The sentencing court shall determine the extent, if any, that such person is able to pay for such assessment and treatment. Such payments shall be used by the supervising agency to offset costs to the state. If such financial obligations are not met or cannot be met, the sentencing court shall be notified for the purpose of collection or review and further action on the offender's sentence.

(2) The cost for the following drug abuse assessments and treatment shall be paid by the Kansas sentencing commission from funds appropriated for drug abuse assessments and treatment: (A) drug abuse assessments of any adult offender who is charged with a felony violation of K.S.A. 2009 Supp. 21-36a06, and amendments thereto, and meets the requirements of section 5, and amendments thereto; and (B) treatment of all adult offenders who are charged with a felony violation of K.S.A. 2009 Supp. 21-36a06, and amendments thereto, meet the requirements of section 5, and amendments thereto, and are placed on drug offense diversion pursuant to sections 5 through 9, and amendments thereto. The Kansas sentencing commission shall contract for payment for such services with the supervising drug court. The drug court shall determine the extent, if any, that such offender is able to pay for such assessment and treatment. Such payments shall be used by the supervising drug court to offset costs to the state.

(e) The community corrections staff shall work with the substance abuse treatment staff to ensure effective supervision and monitoring of the offender.

(f) The secretary of corrections is hereby authorized to adopt rules and regulations to carry out the provisions of this section.

Sec. 12. K.S.A. 22-2906 and K.S.A. 2009 Supp. 75-52,144 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

C&JJ Oversight
Attachment 4
10-28 & 29-09

SUMMARY OF 2010 PROPORTIONALITY RECOMMENDATIONS
KANSAS SENTENCING COMMISSION PROPORTIONALITY COMMITTEE

ISSUE	RATIONALE OR RESULT
SEX CRIMES	**NO CHANGES TO ARTICLE 35 ARE CONTEMPLATED AS PART OF THIS PROPOSAL.**
SPECIAL RULES	**ELIMINATION OF SPECIAL RULES IS NOT CONTEMPLATED AS PART OF THIS PROPOSAL.**
A conviction for a medium, large or super felony distribution, with a criminal history of one prior medium, large or super distribution, would result in a sentence double the applicable grid box sentence; such a conviction with a criminal history of two or more prior medium, large or super distributions, would result in a sentence triple the applicable grid box sentence.	Provides an enhancement for multiple convictions.
SENTENCING GRIDS	
Merge the non-drug and drug sentencing grids into one Kansas Sentencing Grid.	1. Reflects sentencing patterns and special rules adopted by the Legislature since guideline sentencing implemented. 2. Allows proportional comparison of drug and nondrug penalties.
Increase presumptive imprisonment border boxes from 3 to 6, adding 7-C, 7-D and 8-C. Decrease the presumptive probation boxes from 30 to 27.	Of 90 grid boxes, 63 remain presumptive imprisonment.
Increase aggravated/mitigated sentences from 5% to 10%.	Allows more latitude in sentencing, short of departure.
Minimum felony prison sentence is increased to 12 months in length	Avoids situation where a Kansas felony is declared a non-felony in Federal sentencing system or other states.
DRUGS	1. Current repeat drug offenses carry longer presumptive sentences than repeat offenses for more severe person felonies. 2. Presently, 7 drug offenses carry presumptive prison sentences that are longer than many violent person felonies for a first offense.
Add the wording "or distribution within the presence of a minor" to the enhancement "distribution within 1,000 feet of a school". Either of these enhancements would elevate the sentence for distribution by 1 severity level.	1. This recommendation provides for an enhanced sentence when children are in the presence of this type of activity. 2. Enhancement results in a sentence at severity level 1 for a super sale; severity level 3 for a large sale; severity level 5 for a medium sale; and severity level 7 for a small sale.
Manufacturing, presently at drug severity level 1, would be amended such that manufacturing methamphetamine would be a level 1 nonperson felony. Manufacturing any other drug would be a level 2 nonperson felony.	1. Recognizes the potential danger and resulting harm meth manufacturing has on the community. 2. Level 1 is comparable to heat of passion murder and rape

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Kansas Sentencing Commission 2010 Proportionality Recommendations

DRUGS (continued)		
Sale, distribution, and possession with intent to distribute are set at 4 levels based on quantity of drugs possessed to be sold or actually sold (FY2007 sentencing data shows departure rates of 88% on current level 1 drug grid, 66% on current level 2 drug grid. 80% of current level 3 drug sentences (border box) are placed on probation.		1. Small quantity, level 8 nonperson felony. 2. Medium quantity, level 6 nonperson felony. 3. Large quantity, level 4 nonperson felony. 4. Super quantity, level 2 nonperson felony. Differentiates the act of selling one joint or one gram of methamphetamine from the act of selling larger quantities for wholesale distribution and to better reflect levels of harm to the community.
Weight to be determined by the product as packaged for distribution.		Drug purity would not be considered.
Mandatory treatment program for personal use possession (Senate Bill 123) remains intact.		The program works well in the communities, offenders get treatment, and public safety is maintained.
Receiving or acquiring proceeds from drugs would be amended based upon presently defined amounts: 1) proceeds of $1 – $4,999 from drug severity level 4 to merged severity level 9; and 2) proceeds of $5,000 - $100,000 from drug severity level 3 to merged severity level 6.		Amounts and penalties remain roughly the same as presently.
Possession of precursors would be amended from drug severity level 2 to merged severity level 4.		Penalty remains roughly the same as presently.
SENTENCING STATUTES		
Court Services should supervise all class A misdemeanors who are not sentenced to jail.		Offenders should be supervised while on probation. Class A offenses are often enhanced from class B offenses. Supervision at this level may prevent further criminal activity and subsequent enhancement to a felony.
PROPERTY OFFENSES		
Up to $499.99, a class B nonperson misdemeanor; up to $999.99, a class A nonperson misdemeanor; up to $1,999.99, a level 10 nonperson felony; up to $24,999.99, a level 9 nonperson felony; up to $49,999.99, a level 8 nonperson felony; up to $74,999.99, a level 7 nonperson felony; up to $99,999.99, a level 6 nonperson felony; and $100,000 and higher, a level 5 nonperson felony.		Standardization of all theft statutes so that theft, no matter how it is committed, has a uniform and proportional punishment.
SECURITIES		**2009 HB 2332, as amended by the House Committee**
Securities – intentional violation presently at SL 7 amended to SL 8.		As requested by the Securities Commissioner, to provide a higher level of accountability than at present.
K. S. A. 17-12a501 or 17-12a502 Intentional Violation	New severity levels: Loss of < $25,000 = SL 8N	As requested by the Securities Commissioner, to provide a higher level of accountability than at present;

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Presently: Loss of < $25,000 = SL 7N $25,000 but < $100,000 = SL 5N $100,000 or more = SL 4N	$25,000 but less than $50,000 = SL 7N $50,000 but less than $75,000 = SL 6N $75,000 but less than $100,000 = SL 5N $100,000 but less than $250,000 = SL 4N $250,000 but less than $1M = SL 3N $1M or more = SL 2N	Values are generally grouped the same as other property crimes with penalty at 1 severity level higher, except that more severe penalties are provided for values over $100,000.
Intentional violation of cease and desist order, presently at SL 8 amended to SL 6.		
Presumptive prison would remain intact for crimes resulting in $25,000 or more loss.		
DOMESTIC BATTERY		**2009 HB 2332, as amended by the House Committee**
A 1st domestic battery remains a class B person misdemeanor.		
A 2nd domestic battery is a class A person misdemeanor.		Court Services would supervise these offenders.
A 3rd or subsequent Domestic Battery is a level 7 person felony with mandatory jail sanctions as a condition of probation (3rd violation, 30 days jail; 4th violation, 90 days jail; 5th or subsequent violation w/5 years, 1 year incarceration w/KDOC).		1. Community Corrections would supervise felony offenders. 2. Domestic violence often leads to more serious crime, including homicide.

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Proposed Merged Sentencing Grid Presumptive Imprisonment Border Boxes @ 5-H, 5-I, 6-G, 7-C, 7-D, and 8-C Including Drug Felonies (10/8/09)

Drug Crimes Moved -- (all nonperson as they presently exist)	Category ► / Severity level ▼	A 3+ Person Felonies	B 2 Person Felonies	C 1 Person & 1 Nonperson Felony	D 1 Person Felony	E 3+ Nonperson Felonies	F 2 Nonperson Felonies	G 1 Nonperson Felony	H 2+ Misdemeanors	I 1 Misdemeanor or No Record
D1 Meth Manufacture Super Distrib. w/1000 Ft of school OR within presence of a child	I	682 / 620 / 558	645 / 586 / 527	299 / 272 / 245	278 / 253 / 228	257 / 234 / 211	235 / 214 / 193	215 / 195 / 176	193 / 175 / 158	172 / 156 / 140
D1-3 Super Distrib. D1 Other; **D1-- 138 - 204 months**	II	514 / 467 / 420	482 / 438 / 394	231 / 210 / 189	215 / 195 / 176	198 / 180 / 162	182 / 165 / 149	165 / 150 / 135	149 / 135 / 122	132 / 120 / 108
D1 Non-Meth Manufacture Large Distrib. w/1000 Ft of school OR within presence of a child	III	256 / 233 / 210	238 / 216 / 194	114 / 104 / 94	107 / 97 / 87	99 / 90 / 81	91 / 83 / 75	83 / 75 / 68	74 / 67 / 60	66 / 60 / 54
D1-3 Large Distrib. D2 Other; Poss. Precursors **D2 -- 46 - 83 months**	IV	178 / 162 / 146	129 / 117 / 105	79 / 72 / 65	74 / 67 / 60	68 / 62 / 56	63 / 57 / 51	57 / 52 / 47	52 / 47 / 42	46 / 42 / 38
Med. Distrib. w/1000 Ft of school OR within presence of a child	V	143 / 130 / 117	103 / 94 / 85	63 / 57 / 51	59 / 54 / 49	55 / 50 / 45	51 / 46 / 41	46 / 42 / 38	40 / 36 / 32	35 / 32 / 29
D1-3 Med. Distrib.; D3 Other; D3 Receive/Acquire Proceeds $$ **D3 -- 14 - 51 months**	VI	48 / 44 / 40	45 / 41 / 37	42 / 38 / 34	39 / 35 / 32	35 / 32 / 29	33 / 30 / 27	31 / 28 / 25	29 / 26 / 23	26 / 24 / 22
Small Distrib. w/1000 Ft of school OR within presence of a child	VII	35 / 32 / 29	33 / 30 / 27	31 / 28 / 25	29 / 26 / 23	26 / 24 / 22	24 / 22 / 20	22 / 20 / 18	21 / 19 / 17	20 / 18 / 16
D1-3 Small Distrib. D4 Paraphernalia Distrib. D4 Prescript Distrib.	VIII	26 / 24 / 22	24 / 22 / 20	22 / 20 / 18	22 / 20 / 18	20 / 18 / 16	20 / 18 / 16	18 / 16 / 14	18 / 16 / 14	17 / 15 / 14
D4 Felony Drug Possession; Receive/ Acquire Proceeds $; Para. Poss. **D4 -- 10 - 42 months**	IX	22 / 20 / 18	20 / 18 / 16	18 / 16 / 14	18 / 16 / 14	17 / 15 / 14	17 / 15 / 14	15 / 14 / 13	14 / 13 / 12	13 / 12 / 12
	X	18 / 16 / 14	15 / 14 / 13	14 / 13 / 12	14 / 13 / 12	14 / 13 / 12	13 / 12 / 12	13 / 12 / 12	13 / 12 / 12	13 / 12 / 12

NOTE: Probation and postrelease terms are under consideration and have not yet been recommended for amendment.

Probation Terms

36 mon. recommended for felonies SL 1-5
18 mon. (up to) for felonies SL 8
24 mon. recommended for felonies SL 6-7
12 mon. (up to) for felonies SL 9-10

Postrelease Terms

36 mon. for felonies SL 1-4
24 mon. for felonies SL 5-6
12 mon. for felonies SL 7-10

Postrelease for felonies before 4/20/95:

24 mon. for felonies SL 1-6
12 mon. for felonies SL 7-10

LEGEND

- Presumptive Prison
- Pres. Imprisonment Border (PIBB)
- Presumptive Probation

Bed Space Impact Assessment
Drug Sentences
10-7-2009

KEY ASSUMPTIONS

- The target population in this proposal includes all offenders who are convicted of drug felonies.
- New severity levels of drug offenses are designed according to the following statutes, threshold and drug quantity:
  - 65-4142 (a) drugs – knowingly intentionally receive/acquire proceeds >$5,000 and less than 100,000 is severity level **6,** nonperson felony;
  - 65-4142 (a) drugs – knowingly intentionally receive/acquire proceeds >$1,000 and less than 5,000 is severity level **9,** nonperson felony; nonperson felony;
  - 65-4152 (a)(3) possession of paraphernalia with intent to plant/grow/manufacture, etc. is severity level **8**, nonperson felony;
  - 65-4153 (a)(1)deliver, possess or manufacture with intent to deliver any simulated controlled substance to a minor or in presence of a minor is severity level **8**, nonperson felony;
  - 65-4159 (a) unlawful manufacture or attempt unlawful manufacture of controlled substance is a severity level **3**, person felony;
  - 65-4159 (a) unlawful manufacture or attempt unlawful manufacture of methamphetamine is a severity level **1**, person felony (based on 2007 KBI arrest data, 40% of manufacturing controlled substances were methamphetamine);
  - 65-4160 (a) possession of opiates, opium or narcotic drugs, etc. is a severity level **9**, nonperson felony;
  - 65-4161 (a) possession with intent to sell opiates, opium or narcotic drugs **-super quantity** is a severity level **2**, person felony;
  - 65-4161 (a) possession with intent to sell opiates, opium or narcotic drugs **-large quantity** is a severity level **4**, person felony;
  - 65-4161 (a) possession with intent to sell opiates, opium or narcotic drugs **-medium quantity** is a severity level **6**, person felony;
  - 65-4161 (a) possession with intent to sell opiates, opium or narcotic drugs **-small quantity** is a severity level **8**, person felony;
  - 65-4161 (a) possession with intent to sell opiates, opium or narcotic drugs to a minor or in presence of a minor **-super quantity** is a severity level **1**, person felony;
  - 65-4161 (a) possession with intent to sell opiates, opium or narcotic drugs to a minor or in presence of a minor **-large quantity** is a severity level **3**, person felony;
  - 65-4161 (a) possession with intent to sell opiates, opium or narcotic drugs to a minor or in presence of a minor **-medium quantity** is a severity level **5**, person felony;
  - 65-4161 (a) possession with intent to sell opiates, opium or narcotic drugs to a minor or in presence of a minor **-small quantity** is a severity level **7**, person felony;
  - 65-4162 (a) 2nd offense -possession of depressants, etc. is a severity level **9**, nonperson felony;
  - 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc. **-super quantity** is a severity level **2**, person felony;
  - 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc.**-large quantity** is a severity level **4**, person felony;
  - 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc.**-medium quantity** is a severity level **6**, person felony;
  - 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc.**-small quantity** is a severity level **8**, person felony;
  - 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc. to a minor or in presence of a minor **-super quantity** is a severity level **1**, person felony;
  - 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc. to a minor or in presence of a minor **-large quantity** is a severity level **3**, person felony;
  - 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc. to a minor or

in presence of a minor **-medium quantity** is a severity level **5**, person felony;
    - 65-4163 (a) sell or possession with intent to sell or deliver depressants, etc. to a minor or in presence of a minor **-small quantity** is a severity level **7**, person felony;
    - 65-7006 (a) possess precursors with intent to manufacture a controlled substance is a severity level **4**, nonperson felony.
- Projected admission to prison for the target offenders is assumed to increase by an annual average of 2%, which is the same percentage used in relation to the baseline prison population forecast produced in August 2009 by the Kansas Sentencing Commission.
- The good time for offenders whose severity levels are 7-10 is assumed to be 20%.
- The good time for offenders whose severity levels are 1-6 is assumed to be 15%.
- It is assumed that the new policy effective date is July 1, 2010.

- **Drug Quantity Assumption:**
    - Super quantity is assumed to be 5%;
    - Large quantity is assumed to be 8%;
    - Medium quantity is assumed to be 20%;
    - Small quantity is assumed to be 67%.
- **Scenario One**: All drug offenders will be sentenced according to the proposed sentencing grid with **20%** of the offenders who fall on the border boxes being sentenced to prison.
- **Scenario Two**: All drug offenders will be sentenced according to the proposed sentencing grid with **25%** of the offenders who fall on the border boxes being sentenced to prison.
- **Scenario Three**: All drug offenders will be sentenced according to the proposed sentencing grid with **30%** of the offenders who fall on the border boxes being sentenced to prison.

FINDINGS

- In FY 2009, 3,055 offenders were convicted of drug felonies. Of this total, 540 (17.7%) were sentenced to prison, one (0.0%) was sentenced to county jail, one (0.0%) was sentenced to KDOC treatment program, 1,346 (44.0%) were sentenced to probation and 1,167 (32.8%) were sentenced to drug treatment (SB 123). There were 581 offenders whose severity level and criminal history categories fell on border boxes. Of this number, 91 (15.7%) were sentenced to prison. Table 1 displays the number of drug offenders by statute. Table 2 demonstrates the number of drug offenders by severity level and criminal history category.

Table 1: Number of Drug Offenders by Statute Number

Statute Number	Number of Offender	Percent
65-4142	5	0.2
65-4152	102	3.3
65-4153	3	0.1
65-4159	76	2.5
65-4160	1,637	53.6
65-4161	393	12.9
65-4162	438	14.3
65-4163	360	11.8
65-7006	41	1.3
Total	3,055	100.0

Table 2: Number of Drug Offenders by Severity level and Criminal History Category

Severity Level	Criminal History Category									Subtotal
	A	B	C	D	E	F	G	H	I	
D1	3	7	9	2	20	9	10	9	8	77
D2	5	3	9	3	11	11	6	7	15	70
D3	28	42	45	30	62	67	106	98	248	726
D4	87	114	193	95	329	200	335	302	527	2,182
Total	123	166	256	130	422	287	457	416	798	3,055

IMPACT ASSESSMENT

- **Current Policy**: If current policy remains unchanged,
  - by the year 2011, 511 prison beds will be needed and
  - by the year 2020, 1,419 prison beds will be needed.

Current Policy: Prison Admission and Beds Impact Assessment

Fiscal Year	Prison Admissions	Prison Beds Needed
2011	551	511
2012	562	858
2013	573	1,067
2014	585	1,151
2015	596	1,183
2016	608	1,246
2017	620	1,303
2018	633	1,331
2019	645	1,358
2020	658	1,419

- **Scenario One:** If drug offenders are sentenced according to the proposed sentencing grid with **20%** of the offenders who fall on the new border boxes being sentenced to prison,
  - by the 2011, 690 prison beds will be needed and
  - by FY 2020, 3,246 prison beds will be needed.

Scenario One: Drug Offenders Sentenced Based on New Grids With 20% Border Box Sentenced to Prison

Fiscal Year	Prison Admissions	Prison Beds Needed
2011	690	690
2012	727	1,261
2013	740	1,680
2014	767	2,040
2015	788	2,344
2016	790	2,548
2017	755	2,693
2018	813	2,908
2019	838	3,081
2020	851	3,246

- **Scenario Two:** If drug offenders are sentenced according to the proposed sentencing grid with **25%** of the offenders who fall on the border boxes being sentenced to prison,
  - by the 2011, 697 prison beds will be needed and
  - by FY 2020, 3,271 prison beds will be needed.

Scenario Two: Drug Offenders Sentenced Based on New Grids With 25% Border Box Sentenced to Prison

Fiscal Year	Prison Admissions	Prison Beds Needed
2011	697	697
2012	731	1,272
2013	743	1,690
2014	771	2,050
2015	794	2,355
2016	794	2,558
2017	757	2,700
2018	823	2,922
2019	842	3,097
2020	863	3,271

- **Scenario Three:** If drug offenders are sentenced according to the proposed sentencing grid with **30%** of the offenders who fall on the border boxes being sentenced to prison,
  - by the 2011, 699 prison beds will be needed and
  - by FY 2020, 3,282 prison beds will be needed.

Scenario Three: Drug Offenders Sentenced Based on New Grids With 30% Border Box Sentenced to Prison

Fiscal Year	Prison Admissions	Prison Beds Needed
2011	699	699
2012	738	1,281
2013	745	1,700
2014	781	2,067
2015	799	2,373
2016	799	2,572
2017	763	2,714
2018	828	2,935
2019	846	3,108
2020	864	3,282

SUMMARY

- **Impact on Prison Admissions:** The impact of this proposal will result 139, 146 and 148 additional prison admissions by the end of FY 2011 and 193, 205 and 206 additional prison admissions by the end of FY 2020 depending on which of three scenarios plays out.

Prison Admission Assessment

Fiscal Year	Current Policy	Scenario #1 with 20% Border Box Sent to Prison	Scenario #2 with 25% Border Box Sent to Prison	Scenario #3 with 30% Border Box Sent to Prison	Scenario #1 Additional Prison Admission	Scenario #2 Additional Prison Admission	Scenario #3 Additional Prison Admission
2011	551	690	697	699	139	146	148
2012	562	727	731	738	165	169	176
2013	573	740	743	745	167	170	172
2014	585	767	771	781	182	186	196
2015	596	788	794	799	192	198	203
2016	608	790	794	799	182	186	191
2017	620	755	757	763	135	137	143
2018	633	813	823	828	180	190	195
2019	645	838	842	846	193	197	201
2020	658	851	863	864	193	205	206

- **Impact on Prison Beds:** The impact of this proposal will result in 179, 186 and 188 additional prison beds by the end of FY 2011 and 1,827, 1,852 and 1,863 additional prison beds by the end of FY 2020 depending on which of three scenarios plays out.

Prison Bed Space Assessment

Fiscal Year	Current Policy	Scenario #1 with 20% Border Box Sent to Prison	Scenario #2 with 25% Border Box Sent to Prison	Scenario #3 with 30% Border Box Sent to Prison	Scenario #1 Additional Prison Beds	Scenario #2 Additional Prison Beds	Scenario #3 Additional Prison Beds
2011	511	690	697	699	179	186	188
2012	858	1,261	1,272	1,281	403	414	423
2013	1,067	1,680	1,690	1,700	613	623	633
2014	1,151	2,040	2,050	2,067	889	899	916
2015	1,183	2,344	2,355	2,373	1,161	1,172	1,190
2016	1,246	2,548	2,558	2,572	1,302	1,312	1,326
2017	1,303	2,693	2,700	2,714	1,390	1,397	1,411
2018	1,331	2,908	2,922	2,935	1,577	1,591	1,604
2019	1,358	3,081	3,097	3,108	1,723	1,739	1,750
2020	1,419	3,246	3,271	3,282	1,827	1,852	1,863

Bed Space Impact Assessment
Selected Property Sentences

KEY ASSUMPTIONS

- The target population in this proposal includes offenders who are convicted of property crimes under the following statute numbers:
  - 21-3701 (a) Theft;
  - 21-3704 (a) Theft of service;
  - 21-3707 (a) Giving a worthless check;
  - 21-3720 (a) Criminal damage to property;
  - 21-3729 (a) Criminal use financial card and
  - 21-4018 (a) Identity theft.

- The proposed severity levels of the above offenses are based on the following monetary thresholds:
  - Loss at least $1,000 but less than $2,000 is severity level **10**, nonperson felony;
  - Loss at least $2,000 but less than $25,000 is severity level **9**, nonperson felony;
  - Loss at least $25,000 but less than $50,000 is severity level **8**, nonperson felony;
  - Loss at least $50,000 but less than $75,000 is severity level **7**, nonperson felony;
  - Loss at least $75,000 but less than $100,000 is severity level **6**, nonperson felony and
  - Loss more than $100,000 is severity level **5**, nonperson felony.
  - Loss less than $1,000 but committed by a person who has been convicted of theft or giving worthless check two or more times is severity level **9**, nonperson felony.

- Projected admission to prison for the target offenders is assumed to increase by an annual average of 2%, which is the same percentage used in relation to the baseline prison population forecast produced in August 2009 by the Kansas Sentencing Commission.
- The good time for offenders whose severity levels are 7-10 is assumed to be 20%.
- The good time for offenders whose severity levels are 5-6 is assumed to be 15%.
- It is assumed that the new policy effective date starts on July 1, 2010.

- **Proposition Distribution Assumption of the Target Population:**
  - The number of severity level 5 is assumed to be the actual number in FY 2009;
  - The number of severity level 6 is assumed to be 2%;
  - The number of severity level 7 is assumed to be 3%;
  - The number of severity level 8 is assumed to be 10%;
  - The number of severity level 9 is assumed to be 45%;
  - The number of severity level 10 is assumed to be 40%.

FINDINGS

- In FY 2009, 1,280 offenders were convicted of the above property crimes. Of this total, 239 (18.7%) were sentenced to prison, 1040 (81.3%) were sentenced to probation and one to county jail. The breakdown of the offenses by statute and name of offense is displayed as follows:

FY 2009 Selected Property Felony Convictions by Statute and Offense Name

Statute	Name of Primary Offense of Conviction	Frequency
21-3701	Theft; loss of >=$25,000<$100,000	43
	Theft; loss of >=$1,000, <$25,000	639
	Theft; loss of <$1,000; 2 or more times in previous 5 years	249
	Theft; $100,000 or more	3
21-3704	Theft of service; loss of >=$1,000, <$25,000	2
21-3707	Giving a worthless check; loss of >=$1,000, <$25,000	39
	Giving a worthless check; loss of >$25,000	6
	Giving a worthless check; loss of <$1,000; 2 or more times in previous 5 years	3
21-3720	Criminal damage of property; >=$25000	4
	Criminal damage of property; >=$1000, <$25000	92
21-3729	Criminal use of financial card; money, service, >=$1000, <$25000	17
21-4018	Identity theft	102
	Identity fraud	40
	Identity theft; monetary loss<$100,000	41
Total		**1,280**

IMPACT ASSESSMENT

- **Current Policy**: If current policy remains unchanged,
    - by the year 2011, 167 prison beds will be needed and
    - by the year 2020, 236 prison beds will be needed.

Current Policy: Prison Admission and Beds Impact Assessment

Fiscal Year	Prison Admissions	Prison Beds Needed
2011	244	167
2012	249	200
2013	254	193
2014	259	201
2015	264	211
2016	269	209
2017	275	229
2018	280	223
2019	286	231
2020	291	236

- **Impact:** If the above selected property offenders are sentenced according to the proposed severity levels and sentences in the new merged grids,
    - by the year 2011, 222 prison beds will be needed and
    - by the year 2020, 284 prison beds will be needed.

Selected Property Offenses - Prison Admission and Beds Impact Assessment

Fiscal Year	Prison Admissions	Prison Beds Needed
2011	244	222
2012	249	267
2013	254	255
2014	259	254
2015	264	265
2016	269	269
2017	275	280
2018	280	280
2019	286	285
2020	291	284

SUMMARY

- The impact of this proposal will result in additional 55 prison beds by the end of FY 2011 and 48 additional beds by the end of FY 2020. The increase of prison beds is due to the increase of the sentences on both lower and upper ends of the new merged girds.
- The impact of this proposal will result in no additional prison admission during the forecast period.

Prison Admission Beds Impact Assessment

Fiscal Year	Prison Admission			Prison Beds Needed		
	Current Policy	Impact on Merged	Additional Admission	Current Policy	Impact on Merged	Additional Beds Needed
2010	244	244	0	167	222	55
2011	249	249	0	200	267	67
2012	254	254	0	193	255	62
2013	259	259	0	201	254	53
2014	264	264	0	211	265	54
2015	269	269	0	209	269	60
2016	275	275	0	229	280	51
2017	280	280	0	223	280	57
2018	286	286	0	231	285	54
2019	291	291	0	236	284	48

Note: Impact projections do not include new border box assumptions because only 14 offenders sentenced in FY 2009 whose severity levels and criminal history categories fell on the new border boxes N7C, N7D and N8C and 21% of them were sentenced to prison. The 25% and 30% scenarios have minimal impact on prison beds.

KANSAS SENTENCING COMMISSION
FY 2009 FELONY DRUG DEPARTURE RATES

The impact assessment for drugs is based on proposed new severity levels, length of sentences in the merged grid and no departures allowed at all. In reality, drug sentences have a large departure rate, both downward durational and dispositional departures. This table shows the departure rates for drug sentences during FY 2009 by statute and severity level.

Of the 540 offenders included in the bed impact, the minimum sentence was 4 months and the maximum was 178 months. The average was 32.6 months. The sentence length in the new merged grid range from 16 to 682 months (from grid box 9-B on the lower end to 1-A on the upper end). That is what the impact is based on.

Statute	Severity	Type of Departure	Number	Percent
65-4152	d4	downward durational	4	3.9
		downward dispositional	6	5.9
		Total	**10**	**9.8**
65-4153	d4	downward durational	1	33.3
		downward dispositional	1	33.3
		Total	**2**	**66.7**
65-4159	d1	downward durational	36	53.7
		downward dispositional	19	28.4
		both down	2	3.0
		Total	**57**	**85.1**
65-4160	d4	downward durational	179	10.9
		downward dispositional	200	12.2
		upward durational	3	0.2
		upward dispositional	12	0.7
		both down	8	0.5
		up & down	5	0.3
		Total	**407**	**24.9**
65-4161	d1	downward durational	3	60.0
		downward dispositional	1	20.0
		Total	4	80.0
	d2	downward durational	5	21.7
		downward dispositional	5	21.7
		both down	1	4.3
		Total	**11**	**47.8**
	d3	downward durational	27	7.4
		downward dispositional	34	9.3
		upward durational	1	0.3
		both down	1	0.3
		Total	**63**	**17.3**
65-4162	d4	downward durational	8	1.8
		downward dispositional	59	13.5
		upward dispositional	1	0.2
		both down	2	0.5
		Total	**70**	**16.0**
65-4163	d2	downward durational	4	36.4
		downward dispositional	4	36.4
		Total	**8**	**72.7**
	d3	downward durational	20	5.7
		downward dispositional	26	7.4
		upward durational	1	0.3
		Total	**47**	**13.5**
65-7006	d1	**downward dispositional**	**1**	**20.0**
	d2	downward durational	4	11.1
		downward dispositional	21	58.3
		both down	2	5.6
		Total	**27**	**75.0**

October 13, 2009

FY 2009 Nondrug Sentences Departure Rate by Severity Level

Severity Level	Type of Departure	Number	Percent
n1	downward durational	17	25.0
	downward dispositional	3	4.4
	Total	**20**	**29.4**
n2	downward durational	6	24.0
	downward dispositional	1	4.0
	Total	**7**	**28.0**
n3	downward durational	70	28.5
	downward dispositional	54	22.0
	upward durational	2	0.8
	Total	**126**	**51.2**
n4	downward durational	22	27.2
	downward dispositional	17	21.0
	upward durational	1	1.2
	Total	**40**	**49.4**
n5	downward durational	124	19.0
	downward dispositional	113	17.3
	upward durational	3	0.5
	both down	4	0.6
	Total	**244**	**37.4**
n6	downward durational	9	6.6
	downward dispositional	12	8.8
	upward durational	1	0.7
	both down	1	0.7
	Total	**23**	**16.8**
n7	downward durational	45	3.3
	downward dispositional	76	5.6
	upward durational	2	0.1
	upward dispositional	17	1.3
	both down	2	0.1
	up & down	2	0.1
	Total	**144**	**10.6**
n8	downward durational	38	3.3
	downward dispositional	53	4.6
	upward durational	1	0.1
	upward dispositional	13	1.1
	up & down	6	0.5
	Total	**112**	**9.6**
n9	downward durational	48	2.3
	downward dispositional	118	5.7
	upward durational	1	0.0
	upward dispositional	26	1.2
	both down	3	0.1
	up & down	2	0.1
	Total	**198**	**9.5**
n10	downward durational	12	2.1
	downward dispositional	21	3.7
	upward dispositional	19	3.3
	up & down	3	0.5
	Total	**55**	**9.6**

Appendix A

PROPOSED MERGED SENTENCING GRID

Category ► / Severity level ▼	A: 3+ Person Felonies	B: 2 Person Felonies	C: 1 Person & 1 Nonperson Felony	D: 1 Person Felony	E: 3+ Nonperson Felonies	F: 2 Nonperson Felonies	G: 1 Nonperson Felony	H: 2+ Misdemeanors	I: 1 Misdemeanor or No Record
I	682 / 620 / 558	645 / 586 / 527	299 / 272 / 245	278 / 253 / 228	257 / 234 / 211	235 / 214 / 193	215 / 195 / 176	193 / 175 / 158	172 / 156 / 140
II	514 / 467 / 420	482 / 438 / 394	231 / 210 / 189	215 / 195 / 176	198 / 180 / 162	182 / 165 / 149	165 / 150 / 135	149 / 135 / 122	132 / 120 / 108
III	256 / 233 / 210	238 / 216 / 194	114 / 104 / 94	107 / 97 / 87	99 / 90 / 81	91 / 83 / 75	83 / 75 / 68	74 / 67 / 60	66 / 60 / 54
IV	178 / 162 / 146	129 / 117 / 105	79 / 72 / 65	74 / 67 / 60	68 / 62 / 56	63 / 57 / 51	57 / 52 / 47	52 / 47 / 42	46 / 42 / 38
V	143 / 130 / 117	103 / 94 / 85	63 / 57 / 51	59 / 54 / 49	55 / 50 / 45	51 / 46 / 41	46 / 42 / 38	40 / 36 / 32	35 / 32 / 29
VI	48 / 44 / 40	45 / 41 / 37	42 / 38 / 34	39 / 35 / 32	35 / 32 / 29	33 / 30 / 27	31 / 28 / 25	29 / 26 / 23	26 / 24 / 22
VII	35 / 32 / 29	33 / 30 / 27	31 / 28 / 25	29 / 26 / 23	26 / 24 / 22	24 / 22 / 20	22 / 20 / 18	21 / 19 / 17	20 / 18 / 16
VIII	26 / 24 / 22	24 / 22 / 20	22 / 20 / 18	22 / 20 / 18	20 / 18 / 16	20 / 18 / 16	18 / 16 / 14	18 / 16 / 14	17 / 15 / 14
IX	22 / 20 / 18	20 / 18 / 16	18 / 16 / 14	18 / 16 / 14	17 / 15 / 14	17 / 15 / 14	15 / 14 / 13	14 / 13 / 12	13 / 12 / 12
X	18 / 16 / 14	15 / 14 / 13	14 / 13 / 12	14 / 13 / 12	14 / 13 / 12	13 / 12 / 12	13 / 12 / 12	13 / 12 / 12	13 / 12 / 12

Probation Terms

36 mon. recommended for felonies SL 1-5

18 mon. (up to) for felonies SL 8

24 mon. recommended for felonies SL 6-7

12 mon. (up to) for felonies SL 9-10

Postrelease Terms

36 mon. for felonies SL 1-4

24 mon. for felonies SL 5-6

12 mon. for felonies SL 7-10

Postrelease for felonies before 4/20/95:

24 mon. for felonies SL 1-6

12 mon. for felonies SL 7-10

*Probation and Postrelease terms reflect current law. The Sentencing Commission expects to present recommendations regarding these community supervision terms.

LEGEND
Presumptive Imprisonment
Presumptive Imprisonment (Border Box)
Presumptive Probation

SUMMARY OF PROPORTIONALITY RECOMMENDATIONS
KANSAS SENTENCING AND RECODIFICATION COMMISSIONS
(March 11, 2009)

ISSUE	RATIONALE OR RESULT
SEX CRIMES	**NO CHANGES TO ARTICLE 35 WILL BE CONSIDERED DURING THE 2009 LEGISLATIVE SESSION AS PART OF THIS PROPOSAL.**
SENTENCING GRIDS	
Merge the non-drug and drug sentencing grids into one Kansas Sentencing Grid.	1. Reflects sentencing patterns and special rules adopted by the Legislature since guideline sentencing implemented. 2. Allows proportional comparison of drug and nondrug penalties.
Increase presumptive imprisonment border boxes from 3 to 16. Decrease the presumptive probation boxes from 30 to 17.	1. Of 90 grid boxes, 57 remain presumptive imprisonment. 2. Incorporates the effects of special rules. 3. Allows for reduction in number of special rules.
Increase aggravated/mitigated sentences from 5% to 10%.	Allows more latitude in sentencing, short of departure.
Minimum felony prison sentence is increased to 12 months in length	Avoids situation where a Kansas felony is declared a non-felony in Federal sentencing system or other states.
SENTENCING STATUTES	
Sentencing statues amended to place as many felonies on the grid as possible (FY 2007 felony sentences: 57% guidelines, 43% off-grid/non-grid).	1. Allows Legislature to better compare potential changes. 2. Helps maintain proportional sentences. 3. Promotes accuracy in population projections.
Designate drug manufacture and distribution felonies as person offenses.	1. Allows incarceration of repeat offenders for an amount of time proportional to the crime committed. 2. Recognizes effect such offenses have on communities.
Court Services should supervise all class A misdemeanors who are not sentenced to jail.	It's important that offenders be supervised while on probation. Class A offenses are often enhanced from class B offenses or are serious offenses. Supervision at this level may prevent further criminal activity and subsequent enhancement to a felony.
DRUG LAWS	1. Current repeat drug offenses carry longer presumptive sentences than repeat offenses for more severe person felonies. 2. Presently, 7 drug offenses carry presumptive prison sentences that are longer than many violent person felonies for a first offense.
Manufacturing methamphetamine would be a level 3 person felony. Manufacturing all other drugs would be a level 5 person felony.	1. Recognizes the potential danger and resulting harm meth manufacturing has on the community. 2. Level 3 makes this crime comparable to aggravated arson, also a level 3 felony.
Sale, distribution, and possession with intent to distribute are set at 4 levels based on quantity of drugs possessed to be sold or actually sold	1. Small quantity, level 9 person felony; 2. medium quantity, level 7 person felony; 3. large quantity, level 4 person felony; and

(FY2007 sentencing data shows departure rates of 88% on current level 1 drug grid, 66% on current level 2 drug grid. 80% of current level 3 drug sentences (border box) are placed on probation.	4. super quantity, level 3 person felony. Differentiates the act of selling one joint or one gram of methamphetamine from the act of selling larger quantities for wholesale distribution and to better reflect levels of harm to the community.
DRUG LAWS (continued)	
Sale designated as person felony.	Reflects the degree of harm inflicted on the community and on the purchasers of said drugs.
Weight to be determined by the product as packaged for distribution.	Drug purity would not be considered.
Mandatory treatment program for personal use possession (Senate Bill 123) remains intact .	The program works well in the communities, offenders get treatment, and public safety is maintained.
PROPERTY OFFENSES	
A large number of special sentencing rules for property offenders are reduced or eliminated.	This allows the court to sentence repeat offenders to prison while maintaining a proportional sentence.
Standardization of all theft statutes so that theft, no matter how it is committed, has a uniform and proportional punishment.	Up to $499.99, a class B nonperson misdemeanor; up to $999.99, a class A nonperson misdemeanor; up to $1,999.99, a level 10 nonperson felony; up to $24,999.99, a level 9 nonperson felony; up to $49,999.99, a level 8 nonperson felony; up to $74,999.99, a level 7 nonperson felony; up to $99,999.99, a level 6 nonperson felony; and $100,000 and higher, a level 5 nonperson felony.
DOMESTIC BATTERY	
A 1st domestic battery remains a class B person misdemeanor.	
A 2nd domestic battery is a class A person misdemeanor.	Court Services would supervise these offenders.
a 3rd + Domestic Battery is a level 7 person felony with mandatory jail sanctions as a condition of probation (3rd violation, 30 days jail; 4th violation, 90 days jail; 5th + violation, 1 year incarceration w/KDOC).	1. Community Corrections would supervise felony offenders. 2. Domestic violence often leads to more serious crime, including homicide.

CONCLUSION

Based on FY 2008 data, implementation of all recommendations would result in utilization of 265 – 458 additional prison beds in the first year of implementation, with a need for 430 to 719 additional prison beds in 10 years. Kansas prison capacity was at 9,300, is reducing to 8,700 by July 1, 2009 with approximately 8,500 beds currently filled (an approximate 200 bed surplus). Passage of this proposal would further the goals of proportional sentences, based upon the degree of harm to the victim and to the public, reserve prison for violent offenders and repeat non-violent offenders, and promote offender reformation through appropriate community sanctions.

HB 2332 PROPORTIONALITY BILL BED IMPACT: **265 – 458 bed increase in FY 2011** **430 – 719 bed increase in FY 2020**			
AMENDMENT	**Bed Impact from Base Bill**	**Initial Status**	**Committee Report**
P. 3 Drug paraphernalia amended so that it not include any substance, chemical or other item listed in K.S.A. 65-7006, and amendments thereto, prior to its repeal, or in Section 9	Actual practice will determine impact	Adopted	Failed
P. 6 Add definition of "School property"		Adopted	Adopted
P. 6 Meth mfg a SL1 person felony and all other drug manufacturing a SL2 person felony	0 impact in FY 2011 340 bed increase in FY 2020	Adopted	Failed
P. 7- 8 Distribution – increasing lower level penalties from 9 to 8	Same admissions; Slight bed increase because of slight increase in length of stay	Adopted	Failed
P. 7 – 8 Distribution – increasing lower level penalties from 9 to 7 and 7 to 6; **Reconsidered**	30 to 51 bed increase in FY 2011 148 – 200 bed increase in FY 2020	Adopted/Failed	Failed
P. 7 – 8 Distribution 3.5 grams but less than ~~100~~ **50** grams = SL 7P ~~100~~ **50** grams or more but less than ~~1 kilogram~~ **100 grams** = SL 4P ~~1 kilogram~~ **100 grams** or more = SL 3P	Actual practice will determine impact	Adopted	Failed
P. 7 Distribution of small quantities designated from person to nonperson		Failed	Failed
P. 8,13, 16 Reduce the distance from the school from 1,000' to 450'	Actual practice will determine impact	Adopted	Adopted
P.9 Rebuttable presumption of intent to distribute if quantity is 450 grams or more of marijuana 3.5 grams or more of heroin 100 dosage units or more containing a controlled substance or ~~100~~ **50** grams or more of any other controlled substance	Actual practice will determine impact	Adopted	Failed
P. 9, 16 Create a rebuttable presumption that child within 150' of illegal drug transaction is in close proximity	Actual practice will determine impact	Adopted	Failed
P. 10 Possession – increasing the felony penalty from 10 to 8; **Reconsidered**	30 to 51 bed increase in FY 2011 35 to 75 bed increase in FY 2020	Adopted/Failed	Failed
P. 45 Domestic Battery; jail at 3rd and 4th time; KDOC at 5th and subs. w/in 5 years	Original intent of bill	Adopted	Adopted
P. 45 Both the 3rd and 4th domestic battery offense the same penalty of 90 days	Actual practice will determine impact	Adopted	Failed
P. 46 Battery of a LEO – move back to present severity level from 9 to 5	The bill results in savings 6 beds saved in FY 2011 113 beds saved in FY 2020 Add beds back	Adopted	Failed
P. 48 Agg. Battery; reckless causing great bodily harm - move severity level from 6 to 5	The bill results in savings 8 beds saved in FY 2011 68 beds saved in FY 2020 Add beds back	Adopted	Failed

Kansas Sentencing Commission
March 11, 2009

P. 49 Agg. Battery of a LEO uniformed; campus; intentional; contact with a deadly weapon; could cause great bodily harm – move from present severity level 5P to 4P	Very little increase	Adopted	Failed
Strike aggravated criminal threat from the bill	No beds added	Adopted	Adopted
Agg. Kidnapping – move back to present severity level from 2 to 1		Failed	Failed
P. 53 Strike aggravated trafficking from the bill	0 Convictions in FY 2008	Adopted	Adopted
P. 55 Agg. endangering a child amended to include distribution manufacture language	Actual practice will determine impact	Adopted	Adopted
P. 67 Aiding Escape – move back to present severity level from 5 to 4	2 convictions in FY 2008 Very little impact	Adopted	Failed
P. 68 Aiding failure to register – move back to present severity level from 10 to 5		Failed	Failed
P. 92 Class A misdemeanants on probation must be supervised by court services	Actual practice will determine impact	Adopted	Adopted
P. 108 Strike 20 days notice to opposing counsel for proposed program	None	Adopted	Adopted
P. 156 Failure to register – move back to present severity level from 9 to 5		Failed	Failed
P. 156 Failure to register sexually violent offense amended from SL 9 to 5 person felony	2 of 69 FY 2008 convictions were required to register because of conviction of a sexually violent crime; Very little impact	Adopted	Failed
P. 212 Sale of body parts – move back to present severity level from 8 to 5	0 Convictions in FY 2008	Adopted	Failed

Securities – P. 34 – 35 - Base Bill	**House Amendment Adopted**	**Bed Impact of Amendment from Base Bill**
Securities – intentional violation presently at SL 7 amended to SL 9	SL 8	
Intentional violation of 17-12a501 or 17-12a502		
Loss of < $25,000 = SL 7N	Loss of < $25,000 = SL 8N	
$25,000 but less than $100,000 = SL 5N	$25,000 but less than $50,000 = SL 7N	
	$50,000 but less than $75,000 = SL 6N	
	$75,000 but less than $100,000 = SL 5N	
$100,000 or more = SL 4N	$100,000 but less than $250,000 = SL 4N	
	$250,000 but less than $1M = SL 3N	
	$1M or more = SL 2N	
Intentional violation of cease and desist order = SL 8	SL 6	
Crimes resulting in $25,000 or more loss = presumptive prison	Crimes resulting in $25,000 or more loss = presumptive prison	Small increase – 3 convictions in FY 2008 1 sentenced to prison 2 sentenced to probation

KANSAS SENTENCING COMMISSION
Honorable Ernest L. Johnson, Chairman
Helen Pedigo, Executive Director

KATHLEEN SEBELIUS, GOVERNOR

HB 2332 PRISON BED IMPACT ASSESSMENT
GROUPED BY MAJOR OFFENSE CATEGORIES
INCLUDING NEW DOMESTIC BATTERY PROVISIONS
Revised 3/16/2009

A. **Drug Offenses:** The provisions of drug offenses of this bill will **SAVE** 71, 63 and 55 prison beds by the end of FY 2011 and 140, 124 and 105 prison beds by the end of FY 2020 depending on which of three scenarios plays out.

Drug Offenses: Prison Bed Space Assessment

Fiscal Year	Scenario #1 Prison Beds Saving	Scenario #2 Prison Beds Saving	Scenario #3 Prison Beds Saving
2011	-71	-63	-55
2012	-251	-238	-226
2013	-162	-150	-140
2014	-123	-109	-97
2015	-151	-143	-132
2016	-136	-118	-95
2017	-93	-76	-59
2018	-63	-46	-30
2019	-98	-84	-73
2020	-140	-124	-105

Note: Scenario #1- 20% of offenders in border box sentenced to prison.
Scenario #2- 25% of offenders in border box sentenced to prison.
Scenario #3- 30% of offenders in border box sentenced to prison.

B. **Property Offenses:** The provisions of property offenses of property provisions will save 15 prison beds and increase 2 and 10 additional prison beds by the end of FY 2011 and 12, 22 and 56 additional prison beds by the end of FY 2020 depending on which of three scenarios plays out.

Property Offenses: Prison Bed Space Assessment

Fiscal Year	Scenario #1 Additional Prison Beds Needed	Scenario #2 Additional Prison Beds Needed	Scenario #3 Additional Prison Beds Needed
2011	-15	2	10
2012	-6	16	27
2013	17	22	42
2014	3	22	27
2015	3	20	32
2016	11	27	37
2017	-11	-13	11
2018	16	22	32
2019	18	27	54
2020	12	22	56

Note: Scenario #1- 20% of offenders in border box sentenced to prison.
Scenario #2- 25% of offenders in border box sentenced to prison.
Scenario #3- 30% of offenders in border box sentenced to prison.

C. New Sentencing Grids Border Boxes – Nondrug Offenses Only: The impact of new border boxes for nondrug offenses will result in 256, 325 and 398 additional prison beds needed by the end of FY 2011 and 561, 658 and 758 additional prison beds needed by the end of FY 2020 respectively under each different scenario.

Nondrug Border Boxes Bed Impact - Not Including Property Crimes

Fiscal Year	Scenario #1 Additional Prison Beds Needed	Scenario #2 Additional Prison Beds Needed	Scenario #3 Additional Prison Beds Needed
2011	256	325	398
2012	487	577	678
2013	552	630	735
2014	548	652	753
2015	534	634	739
2016	548	649	738
2017	541	644	733
2018	558	642	751
2019	565	654	767
2020	561	658	758

Note: Scenario #1- 20% of offenders in border box sentenced to prison.
Scenario #2- 25% of offenders in border box sentenced to prison.
Scenario #3- 30% of offenders in border box sentenced to prison.

D. 3rd, 4th, 5th or Subsequent Domestic Battery: The impact of this provision will result in 4 additional prison beds needed by the end of FY 2011 and 20, 22 and 29 additional prison beds needed by the end of FY 2020 respectively under each different scenario.

3rd, 4th, 5th or Subsequent Domestic Battery Prison Bed Impact

Fiscal Year	Additional Prison Beds Needed		
	Scenario #1 Mandatory Term + 25% Revocation Rate	Scenario #2 Mandatory Term + 30% Revocation Rate	Scenario #3 Mandatory Term + 35% Revocation Rate
2011	4	4	4
2012	15	18	20
2013	20	26	25
2014	20	22	27
2015	22	23	26
2016	22	24	25
2017	20	26	25
2018	21	25	26
2019	22	25	26
2020	20	22	29

E. Overall Impact of HB 2332: The impact of this bill will result in 266, 360 and 449 additional prison beds needed by the end of FY 2011 and 433, 558 and 718 additional prison beds needed by the end of FY 2020 respectively under each different scenario.

Overall Impacts of HB 2332

Fiscal Year	Additional Prison Bed Need		
	Scenario 1	**Scenario 2**	**Scenario 3**
2011	266	360	449
2012	297	425	551
2013	472	573	707
2014	481	620	743
2015	410	536	667
2016	465	602	725
2017	465	589	718
2018	522	633	769
2019	475	590	742
2020	433	558	718

Note: Scenario #1- 20% of offenders in border box sentenced to prison and 25% revocation rate for domestic battery offenders.
Scenario #2- 25% of offenders in border box sentenced to prison and 30% revocation rate for domestic battery offenders.
Scenario #3- 30% of offenders in border box sentenced to prison and 35% revocation rate for domestic battery offenders.

SENTENCING RANGE – DRUG OFFENSES

Category →	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misd.	1 Misd. No Record
I	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
III	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	26 24 23	23 22 20	19 18 17	16 15 14
IV	42 40 37	36 34 32	32 30 28	26 24 23	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

LEGEND
Presumptive Probation
Border Box
Presumptive Imprisonment

Probation Terms are:

36 months recommended for felonies classified in Severity Levels 1-2

18 months (up to) for felonies classified in Severity Level 3

12 months (up to) for felonies classified in Severity Level 4

Postrelease Supervision Terms are:

36 months for felonies classified in Severity Levels 1-2

24 months for felonies classified in Severity Level 3

12 months for felonies classified in Severity Level 4 except for some K.S.A. 65-4160 and 65-4162 offenses on and after 11/01/03.

Postrelease for felonies committed before 4/20/95 are:

24 months for felonies classified in Severity Levels 1-3

12 months for felonies classified in Severity Level 4

4-24

SENTENCING RANGE - NONDRUG OFFENSES

Category → / Severity Level ↓	A 3 + Person Felonies	B 2 Person Felonies	C 1 Person & 1 Nonperson Felonies	D 1 Person Felony	E 3 + Nonperson Felonies	F 2 Nonperson Felonies	G 1 Nonperson Felony	H 2 + Misdemeanor	I 1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

Probation Terms are:
36 months recommended for felonies classified in Severity Levels 1-5
24 months recommended for felonies classified in Severity Levels 6-7
18 months (up to) for felonies classified in Severity Level 8
12 months (up to) for felonies classified in Severity Levels 9-10

Postrelease Supervision Terms are:
36 months for felonies classified in Severity Levels 1-4
24 months for felonies classified in Severity Level 5-6
12 months for felonies classified in Severity Levels 7-10

Postrelease for felonies committed before 4/20/95 are:
24 months for felonies classified in Severity Levels 1-6
12 months for felonies classified in Severity Level 7-10

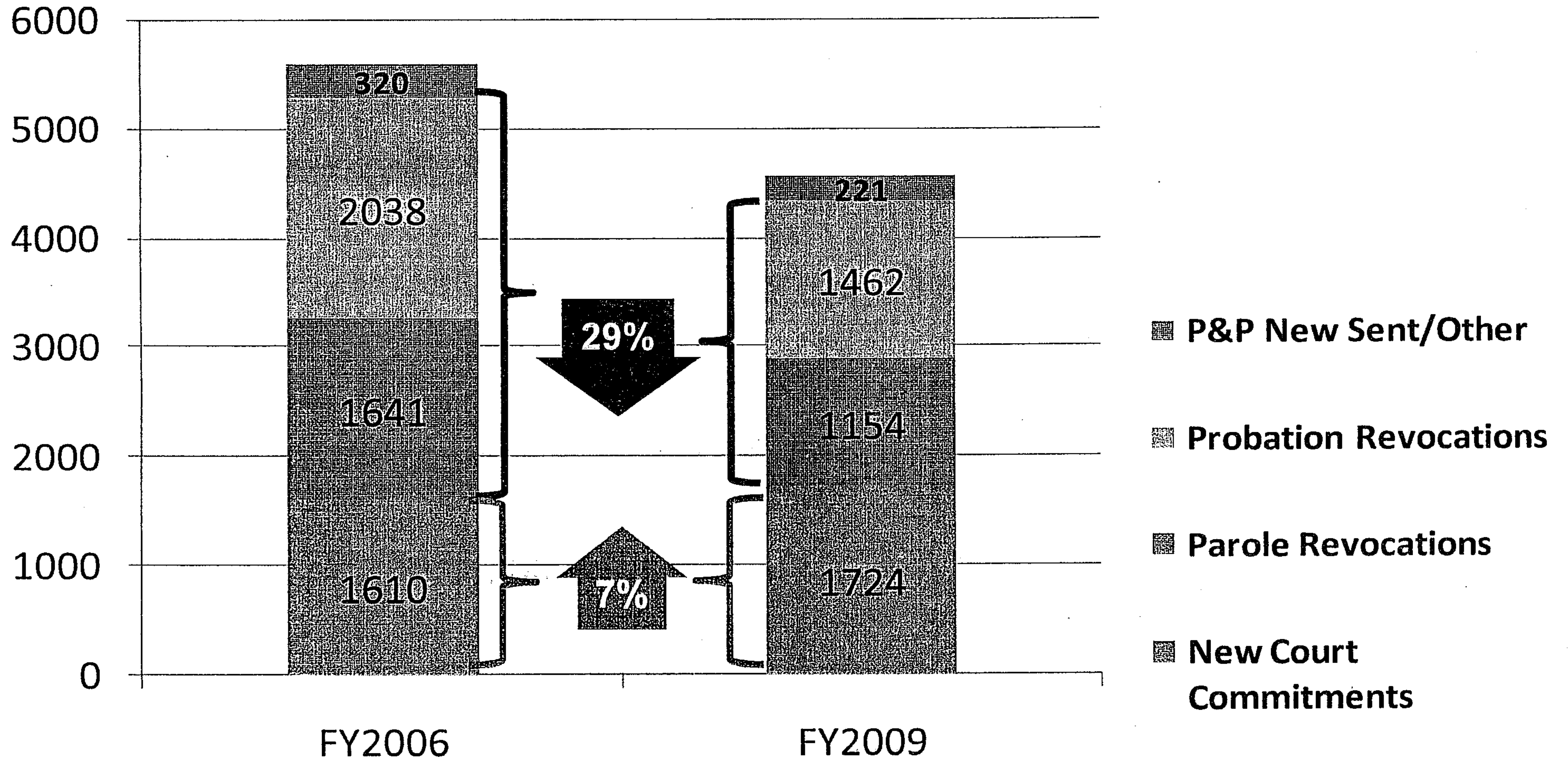
LEGEND
Presumptive Probation
Border Box
Presumptive Imprisonment

Why are New Court Commitments Increasing?

Offense	FY2008	FY2009
D3	**112**	**141**
Poss. w/ Int. to Sell; 1st off.	73	97
N5	**214**	**271**
Failure to register or return verification to KBI	0	25
Aggravated Burglary	24	35
N7	**178**	**207**
Burglary	61	77
N8	**73**	**118**
Criminal Possession of a Firearm	5	18
Forgery	31	43
N9	**154**	**191**
Criminal Threat	25	36
Off Grid	**65**	**91**
Murder; First Degree	23	35

4-26

FY2006 vs. FY2009 Admissions



THE NEW YORKER

HELLHOLE

The United States holds tens of thousands of inmates in long-term solitary confinement. Is this torture?

by Atul Gawande

Human beings are social creatures. We are social not just in the trivial sense that we like company, and not just in the obvious sense that we each depend on others. We are social in a more elemental way: simply to exist as a normal human being requires interaction with other people.

Children provide the clearest demonstration of this fact, although it was slow to be accepted. Well into the nineteen-fifties, psychologists were encouraging parents to give children *less* attention and affection, in order to encourage independence. Then Harry Harlow, a professor of psychology at the University of Wisconsin at Madison, produced a series of influential studies involving baby rhesus monkeys.

He happened upon the findings in the mid-fifties, when he decided to save money for his primate-research laboratory by breeding his own lab monkeys instead of importing them from India. Because he didn't know how to raise infant monkeys, he cared for them the way hospitals of the era cared for human infants—in nurseries, with plenty of food, warm blankets, some toys, and in isolation from other infants to prevent the spread of infection. The monkeys grew up sturdy, disease-free, and larger than those from the wild. Yet they were also profoundly disturbed, given to staring blankly and rocking in place for long periods, circling their cages repetitively, and mutilating themselves.

At first, Harlow and his graduate students couldn't figure out what the problem was. They considered factors such as diet, patterns of light exposure, even the antibiotics they used. Then, as Deborah Blum recounts in a fascinating biography of Harlow, "Love at Goon Park," one of his researchers noticed how tightly the monkeys clung to their soft blankets. Harlow wondered whether what the monkeys were missing in their Isolettes was a mother. So, in an odd experiment, he gave them an artificial one.

C&JJ Oversight
Attachment 5
10-28&29-09

In the studies, one artificial mother was a doll made of terry cloth; the other was made of wire. He placed a warming device inside the dolls to make them seem more comforting. The babies, Harlow discovered, largely ignored the wire mother. But they became deeply attached to the cloth mother. They caressed it. They slept curled up on it. They ran to it when frightened. They refused replacements: they wanted only "their" mother. If sharp spikes were made to randomly thrust out of the mother's body when the rhesus babies held it, they waited patiently for the spikes to recede and returned to clutching it. No matter how tightly they clung to the surrogate mothers, however, the monkeys remained psychologically abnormal.

In a later study on the effect of total isolation from birth, the researchers found that the test monkeys, upon being released into a group of ordinary monkeys, "usually go into a state of emotional shock, characterized by . . . autistic self-clutching and rocking." Harlow noted, "One of six monkeys isolated for three months refused to eat after release and died five days later." After several weeks in the company of other monkeys, most of them adjusted—but not those who had been isolated for longer periods. "Twelve months of isolation almost obliterated the animals socially," Harlow wrote. They became permanently withdrawn, and they lived as outcasts—regularly set upon, as if inviting abuse.

The research made Harlow famous (and infamous, too—revulsion at his work helped spur the animal-rights movement). Other psychologists produced evidence of similarly deep and sustained damage in neglected and orphaned children. Hospitals were made to open up their nurseries to parents. And it became widely accepted that children require nurturing human beings not just for food and protection but also for the normal functioning of their brains.

We have been hesitant to apply these lessons to adults. Adults, after all, are fully formed, independent beings, with internal strengths and knowledge to draw upon. We wouldn't have anything like a child's dependence on other people, right? Yet it seems that we do. We don't have a lot of monkey experiments to call upon here. But mankind has produced tens of thousands of human ones, including in our prison system. And the picture that has emerged is profoundly unsettling.

Among our most benign experiments are those with people who voluntarily isolate themselves for extended periods. Long-distance solo sailors, for instance, commit themselves to months at sea. They face all manner of physical terrors: thrashing storms, fifty-foot waves, leaks, illness. Yet, for many, the single most overwhelming difficulty they report is the "soul-destroying loneliness," as one sailor called it. Astronauts have to be screened for their ability to tolerate long stretches in tightly confined isolation, and they come to depend on radio and video communications for social contact.

The problem of isolation goes beyond ordinary loneliness, however. Consider what we've learned from hostages who have been held in solitary confinement—from the journalist Terry Anderson, for example, whose extraordinary memoir, "Den of Lions," recounts his seven years as a hostage of Hezbollah in Lebanon.

Anderson was the chief Middle East correspondent for the Associated Press when, on March 16, 1985, three bearded men forced him from his car in Beirut at gunpoint. He was pushed into a Mercedes sedan, covered head to toe with a heavy blanket, and made to crouch head down in the footwell behind the front seat. His captors drove him to a garage, pulled him out of the car, put a hood over his head, and bound his wrists and ankles with tape. For half an hour, they grilled him for the names of other Americans in Beirut, but he gave no names and they did not beat him or press him further. They threw him in the trunk of the car, drove him to another building, and put him in what would be the first of a succession of cells across Lebanon. He was soon placed in what seemed to be a dusty closet, large enough for only a mattress. Blindfolded, he could make out the distant sounds of other hostages. (One was William Buckley, the C.I.A. station chief who was kidnapped and tortured repeatedly until he weakened and died.) Peering around his blindfold, Anderson could see a bare light bulb dangling from the ceiling. He received three unpalatable meals a day—usually a sandwich of bread and cheese, or cold rice with canned vegetables, or soup. He had a bottle to urinate in and was allotted one five- to ten-minute trip each day to a rotting bathroom to empty his bowels and wash with water at a dirty sink. Otherwise, the only reprieve from isolation came when the guards made short visits to bark at him for breaking a rule or to threaten him, sometimes with a gun at his temple.

He missed people terribly, especially his fiancée and his family. He was despondent and depressed. Then, with time, he began to feel something more. He felt himself disintegrating. It was as if his brain were grinding down. A month into his confinement, he recalled in his memoir, "The mind is a blank. Jesus, I always thought I was smart. Where are all the things I learned, the books I read, the poems I memorized? There's nothing there, just a formless, gray-black misery. My mind's gone dead. God, help me."

He was stiff from lying in bed day and night, yet tired all the time. He dozed off and on constantly, sleeping twelve hours a day. He craved activity of almost any kind. He would watch the daylight wax and wane on the ceiling, or roaches creep slowly up the wall. He had a Bible and tried to read, but he often found that he lacked the concentration to do so. He observed himself becoming neurotically possessive about his little space, at times putting his life in jeopardy by flying into a rage if a guard happened to step on his bed. He brooded incessantly, thinking back on all the mistakes he'd made in life, his regrets, his offenses against God and family.

His captors moved him every few months. For unpredictable stretches of time, he was granted the salvation of a companion—sometimes he shared a cell with as many as four other hostages—and he noticed that his thinking recovered rapidly when this occurred. He could read and concentrate longer, avoid hallucinations, and better control his emotions. "I would rather have had the worst companion than no companion at all," he noted.

In September, 1986, after several months of sharing a cell with another hostage, Anderson was, for no apparent reason, returned to solitary confinement, this time in a six-by-six-foot cell, with no windows, and light from only a flickering fluorescent lamp in an outside corridor. The guards refused to say how long he would be there. After a few weeks, he felt his mind slipping away again.

"I find myself trembling sometimes for no reason," he wrote. "I'm afraid I'm beginning to lose my mind, to lose control completely."

One day, three years into his ordeal, he snapped. He walked over to a wall and began beating his forehead against it, dozens of times. His head was smashed and bleeding before the guards were able to stop him.

Some hostages fared worse. Anderson told the story of Frank Reed, a fifty-four-year-old American private-school director who was taken hostage and held in solitary confinement for four months before being put in with Anderson. By then, Reed had become severely withdrawn. He lay motionless for hours facing a wall, semi-catatonic. He could not follow the guards' simplest instructions. This invited abuse from them, in much the same way that once isolated rhesus monkeys seemed to invite abuse from the colony. Released after three and a half years, Reed ultimately required admission to a psychiatric hospital.

"It's an awful thing, solitary," John McCain wrote of his five and a half years as a prisoner of war in Vietnam—more than two years of it spent in isolation in a fifteen-by-fifteen-foot cell, unable to communicate with other P.O.W.s except by tap code, secreted notes, or by speaking into an enamel cup pressed against the wall. "It crushes your spirit and weakens your resistance more effectively than any other form of mistreatment." And this comes from a man who was beaten regularly; denied adequate medical treatment for two broken arms, a broken leg, and chronic dysentery; and tortured to the point of having an arm broken again. A U.S. military study of almost a hundred and fifty naval aviators returned from imprisonment in Vietnam, many of whom were treated even worse than McCain, reported that they found social isolation to be as torturous and agonizing as any physical abuse they suffered.

And what happened to them *was* physical. EEG studies going back to the nineteen-sixties have shown diffuse slowing of brain waves in prisoners after a week or more of solitary confinement. In 1992, fifty-seven prisoners of war, released after an average of six months in detention camps in the former Yugoslavia, were examined using EEG-like tests. The recordings revealed brain abnormalities months afterward; the most severe were found in prisoners who had endured either head trauma sufficient to render them unconscious or, yes, solitary confinement. Without sustained social interaction, the human brain may become as impaired as one that has incurred a traumatic injury.

On December 4, 1991, Terry Anderson was released from captivity. He had been the last and the longest-held American hostage in Lebanon. I spoke to Keron Fletcher, a former British military psychiatrist who had been on the receiving team for Anderson and many other hostages, and followed them for years afterward. Initially, Fletcher said, everyone experiences the pure elation of being able to see and talk to people again, especially family and friends. They can't get enough of other people, and talk almost non-stop for hours. They are optimistic and hopeful. But, afterward, normal sleeping and eating patterns prove difficult to reëstablish. Some have lost their sense of time. For weeks, they have trouble managing the sensations and emotional complexities of their freedom.

For the first few months after his release, Anderson said when I reached him by phone recently, "it was just kind of a fog." He had done many television interviews at the time. "And if you look at me in the pictures? Look at my eyes. You can tell. I look drugged."

Most hostages survived their ordeal, Fletcher said, although relationships, marriages, and careers were often lost. Some found, as John McCain did, that the experience even strengthened them. Yet none saw solitary confinement as

anything less than torture. This presents us with an awkward question: If prolonged isolation is—as research and experience have confirmed for decades—so objectively horrifying, so intrinsically cruel, how did we end up with a prison system that may subject more of our own citizens to it than any other country in history has?

Recently, I met a man who had spent more than five years in isolation at a prison in the Boston suburb of Walpole, Massachusetts, not far from my home. Bobby Dellelo was, to say the least, no Terry Anderson or John McCain. Brought up in the run-down neighborhoods of Boston's West End, in the nineteen-forties, he was caught burglarizing a shoe store at the age of ten. At thirteen, he recalls, he was nabbed while robbing a Jordan Marsh department store. (He and his friends learned to hide out in stores at closing time, steal their merchandise, and then break out during the night.) The remainder of his childhood was spent mostly in the state reform school. That was where he learned how to fight, how to hot-wire a car with a piece of foil, how to pick locks, and how to make a zip gun using a snapped-off automobile radio antenna, which, in those days, was just thick enough to barrel a .22-calibre bullet. Released upon turning eighteen, Dellelo returned to stealing. Usually, he stole from office buildings at night. But some of the people he hung out with did stickups, and, together with one of them, he held up a liquor store in Dorchester.

"What a disaster that thing was," he recalls, laughing. They put the store's owner and the customers in a walk-in refrigerator at gunpoint, took their wallets, and went to rob the register. But more customers came in. So they robbed them and put them in the refrigerator, too. Then still more customers arrived, the refrigerator got full, and the whole thing turned into a circus. Dellelo and his partner finally escaped. But one of the customers identified him to the police. By the time he was caught, Dellelo had been fingered for robbing the Commander Hotel in Cambridge as well. He served a year for the first conviction and two and a half years for the second.

Three months after his release, in 1963, at the age of twenty, he and a friend tried to rob the Kopelman jewelry store, in downtown Boston. But an alarm went off before they got their hands on anything. They separated and ran. The friend shot and killed an off-duty policeman while trying to escape, then killed himself. Dellelo was convicted of first-degree murder and sentenced to life in prison. He ended up serving forty years. Five years and one month were spent in isolation.

The criteria for the isolation of prisoners vary by state but typically include not only violent infractions but also violation of prison rules or association with gang members. The imposition of long-term isolation—which can be for months or years—is ultimately at the discretion of prison administrators. One former prisoner I spoke to, for example, recalled being put in solitary confinement for petty annoyances like refusing to get out of the shower quickly enough. Bobby Dellelo was put there for escaping.

It was an elaborate scheme. He had a partner, who picked the lock to a supervisor's office and got hold of the information manual for the microwave-detection system that patrolled a grassy no man's land between the prison and the road. They studied the manual long enough to learn how to circumvent the system and returned it. On Halloween Sunday, 1993, they had friends stage a fight in the prison yard. With all the guards in the towers looking at the fight through binoculars, the two men tipped a picnic table up against a twelve-foot wall and climbed it like a ladder. Beyond it, they scaled a sixteen-foot fence. To get over the razor wire on top, they used a Z-shaped tool they'd improvised from locker handles. They dropped down into the no man's land and followed an invisible path that they'd calculated the microwave system would not detect. No alarm sounded. They went over one more fence, walked around a parking lot, picked their way through some woods, and emerged onto a four-lane road. After a short walk to a convenience store, they called a taxi from a telephone booth and rolled away before anyone knew they were gone.

They lasted twenty-four days on the outside. Eventually, somebody ratted them out, and the police captured them on the day before Thanksgiving, at the house of a friend in Cambridge. The prison administration gave Dellelo five years in the Departmental Disciplinary Unit of the Walpole prison, its hundred-and-twenty-four-cell super-maximum segregation unit.

Wearing ankle bracelets, handcuffs, and a belly chain, Dellelo was marched into a thirteen-by-eight-foot off-white cell. A four-inch-thick concrete bed slab jutted out from the wall opposite the door. A smaller slab protruding from a side wall provided a desk. A cylindrical concrete block in the floor served as a seat. On the remaining wall was a toilet and a metal sink. He was given four sheets, four towels, a blanket, a bedroll, a toothbrush, toilet paper, a tall clear plastic cup, a bar of soap, seven white T-shirts, seven pairs of boxer shorts, seven pairs of socks, plastic slippers, a pad of paper, and a ballpoint pen. A speaker with a microphone was mounted on the door. Cells used for solitary confinement are often windowless, but this one had a ribbonlike window that was seven inches wide and five feet tall.

The electrically controlled door was solid steel, with a seven-inch-by-twenty-eight-inch aperture and two wickets—little door slots, one at ankle height and one at waist height, for shackling him whenever he was let out and for passing him meal trays.

As in other supermaxes—facilities designed to isolate prisoners from social contact—Dellelo was confined to his cell for at least twenty-three hours a day and permitted out only for a shower or for recreation in an outdoor cage that he estimated to be fifty feet long and five feet wide, known as "the dog kennel." He could talk to other prisoners through the steel door of his cell, and during recreation if a prisoner was in an adjacent cage. He made a kind of fishing line for passing notes to adjacent cells by unwinding the elastic from his boxer shorts, though it was contraband and would be confiscated. Prisoners could receive mail and as many as ten reading items. They were allowed one phone call the first month and could earn up to four calls and four visits per month if they followed the rules, but there could be no physical contact with anyone, except when guards forcibly restrained them. Some supermaxes even use food as punishment, serving the prisoners nutra-loaf, an unpalatable food brick that contains just enough nutrition for survival. Dellelo was spared this. The rules also permitted him to have a radio after thirty days, and, after sixty days, a thirteen-inch black-and-white television.

"This is going to be a piece of cake," Dellelo recalls thinking when the door closed behind him. Whereas many American supermax prisoners—and most P.O.W.s and hostages—have no idea when they might get out, he knew exactly how long he was going to be there. He drew a calendar on his pad of paper to start counting down the days. He would get a radio and a TV. He could read. No one was going to bother him. And, as his elaborate escape plan showed, he could be patient. "This is their sophisticated security?" he said to himself. "They don't know what they're doing."

After a few months without regular social contact, however, his experience proved no different from that of the P.O.W.s or hostages, or the majority of isolated prisoners whom researchers have studied: he started to lose his mind. He talked to himself. He paced back and forth compulsively, shuffling along the same six-foot path for hours on end. Soon, he was having panic attacks, screaming for help. He hallucinated that the colors on the walls were changing. He became enraged by routine noises—the sound of doors opening as the guards made their hourly checks, the sounds of inmates in nearby cells. After a year or so, he was hearing voices on the television talking directly to him. He put the television under his bed, and rarely took it out again.

One of the paradoxes of solitary confinement is that, as starved as people become for companionship, the experience typically leaves them unfit for social interaction. Once, Dellelo was allowed to have an in-person meeting with his lawyer, and he simply couldn't handle it. After so many months in which his primary human contact had been an occasional phone call or brief conversations with an inmate down the tier, shouted through steel doors at the top of their lungs, he found himself unable to carry on a face-to-face conversation. He had trouble following both words and hand gestures and couldn't generate them himself. When he realized this, he succumbed to a full-blown panic attack.

Craig Haney, a psychology professor at the University of California at Santa Cruz, received rare permission to study a hundred randomly selected inmates at California's Pelican Bay supermax, and noted a number of phenomena. First, after months or years of complete isolation, many prisoners "begin to lose the ability to initiate behavior of any kind—to organize their own lives around activity and purpose," he writes. "Chronic apathy, lethargy, depression, and despair often result. . . . In extreme cases, prisoners may literally stop behaving," becoming essentially catatonic.

Second, almost ninety per cent of these prisoners had difficulties with "irrational anger," compared with just three per cent of the general population.* Haney attributed this to the extreme restriction, the totality of control, and the extended absence of any opportunity for happiness or joy. Many prisoners in solitary become consumed with revenge fantasies.

"There were some guards in D.D.U. who were decent guys," Dellelo told me. They didn't trash his room when he was let out for a shower, or try to trip him when escorting him in chains, or write him up for contraband if he kept food or a salt packet from a meal in his cell. "But some of them were evil, evil pricks." One correctional officer became a particular obsession. Dellelo spent hours imagining cutting his head off and rolling it down the tier. "I mean, I know this is insane thinking," he says now. Even at the time, he added, "I had a fear in the background—like how much of this am I going to be able to let go? How much is this going to affect who I am?"

He was right to worry. Everyone's identity is socially created: it's through your relationships that you understand yourself as a mother or a father, a teacher or an accountant, a hero or a villain. But, after years of isolation, many prisoners change in another way that Haney observed. They begin to see themselves primarily as combatants in the

world, people whose identity is rooted in thwarting prison control.

As a matter of self-preservation, this may not be a bad thing. According to the Navy P.O.W. researchers, the instinct to fight back against the enemy constituted the most important coping mechanism for the prisoners they studied. Resistance was often their sole means of maintaining a sense of purpose, and so their sanity. Yet resistance is precisely what we wish to destroy in our supermax prisoners. As Haney observed in a review of research findings, prisoners in solitary confinement must be able to withstand the experience in order to be allowed to return to the highly social world of mainline prison or free society. Perversely, then, the prisoners who can't handle profound isolation are the ones who are forced to remain in it. "And those who have adapted," Haney writes, "are prime candidates for release to a social world to which they may be incapable of ever fully readjusting."

Dellelo eventually found a way to resist that would not prolong his ordeal. He fought his battle through the courts, filing motion after motion in an effort to get his conviction overturned. He became so good at submitting his claims that he obtained a paralegal certificate along the way. And, after forty years in prison, and more than five years in solitary, he got his first-degree-homicide conviction reduced to manslaughter. On November 19, 2003, he was freed.

Bobby Dellelo is sixty-seven years old now. He lives on Social Security in a Cambridge efficiency apartment that is about four times larger than his cell. He still seems to be adjusting to the world outside. He lives alone. To the extent that he is out in society, it is, in large measure, as a combatant. He works for prisoners' rights at the American Friends Service Committee. He also does occasional work assisting prisoners with their legal cases. Sitting at his kitchen table, he showed me how to pick a padlock—you know, just in case I ever find myself in trouble.

But it was impossible to talk to him about his time in isolation without seeing that it was fundamentally no different from the isolation that Terry Anderson and John McCain had endured. Whether in Walpole or Beirut or Hanoi, all human beings experience isolation as torture.

The main argument for using long-term isolation in prisons is that it provides discipline and prevents violence. When inmates refuse to follow the rules—when they escape, deal drugs, or attack other inmates and corrections officers—wardens must be able to punish and contain the misconduct. Presumably, less stringent measures haven't worked, or the behavior would not have occurred. And it's legitimate to incapacitate violent aggressors for the safety of others. So, advocates say, isolation is a necessary evil, and those who don't recognize this are dangerously naïve.

The argument makes intuitive sense. If the worst of the worst are removed from the general prison population and put in isolation, you'd expect there to be markedly fewer inmate shankings and attacks on corrections officers. But the evidence doesn't bear this out. Perhaps the most careful inquiry into whether supermax prisons decrease violence and disorder was a 2003 analysis examining the experience in three states—Arizona, Illinois, and Minnesota—following the opening of their supermax prisons. The study found that levels of inmate-on-inmate violence were unchanged, and that levels of inmate-on-staff violence changed unpredictably, rising in Arizona, falling in Illinois, and holding steady in Minnesota.

Prison violence, it turns out, is not simply an issue of a few belligerents. In the past thirty years, the United States has quadrupled its incarceration rate but not its prison space. Work and education programs have been cancelled, out of a belief that the pursuit of rehabilitation is pointless. The result has been unprecedented overcrowding, along with unprecedented idleness—a nice formula for violence. Remove a few prisoners to solitary confinement, and the violence doesn't change. So you remove some more, and still nothing happens. Before long, you find yourself in the position we are in today. The United States now has five per cent of the world's population, twenty-five per cent of its prisoners, and probably the vast majority of prisoners who are in long-term solitary confinement.

It wasn't always like this. The wide-scale use of isolation is, almost exclusively, a phenomenon of the past twenty years. In 1890, the United States Supreme Court came close to declaring the punishment to be unconstitutional. Writing for the majority in the case of a Colorado murderer who had been held in isolation for a month, Justice Samuel Miller noted that experience had revealed "serious objections" to solitary confinement:

> A considerable number of the prisoners fell, after even a short confinement, into a semi-fatuous condition, from which it was next to impossible to arouse them, and others became violently insane; others, still, committed suicide; while those who stood the ordeal better were not generally reformed, and in most cases did not recover suffcient mental activity to be of any subsequent service to the community.

Prolonged isolation was used sparingly, if at all, by most American prisons for almost a century. Our first supermax—our first institution specifically designed for mass solitary confinement—was not established until 1983, in

Marion, Illinois. In 1995, a federal court reviewing California's first supermax admitted that the conditions "hover on the edge of what is humanly tolerable for those with normal resilience." But it did not rule them to be unconstitutionally cruel or unusual, except in cases of mental illness. The prison's supermax conditions, the court stated, did not pose "a sufficiently high risk to all inmates of incurring a serious mental illness." In other words, there could be no legal objection to its routine use, given that the isolation didn't make *everyone* crazy. The ruling seemed to fit the public mood. By the end of the nineteen-nineties, some sixty supermax institutions had opened across the country. And new solitary-confinement units were established within nearly all of our ordinary maximum-security prisons.

The number of prisoners in these facilities has since risen to extraordinary levels. America now holds at least twenty-five thousand inmates in isolation in supermax prisons. An additional fifty to eighty thousand are kept in restrictive segregation units, many of them in isolation, too, although the government does not release these figures. By 1999, the practice had grown to the point that Arizona, Colorado, Maine, Nebraska, Nevada, Rhode Island, and Virginia kept between five and eight per cent of their prison population in isolation, and, by 2003, New York had joined them as well. Mississippi alone held eighteen hundred prisoners in supermax—twelve per cent of its prisoners over all. At the same time, other states had just a tiny fraction of their inmates in solitary confinement. In 1999, for example, Indiana had eighty-five supermax beds; Georgia had only ten. Neither of these two states can be described as being soft on crime.

Advocates of solitary confinement are left with a single argument for subjecting thousands of people to years of isolation: What else are we supposed to do? How else are we to deal with the violent, the disruptive, the prisoners who are just too dangerous to be housed with others?

As it happens, only a subset of prisoners currently locked away for long periods of isolation would be considered truly dangerous. Many are escapees or suspected gang members; many others are in solitary for nonviolent breaches of prison rules. Still, there are some highly dangerous and violent prisoners who pose a serious challenge to prison discipline and safety. In August, I met a man named Robert Felton, who had spent fourteen and a half years in isolation in the Illinois state correctional system. He is now thirty-six years old. He grew up in the predominantly black housing projects of Danville, Illinois, and had been a force of mayhem from the time he was a child.

His crimes were mainly impulsive, rather than planned. The first time he was arrested was at the age of eleven, when he and a relative broke into a house to steal some Atari video games. A year later, he was sent to state reform school after he and a friend broke into an abandoned building and made off with paint cans, irons, and other property that they hardly knew what to do with. In reform school, he got into fights and screamed obscenities at the staff. When the staff tried to discipline him by taking away his recreation or his television privileges, his behavior worsened. He tore a pillar out of the ceiling, a sink and mirrors off the wall, doors off their hinges. He was put in a special cell, stripped of nearly everything. When he began attacking counsellors, the authorities transferred him to the maximum-security juvenile facility at Joliet, where he continued to misbehave.

Felton wasn't a sociopath. He made friends easily. He was close to his family, and missed them deeply. He took no pleasure in hurting others. Psychiatric evaluations turned up little more than attention-deficit disorder. But he had a terrible temper, a tendency to escalate rather than to defuse confrontations, and, by the time he was released, just before turning eighteen, he had achieved only a ninth-grade education.

Within months of returning home, he was arrested again. He had walked into a Danville sports bar and ordered a beer. The barman took his ten-dollar bill.

"Then he says, 'Naw, man, you can't get no beer. You're underage,' " Felton recounts. "I says, 'Well, give me my ten dollars back.' He says, 'You ain't getting shit. Get the hell out of here.' "

Felton stood his ground. The bartender had a pocket knife on the counter. "And, when he went for it, I went for it," Felton told me. "When I grabbed the knife first, I turned around and spinned on him. I said, 'You think you're gonna cut me, man? You gotta be fucked up.' "

The barman had put the ten-dollar bill in a Royal Crown bag behind the counter. Felton grabbed the bag and ran out the back door. He forgot his car keys on the counter, though. So he went back to get the keys—"the stupid keys," he now says ruefully—and in the fight that ensued he left the barman severely injured and bleeding. The police caught Felton fleeing in his car. He was convicted of armed robbery, aggravated unlawful restraint, and aggravated battery, and served fifteen years in prison.

He was eventually sent to the Stateville Correctional Center, a maximum-security facility in Joliet. Inside the overflowing prison, he got into vicious fights over insults and the like. About three months into his term, during a shakedown following the murder of an inmate, prison officials turned up a makeshift knife in his cell. (He denies that it was his.) They gave him a year in isolation. He was a danger, and he had to be taught a lesson. But it was a lesson that he seemed incapable of learning.

Felton's Stateville isolation cell had gray walls, a solid steel door, no window, no clock, and a light that was kept on twenty-four hours a day. As soon as he was shut in, he became claustrophobic and had a panic attack. Like Dellelo, Anderson, and McCain, he was soon pacing back and forth, talking to himself, studying the insects crawling around his cell, reliving past events from childhood, sleeping for as much as sixteen hours a day. But, unlike them, he lacked the inner resources to cope with his situation.

Many prisoners find survival in physical exercise, prayer, or plans for escape. Many carry out elaborate mental exercises, building entire houses in their heads, board by board, nail by nail, from the ground up, or memorizing team rosters for a baseball season. McCain recreated in his mind movies he'd seen. Anderson reconstructed complete novels from memory. Yuri Nosenko, a K.G.B. defector whom the C.I.A. wrongly accused of being a double agent and held for three years in total isolation (no reading material, no news, no human contact except with interrogators) in a closet-size concrete cell near Williamsburg, Virginia, made chess sets from threads and a calendar from lint (only to have them discovered and swept away).

But Felton would just yell, "Guard! Guard! Guard! Guard! Guard!," or bang his cup on the toilet, for hours. He could spend whole days hallucinating that he was in another world, that he was a child at home in Danville, playing in the streets, having conversations with imaginary people. Small cruelties that others somehow bore in quiet fury—getting no meal tray, for example—sent him into a rage. Despite being restrained with handcuffs, ankle shackles, and a belly chain whenever he was taken out, he managed to assault the staff at least three times. He threw his food through the door slot. He set his cell on fire by tearing his mattress apart, wrapping the stuffing in a sheet, popping his light bulb, and using the exposed wires to set the whole thing ablaze. He did this so many times that the walls of his cell were black with soot.

After each offense, prison officials extended his sentence in isolation. Still, he wouldn't stop. He began flooding his cell, by stuffing the door crack with socks, plugging the toilet, and flushing until the water was a couple of feet deep. Then he'd pull out the socks and the whole wing would flood with wastewater.

"Flooding the cell was the last option for me," Felton told me. "It was when I had nothing else I could do. You know, they took everything out of my cell, and all I had left was toilet water. I'd sit there and I'd say, 'Well, let me see what I can do with this toilet water.' "

Felton was not allowed out again for fourteen and a half years. He spent almost his entire prison term, from 1990 to 2005, in isolation. In March, 1998, he was among the first inmates to be moved to Tamms, a new, high-tech supermax facility in southern Illinois.

"At Tamms, man, it was like a lab," he says. Contact even with guards was tightly reduced. Cutoff valves meant that he couldn't flood his cell. He had little ability to force a response—negative or positive—from a human being. And, with that gone, he began to deteriorate further. He ceased showering, changing his clothes, brushing his teeth. His teeth rotted and ten had to be pulled. He began throwing his feces around his cell. He became psychotic.

It is unclear how many prisoners in solitary confinement become psychotic. Stuart Grassian, a Boston psychiatrist, has interviewed more than two hundred prisoners in solitary confinement. In one in-depth study, prepared for a legal challenge of prisoner-isolation practices, he concluded that about a third developed acute psychosis with hallucinations. The markers of vulnerability that he observed in his interviews were signs of cognitive dysfunction—a history of seizures, serious mental illness, mental retardation, illiteracy, or, as in Felton's case, a diagnosis such as attention-deficit hyperactivity disorder, signalling difficulty with impulse control. In the prisoners Grassian saw, about a third had these vulnerabilities, and these were the prisoners whom solitary confinement had made psychotic. They were simply not cognitively equipped to endure it without mental breakdowns.

A psychiatrist tried giving Felton anti-psychotic medication. Mostly, it made him sleep—sometimes twenty-four hours at a stretch, he said. Twice he attempted suicide. The first time, he hanged himself in a noose made from a sheet. The second time, he took a single staple from a legal newspaper and managed to slash the radial artery in his left wrist with it. In both instances, he was taken to a local emergency room for a few hours, patched up, and sent back to prison.

s there an alternative? Consider what other countries do. Britain, for example, has had its share of serial killers, homicidal rapists, and prisoners who have taken hostages and repeatedly assaulted staff. The British also fought a seemingly unending war in Northern Ireland, which brought them hundreds of Irish Republican Army prisoners committed to violent resistance. The authorities resorted to a harshly punitive approach to control, including, in the mid-seventies, extensive use of solitary confinement. But the violence in prisons remained unchanged, the costs were phenomenal (in the United States, they reach more than fifty thousand dollars a year per inmate), and the public outcry became intolerable. British authorities therefore looked for another approach.

Beginning in the nineteen-eighties, they gradually adopted a strategy that focussed on preventing prison violence rather than on delivering an ever more brutal series of punishments for it. The approach starts with the simple observation that prisoners who are unmanageable in one setting often behave perfectly reasonably in another. This suggested that violence might, to a critical extent, be a function of the conditions of incarceration. The British noticed that problem prisoners were usually people for whom avoiding humiliation and saving face were fundamental and instinctive. When conditions maximized humiliation and confrontation, every interaction escalated into a trial of strength. Violence became a predictable consequence.

So the British decided to give their most dangerous prisoners more control, rather than less. They reduced isolation and offered them opportunities for work, education, and special programming to increase social ties and skills. The prisoners were housed in small, stable units of fewer than ten people in individual cells, to avoid conditions of social chaos and unpredictability. In these reformed "Close Supervision Centres," prisoners could receive mental-health treatment and earn rights for more exercise, more phone calls, "contact visits," and even access to cooking facilities. They were allowed to air grievances. And the government set up an independent body of inspectors to track the results and enable adjustments based on the data.

The results have been impressive. The use of long-term isolation in England is now negligible. In all of England, there are now fewer prisoners in "extreme custody" than there are in the state of Maine. And the other countries of Europe have, with a similar focus on small units and violence prevention, achieved a similar outcome.

In this country, in June of 2006, a bipartisan national task force, the Commission on Safety and Abuse in America's Prisons, released its recommendations after a yearlong investigation. It called for ending long-term isolation of prisoners. Beyond about ten days, the report noted, practically no benefits can be found and the harm is clear—not just for inmates but for the public as well. Most prisoners in long-term isolation are returned to society, after all. And evidence from a number of studies has shown that supermax conditions—in which prisoners have virtually no social interactions and are given no programmatic support—make it highly likely that they will commit more crimes when they are released. Instead, the report said, we should follow the preventive approaches used in European countries.

The recommendations went nowhere, of course. Whatever the evidence in its favor, people simply did not believe in the treatment.

I spoke to a state-prison commissioner who wished to remain unidentified. He was a veteran of the system, having been either a prison warden or a commissioner in several states across the country for more than twenty years. He has publicly defended the use of long-term isolation everywhere that he has worked. Nonetheless, he said, he would remove most prisoners from long-term isolation units if he could and provide programming for the mental illnesses that many of them have.

"Prolonged isolation is not going to serve anyone's best interest," he told me. He still thought that prisons needed the option of isolation. "A bad violation should, I think, land you there for about ninety days, but it should not go beyond that."

He is apparently not alone among prison officials. Over the years, he has come to know commissioners in nearly every state in the country. "I believe that today you'll probably find that two-thirds or three-fourths of the heads of correctional agencies will largely share the position that I articulated with you," he said.

Commissioners are not powerless. They could eliminate prolonged isolation with the stroke of a pen. So, I asked, why haven't they? He told me what happened when he tried to move just one prisoner out of isolation. Legislators called for him to be fired and threatened to withhold basic funding. Corrections officers called members of the crime victim's family and told them that he'd gone soft on crime. Hostile stories appeared in the tabloids. It is pointless for commissioners to act unilaterally, he said, without a change in public opinion.

This past year, both the Republican and the Democratic Presidential candidates came out firmly for banning torture and closing the facility in Guantánamo Bay, where hundreds of prisoners have been held in years-long isolation. Neither Barack Obama nor John McCain, however, addressed the question of whether prolonged solitary confinement is torture. For a Presidential candidate, no less than for the prison commissioner, this would have been political suicide. The simple truth is that public sentiment in America is the reason that solitary confinement has exploded in this country, even as other Western nations have taken steps to reduce it. This is the dark side of American exceptionalism. With little concern or demurral, we have consigned tens of thousands of our own citizens to conditions that horrified our highest court a century ago. Our willingness to discard these standards for American prisoners made it easy to discard the Geneva Conventions prohibiting similar treatment of foreign prisoners of war, to the detriment of America's moral stature in the world. In much the same way that a previous generation of Americans countenanced legalized segregation, ours has countenanced legalized torture. And there is no clearer manifestation of this than our routine use of solitary confinement—on our own people, in our own communities, in a supermax prison, for example, that is a thirty-minute drive from my door.

Robert Felton drifted in and out of acute psychosis for much of his solitary confinement. Eventually, however, he found an unexpected resource. One day, while he was at Tamms, he was given a new defense lawyer, and, whatever expertise this lawyer provided, the more important thing was genuine human contact. He visited regularly, and sent Felton books. Although some were rejected by the authorities and Felton was restricted to a few at a time, he devoured those he was permitted. "I liked political books," he says. "'From Beirut to Jerusalem,' Winston Churchill, Noam Chomsky."

That small amount of contact was a lifeline. Felton corresponded with the lawyer about what he was reading. The lawyer helped him get his G.E.D. and a paralegal certificate through a correspondence course, and he taught Felton how to advocate for himself. Felton began writing letters to politicians and prison officials explaining the misery of his situation, opposing supermax isolation, and asking for a chance to return to the general prison population. (The Illinois Department of Corrections would not comment on Felton's case, but a spokesman stated that "Tamms houses the most disruptive, violent, and problematic inmates.") Felton was persuasive enough that Senator Paul Simon, of Illinois, wrote him back and, one day, even visited him. Simon asked the director of the State Department of Corrections, Donald Snyder, Jr., to give consideration to Felton's objections. But Snyder didn't budge. If there was anyone whom Felton fantasized about taking revenge upon, it was Snyder. Felton continued to file request after request. But the answer was always no.

On July 12, 2005, at the age of thirty-three, Felton was finally released. He hadn't socialized with another person since entering Tamms, at the age of twenty-five. Before his release, he was given one month in the general prison population to get used to people. It wasn't enough. Upon returning to society, he found that he had trouble in crowds. At a party of well-wishers, the volume of social stimulation overwhelmed him and he panicked, headed for a bathroom, and locked himself in. He stayed at his mother's house and kept mostly to himself.

For the first year, he had to wear an ankle bracelet and was allowed to leave home only for work. His first job was at a Papa John's restaurant, delivering pizzas. He next found work at the Model Star Laundry Service, doing pressing. This was a steady job, and he began to settle down. He fell in love with a waitress named Brittany. They moved into a three-room house that her grandmother lent them, and got engaged. Brittany became pregnant.

This is not a story with a happy ending. Felton lost his job with the laundry service. He went to work for a tree-cutting business; a few months later, it went under. Meanwhile, he and Brittany had had a second child. She had found work as a certified nursing assistant, but her income wasn't nearly enough. So he took a job forty miles away, at Plastipak, the plastics manufacturer, where he made seven-fifty an hour inspecting Gatorade bottles and Crisco containers as they came out of the stamping machines. Then his twenty-year-old Firebird died. The bus he had to take ran erratically, and he was fired for repeated tardiness.

When I visited Felton in Danville last August, he and Brittany were upbeat about their prospects. She was working extra shifts at a nursing home, and he was taking care of their children, ages one and two. He had also applied to a six-month training program for heating and air-conditioning technicians.

"I could make twenty dollars an hour after graduation," he said.

"He's a good man," Brittany told me, taking his arm and giving him a kiss.

But he was out of work. They were chronically short of money. It was hard to be optimistic about Felton's

prospects. And, indeed, six weeks after we met, he was arrested for breaking into a car dealership and stealing a Dodge Charger. He pleaded guilty and, in January, began serving a seven-year sentence.

Before I left town—when there was still a glimmer of hope for him—we went out for lunch at his favorite place, a Mexican restaurant called La Potosina. Over enchiladas and Cokes, we talked about his family, Danville, the economy, and, of course, his time in prison. The strangest story had turned up in the news, he said. Donald Snyder, Jr., the state prison director who had refused to let him out of solitary confinement, had been arrested, convicted, and sentenced to two years in prison for taking fifty thousand dollars in payoffs from lobbyists.

"Two years in prison," Felton marvelled. "He could end up right where I used to be."

I asked him, "If he wrote to you, asking if you would release him from solitary, what would you do?"

Felton didn't hesitate for a second. "If he wrote to me to let him out, I'd let him out," he said.

This surprised me. I expected anger, vindictiveness, a desire for retribution. "You'd let him out?" I said.

"I'd let him out," he said, and he put his fork down to make the point. "I wouldn't wish solitary confinement on anybody. Not even him." ♦

*Correction, April 6, 2009: Three per cent of the general population had difficulties with "irrational anger," not three per cent of prisoners in the general population, as originally stated.

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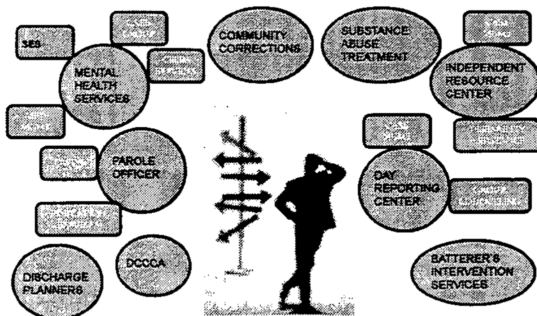
CHANGING SYSTEMS

BY MISSY WOODWARD,
CARRIE HARRIS, AND ANDREA BRIGHT

WHY THIS POWERPOINT?

- Due to recent budget-cuts in Kansas vital services and programs have ended and resources are now more limited
  - KDOC Community Residential Beds closed April 1st 2009
  - State officials have notified more than 1,500 adults effective Wednesday July 1st they will no longer be eligible for MediKan or cash assistance
  - Another 3,000 have been told to expect deep cuts in their cash-assistance checks; receiving $100 compared to $142-$190
  - Most of those affected by the cuts are homeless or near homeless *By Dave Ranney, KHI News Service, June 30, 2009*

THE PROBLEM - WHERE'S JACK?



C&JJ Oversight
Attachment 6
10-28 & 29-09

CHARACTERISTICS OF POPULATION

- Mental Illness
- Alcohol and Drug Addiction
- Homeless
- Mental Retardation/Development Disabilities
- Traumatic Brain Injury
- Physical Health Problems
- Limited Education
- Limited Family Support
- Poor Work History
- Fetal Alcohol Syndrome

CASE STUDY - JACK

- Jack's Barriers and Criminal History
  - SED (Severely Emotionally Disturbed)
  - SSI at age 11
  - Multiple/Dual Diagnosis's
    - Alcohol and drug use
    - Axis I Schizophrenia Undifferentiated Type in Remission
    - Axis II Schizotypal Personality Disorder Premorbid with Borderline and Anti-social Features ,Borderline Intellectual Functioning
    - Axis III Heart Condition since birth
    - Axis IV Problems related to incarceration GAF of 50 GAMA left blank
  - Over 10 years of criminal history that includes
    - 4 Criminal threat; 3 Criminal threat intending to terrorize; 4 Theft; 2 Fleeing LEO; Burglary; Aggravated escape from custody

Incarceration

- 13 years involved in KDOC 16 total felony cases this includes 3 Criminal Threat charges to parole officers and a judge
- 7 revocations
- 67 Institutional Disciplinary reports from 6 different institutions
- Little to no family support
- Several diagnosis
- Few acceptable "safe" places in the state for these offenders to go
- Extended hx of noncompliance with meds and continued substance abuse
- Not appropriate for substance abuse treatment due to mental health issues

JACK AFTER RELEASE

- Released from prison to Mirror Community Residential Bed - 3 *month stay*
- Received CMHC/KDOC funds for 'off site' housing - housed through independent landlord - *evicted after* 3 *months*
- Denied SSI/SSDI

JACK AFTER RELEASE, con't.

- GA and Medicaid will be cut due to 24 mo. Max
- Admitted to Stormont Vail West Hospital Crisis Unit 5 days
- Transferred to Valeo Crisis House – collaboration efforts allowed offender to stay longer to prevent homelessness
- Admitted to Nursing Facility for Mental Health
  - Stay was less than 24 hours due to criminal threat to parole officer
  - 90 Day Revocation

AGENCY COLLABORATION CAN CHANGE OUTCOMES

- Typical outcomes for high risk offenders
  - Revocation
  - Crisis Services
  - State Hospital
  - Homelessness
  - Emergency Shelters

- Collaboration efforts allowed Jack to live in the community longer than prior attempts.
- Due to the collaboration of agencies, services for Jack after release will *continue* instead of *starting over*

Back to the community

- Release planning now includes planning for a placement based on assessments done in the community pre revocation.
- Will release with 30 days of meds
- Partners on stand by to launch appropriate services pre release
- Transparency in the referral process in critical to public safety

HOPE FOR THE HOMELESS?

EXAMPLES: Parole/Re-entry Case Management Work with High-risk/High-need Offenders

A. Donnie

Donnie has been diagnosed as having severe and persistent mental illness due to developmental issues, an explosive disorder, attention deficit hyperactivity disorder and memory loss due to a head injury. A convicted sex offender, Donnie entered the prison system after being revoked from community corrections supervision in 1997.

Finding long-term, stable care in Wichita for Donnie has been a continual goal for parole services since planning for Donnie's first parole began in 1998. Donnie has no viable family support as his sister is estranged and the grandparents who raised him are in poor health. The search for housing is especially difficult for Donnie because he is a registered sex offender. He is also a very large man with developmental disabilities and the mentality of a 12 year old, has anger outbursts and lives on an extremely limited income.

When angry or anxious, Donnie sucks his thumb or is prone to violence and aggression. Donnie was placed at Mirror Community Residential Beds upon release and struggled with cleanliness that included uncontrollable bowel movements which left feces on the floors, chairs and clothing at parole offices and a community residential bed facility. He also has issues with personal space that in one case led to Donnie biting another client and being arrested for assault.

Often homeless while under supervision, Donnie was able to utilize the resources available to him but he was usually taken advantage of by other transients. Donnie would buy them food and other things, or they would steal from him.

Parole staff along with his parole officer took Donnie to appointments where he was able to obtain identification, general assistance, disability checks, eyeglasses, clothes, hygiene items, and assisted him with making appointments over the phone while he was at the parole office. In one instance, Donnie was not wearing underwear or socks and was very dirty and had not cleaned himself properly after using the bathroom. His parole officer gave him short deadlines on when he had to purchase socks and underwear, to shower every day and to take his medication daily. Donnie was able to manage more successfully when given these short deadlines. Parole staff also provided Donnie with instruction on how to take showers and how to properly wipe himself after using the restroom.

Donnie had come to the parole office one day after having a bowel movement in his pants while not wearing underwear. Parole staff had a box of clothes stored away that they were able to provide to him.

With no alternatives for housing, Donnie tried to stay at a local rescue mission. After being kicked out of the mission several times for angry outbursts, Donnie finally was able to secure housing in a structured group home and did well for about one month.

In July 2006, Donnie absconded for a short time when he began hanging out with several men, who staff later learned took advantage of the offender sexually and financially.

Donnie was arrested and then re-released back to parole services. He again deteriorated and ended up in Good Shepherd Hospital. Upon release, Donnie's supervision was revoked for reporting, travel and special condition violations as well as for non-compliance issues with his medication requirements.

Upon release Donnie had to reapply to re-start his services. This was a slow process but he was able to obtain them again, with the exception of housing. His previous home would not take him back due to his hygiene and non-compliance issues. Staff worked to find Donnie a residence but Donnie continued to have problems even when housing was secured.

At the time of his discharge from parole, Donnie was homeless once again. However, parole staff had been able to help the offender obtain a case manager, disability funding, a payee to help him manage his money, a home health aid to help him remember to take his medications, housing through Interfaith Inn, the CIP day program through Comcare, and transportation services.

Based on his disabilities, parole staff have stated repeatedly that prison is not the place for Donnie. However, Donnie is without anyone or anything positive in the community, with the exception of his Supplemental Security Income check.

In April 2009, Donnie was placed back in prison for several counts of failure to register as a sex offender. He also has ended up back in segregation during his incarceration.

B. Ed

Ed, who has been diagnosed with bipolar disorder with psychotic features, was convicted of rape and trying to kill the husband of another woman he had been stalking. When not taking his medication and hearing voices, Ed has a history of drinking and abusing drugs. The night before his release, Ed told his cell mate that he intended to find one of his victims and "finish him off". Upon his release to post-incarceration supervision, Ed was considered at high risk for reoffending.

Ed was initially assigned to a parole officer who specializes in supervising sex offenders but the severity of Ed's mental health and developmental delay issues were determined to require intensive case management. However, Parole Officer Howell continued to be a second contact person for Ed.

The Kansas Department of Corrections provided Ed with interventions such as DCCCA group, Valeo Behavioral Health Care, Victim Services coordination, rides to his mental health appointments, food that was collected at the parole office and other similar case management strategies. Ed completed parole in six months due to his good time earnings. He had no contact with prior victims, remained drug free and posed no other threats to the community while on parole. When Parole Officer Daugherty told Ed that he was going to be discharged, Ed begged to stay on parole. Ed stated that the Department of Corrections had helped him more than anyone else in his life and that he did not know if he could make it in the community without help from staff.

Ed has been discharged from the supervision of the Department of Corrections for approximately six months. He reported that he has not been in trouble with the law and has not used drugs or alcohol. He has a part-time job washing dishes to supplement his disability income. Ed reported that he was struggling a few months ago due to having temporarily run out of his medications. Ed said, "There was a time when I would have gone and gotten myself in trouble without my meds, especially since I was hearing the voices and everything. I decided that I was going to walk down to Valeo Crisis and tell them that if they don't help me I am going back to prison. They got me my medicine and I didn't hurt anyone or use drugs."

He thanked the Department of Corrections for helping him learn how to make it in the community without hurting others.

Ed said, "I got stopped by a police man for not walking on the sidewalk but that doesn't count for getting in trouble, right?"

D. Alfonso

With criminal convictions dating back more than 30 years, Alfonso has a lengthy record with the Kansas Department of Corrections. Alfonso had been discharged from the supervision of the Department of Corrections for approximately eight months when he was convicted for attempted aggravated robbery in Sedgwick County in 2005.

Alfonso received numerous disciplinary reports during his incarcerations including serving most of 2005 to 2008 in segregation for assault on staff. Alfonso's history while under supervision also has included numerous violations for failing to report, travel, weapons, personal conduct and narcotics/alcohol use.

Alfonso suffers from a severe and persistent mental illness. He rarely takes his prescribed medications and instead chooses to self medicate with narcotics and alcohol. When not taking his medication, Alfonso is combative and displays paranoid behavior. Alfonso also has significant medical issues that he fails to address when he is not taking his medications.

During his incarceration at El Dorado Correctional Facility in 2007, re-entry staff found Alfonso to be combative and uncooperative. Over time, Alfonso began to trust his case manager and became amenable to attending classes. He was referred to cognitive classes; however, he was soon placed in segregation for his behavior.

Once released from segregation, Alfonso began taking cognitive classes again. He did well for about two months until he got angry and spit on an officer. Alfonso was transferred to Hutchinson Correctional Facility where he was eventually able to join the general population and receive re-entry case management services. Again, Alfonso had issues with staff and had to be placed in segregation. He became further assaultive with staff and was placed in segregation where he remained until his release. In order for re-entry staff to meet with Alfonso during this time, staff had to speak to Alfonso through a mesh window which made it difficult to deliver risk-reduction services.

Upon his release to post supervision in 2008, Alfonso was placed into a community residential bed facility where he remained for a few months. He also was referred to a mental health parole officer, COMCARE where he could receive therapy and medication management, and to a substance abuse treatment program.

Staff assisted Alfonso in working with the Kansas Department of Social and Rehabilitation Services to receive general assistance and food stamps. His reentry services case manager helped Alfonso obtain a Kansas identification card, clothes and learn about community resources available to him. His pastor also worked with Alfonso.

Alfonso soon moved out of the community residential bed facility and earned placement at Second Chance House, a substance abuse structured-living facility. Alfonso did not have a job at the time but reentry staff was able to provide a one-month rent voucher for Alfonso. Initially, he did well at Second Chance but he was caught on camera assaulting another resident during his first month at the facility.

Second Chance, his parole officer, and the reentry case manager worked with Alfonso to keep him in the community by getting him placed in cognitive classes at the parole office. Alfonso began working with the owner/operator of Second Chance by helping with tasks around the house, but Alfonso was soon evicted following an argument with the owner.

Alfonso then resided with another parolee whom he met at his community residential bed placement. Again, Alfonso did well for a few months including graduating from the reentry program because he was stable, taking his medications, and attending his appointments.

Alfonso was then found in possession of a pellet gun, but the search was not done properly and he was not charged. After this incident, Alfonso threatened his roommate and was taken to jail due to an arrest and detain order by the parole office. After further investigation it was determined that Alfonso's roommate was unstable, and placement back in his apartment was no longer an option because Alfonso was given a no contact order with the roommate. Alfonso also admitted to using marijuana and a referral for substance abuse treatment was submitted to the Substance Abuse Center of Kansas.

Staff referred Alfonso to vocational rehabilitation and Personnel Touch where they eventually were able to help him find employment, an apartment, and a car. His case management team decided Alfonso could be placed in a motel for four days until his apartment was ready, and he was able to continue to go to work as long as he wore a GPS tracking unit.

Among the other individuals and community resources assisting Alfonso up to this point were:

- CRB Mirror staff
- Employment Specialist
- Substance Abuse Specialist
- Aramark Supervisor
- Reentry Police Liaison/ Officer Douglas Mitchell
- Reentry Housing Specialist
- Vocational Rehabilitation
- Accountability Panel Volunteers
- Salvation Army

Alfonso lived in his apartment for a few days until he was pulled over by Wichita Police who found two crack pipes in his possession. During the traffic stop, Alfonso admitted that he had smoked marijuana laced with crack. He was arrested and booked for possession of drug paraphernalia. While in jail, Alfonso went through the phone book and called all the listed numbers that had the same last name as his arresting officer. Alfonso obtained the name and address of the arresting officer's father which frightened the arresting officer's family.

Currently, revocation proceedings have begun and Alfonso will return to segregation at Hutchinson Correctional Facility for 90 days. Reentry staff will begin working with Alfonso when he returns to the facility.

E. Clinton

In 1996, Clinton absconded from a halfway house and broke into a home in Johnson County. When the homeowners returned home during the burglary, Clinton used a weapon to threaten the family that included two 12-year-old boys. He tied up the family before stealing several items and escaping in the family's car. James then led police on a lengthy, high-speed chase that culminated in James crashing the stolen car.

Three days after being taken into the custody of the Kansas Department of Corrections, Clinton received the first of 118 disciplinary reports that he would receive over the course of nine years. Working with Clinton would also prove to be difficult for re-entry staff because Clinton's behavior often placed him in segregation.

Clinton, who is currently 41 years old, has been diagnosed with Tourette syndrome and has a long history with battling mental illness. He is often violent when not taking his medication.

Upon Clinton's first release to parole in March 2008, Clinton had no family to assist him with entering back into the community. His mother had passed away and he had not received any response to the letters he had written to his father during the previous six months. However, Clinton had received an inheritance of more than $80,000.

Shortly after his release to Sedgwick County, Clinton paid $17,000 to someone in what was likely an extortion case. Clinton refused to discuss the matter with his parole officer or police. Clinton continued to spend money unwisely by purchasing cars and appeared to have associated himself with prostitutes who took advantage of Clinton's financial situation.

Two months after his release, Clinton had spent his inheritance and had threatened bank employees and his parole officer when he ran out of money. Clinton was arrested and transported to El Dorado Correctional Facility for parole violations that included not reporting and urine analysis problems.

Clinton was paroled again in September 2008 to Sedgwick County with the requirement that he wear a GPS unit. Three weeks later, Clinton had been discharged from Mirror Community Residential Beds due to having violent outbursts, screaming and making physical threats. Clinton had threatened to hit a Mirror employee when Clinton's request to be taken to the mall to shop for boots was not granted quickly enough. He was then transported to Lansing Correctional Facility (LCF) for parole violations.

Upon his arrival, LCF staff, re-entry staff and parole office staff met to discuss Clinton's repeated failures when released. The group developed a plan of action for Clinton that included updating his mental health assessments, conducting a traumatic brain injury assessment and evaluating which programs would best serve Clinton. The group examined potential sources of income for Clinton and the need for a payee based on his prior use of money.

Because he spent most of his incarceration in segregation, the group also decided Clinton should be placed in the general population of the Treatment and Reintegration Unit (TRU).

However, this was a difficult transition for Clinton. Clinton felt that the officers would not let him out of his cell. The rules were explained but he continued to feel that he was being targeted. The TRU officers began working with Clinton on changing his relationships with authority figures by employing cognitive reflective communications.

Re-entry staff would meet with Clinton regularly to discuss and work through the everyday issues causing him stress. Facility staff also met with Clinton regularly when he became agitated. However, re-entry staff determined that Clinton's functioning level and overall attitude would not benefit Clinton or the other inmates in a group setting for regular re-entry classes.

Clinton became involved with the COR-Pathways program, a transitional planning program for offenders with severe and persistent mental illnesses. Services received included assistance with housing, disability benefit applications, SRS applications, treatment options.

Re-entry staff continued to work with Clinton on his Social Security benefit applications and finding possible placement at Topeka Mirror. He was also assigned a mental health parole officer and both Mirror staff and his parole officer visited Clinton prior to his release.

Several months passed before Clinton received a disciplinary report for disruptive behavior and while on his way to segregation, he received another disciplinary report for assault on staff and disobeying orders. The cycle began again for Clinton who would continue to pick up more disciplinary reports. During his time in segregation, Clinton spread his own feces on the walls and he became agitated because he said he was concerned about a new felony case pending against him. The case was the result of Clinton throwing urine on an officer in segregation.

Clinton initially refused to speak with re-entry staff but Clinton finally relented and began to respond. After several discussions, Clinton agreed it was in his best interest to clean his cell and cooperate with the officers. Staff asked for Clinton's release from segregation to enable Clinton to re-enter the TRU and work with staff on the condition that Clinton would not acquire more sanctions.

The LCF job/cognitive specialist worked one on one with Clinton while other staff and Clinton worked on learning what a conventional lifestyle is supposed to be like. He also developed a plan for keeping busy once he was released. Clinton developed a budget and learned how to comparison shop by looking online with staff at prices at stores such as Wal-Mart. His parole officer found an apartment that Clinton could afford and a lawyer to serve as Clinton's payee for his Social Security.

Upon his release in March 2009, facility staff and a LCF institutional parole officer (IPO) transported Clinton to Topeka to help decrease Clinton's anxiety and to ensure Clinton arrived in Topeka. Staff drove Clinton to a SRS office where his application, that had been completed just prior to his release, was approved.

Clinton's IPO also helped ease Clinton's anxiety by introducing him to Shawnee County Re-entry Program staff and the office's special enforcement officer. Staff also took Clinton to meet his landlord and to see his new apartment.

After his release, Clinton's parole officer convinced him to earn his GED, meet with vocational rehabilitation staff and to do volunteer work for his landlord. Clinton also needed assistance obtaining his medications which he balked at taking along with receiving mental health therapy until staff explained his release conditions required that he comply with his doctor's recommendations.

By July, Clinton was remaining in close contact with re-entry staff and his parole officer. Special enforcement officers also were checking in on Clinton regularly. In one instance, an officer found Clinton sitting on the porch of his home asleep in a recliner. Clinton said all he had to eat in his house was a half a loaf of bread and peanut butter. The officer bought Clinton four tacos and a soda. Later, the officer returned with the names and addresses of places Clinton could contact for food and additional resources. His parole officer met with Clinton to discuss making better choices in spending his money. Clinton continues to take his GED courses and is working at an auto dealer.

F. Dustin

Convicted of aggravated battery in Douglas County, Dustin was paroled to Shawnee County in February 2007. During his incarceration, the thirty-six year old had received four disciplinary reports for fighting, work performance, misuse of state property and misconduct. He has been diagnosed with a severe and persistent mental illness that requires treatment and monitoring.

Upon his release, Dustin's parole officer met with Dustin at Topeka Mirror, a substance abuse treatment provider. Dustin began the conversation by talking about the injustices done to him in prison and how the governor needed to know. He also stated he had no family or friends as well as no place to live. He had come from Dodge City but Dustin said that he did not want to live there because of his racial views. He stated that he wanted to live in Lawrence.

The parole officer began researching his request when Dustin notified the parole officer that he could not live in Lawrence because he feared his ex-wife's husband would harm him. He asked about moving to the Topeka Rescue Mission.

Dustin was accepted by the Topeka Rescue Mission after staff answered the mission's concerns about Dustin's criminal history. However, Dustin continued to call his parole officer stating that he wanted to move and then would call back and say that he did not want to leave. A couple of weeks into his stay, rescue mission staff met with his parole officer because mission staff stated that Dustin had been threatening legal action because he believed that rescue mission staff had allowed someone to steal his backpack. However, surveillance cameras showed Dustin hiding the backpack in a location where staff recovered the backpack. Mission staff requested Dustin move out because of concerns about how his "obnoxiousness and delusions" about what others were doing to him might affect other residents.

Again, Dustin asked about moving to Lawrence and his parole officer began working with him to find a new residence. In the meantime, Dustin also was assisted with filing for Social Security Income and a mental health assessment with Valeo.

His parole officer called Valeo to discuss the possibility of transitional housing, but Valeo staff said they had great reservations about placing Dustin because of his anger and threats. According to Valeo staff, Dustin had inquired about housing at one time. He reportedly told the staff, "I feel like ripping someone's larynx out."

Dustin was allowed to remain at the rescue mission until other housing could be secured. A month later, the mission notified parole staff that Dustin had been kicked out of the mission because he had threatened two people for playing dominoes and did so using racially disparaging comments. Dustin said he disliked the slapping sound that the dominoes were making. He told mission staff that he was leaving and planned to live down by the river. Parole staff also learned that during the previous week, Dustin had gone to Valeo Crisis for suicidal thoughts.

An arrest warrant was issued for Dustin. Upon his arrest, Dustin told parole staff that if he went back to prison, he would kill someone and then himself. He also said he needed to be on his medication and in segregation.

When his parole officer said he would talk with medical and prison staff about being placed in segregation, Dustin said he did not want segregation because he would be abused. He then began yelling at his parole officer. Two months after his release, Dustin was again back in prison.

Facility staff met with Dustin to develop his plan for his September 2009 release. Staff contacted Wyandotte Mental Health Center to begin Dustin's case management before his release from Lansing Correctional Facility. Staff also began working to find placement in a shelter for Dustin but the Kansas City, Kansas parole office denied Dustin's plan due to a lack of secure housing.

Re-entry staff ran into similar issues in trying to place Dustin in his county of conviction. Staff began forming another release plan for Dustin to begin working with Valeo in Topeka again while using voucher funds to provide residence at the Topeka Mirror location. Valeo also agreed to apply for transitional housing funds to help pay for Dustin's placement at Mirror.

Dustin began to cry upon learning he would be living in Topeka again. However, staff were able to calm his fears. Approximately two weeks after his release, Mirror staff contacted Dustin's parole officer because Dustin had become very upset and spoke about how his anger overtakes him. After meeting with Valeo staff and Dustin, Dustin admitted he had not been taking his medication. He agreed to begin taking his medication and his parole officer decided to research anger management. Dustin was told he could call Mirror staff, the crisis line or his parole officer at any time. Later that day, the parole officer received a call from Dustin who reported hearing voices after an encounter with a security guard at a local grocery store. The situation seemed resolved until the next day when his parole officer had to issue an arrest and detain warrant for Dustin who had threatened another Mirror resident while using racially disparaging comments. He said he was going to blow the other resident's head off.

Dustin was arrested and spoke with the parole officer about his behavior. Dustin was remorseful and relieved to be given another chance to stay in the community. Mirror agreed to continue to work with Dustin, who also was notified by his parole officer that his Social Security benefits had been approved.

By October, Dustin reported that his new medications were working better for him. He remains in constant contact with his parole officer. Dustin also was taking care of an outstanding warrant in Lyon County. After he was unable to find a ride to his court hearing, Dustin called the judge who lifted the warrant and allowed Dustin to establish a $50 a month payment plan for his fines. Dustin's parole officer told Dustin that he was proud of how he handled the situation given that a few months ago Dustin would have done nothing to resolve the issue. Dustin also was working with his parole officer to find an apartment and keeping his Valeo appointments. Dustin continues to work with his doctor about controlling his anger and he is seeing a therapist regularly.

G. Robert

Robert was convicted of aggravated robbery, rape and assault in Douglas County in 1983. He has been diagnosed with schizophrenia - paranoid type, an antisocial personality disorder and borderline intellectual functioning. The 42-year-old also suffers from seizures as a result of a brain injury which had occurred at Hutchinson Correctional Facility. He takes psychotropic medication and anti-seizure medication daily.

Born in 1967, Robert and four siblings moved to Lawrence, Kansas in 1979 with their mother who was looking for employment. However, his mother's rights were terminated soon after they moved to Kansas. To date, he has no viable family support system.

Well-documented reports indicate substantial abuse and neglect in Robert's childhood. His mother was both physically abusive and neglectful. Robert also reports being sexually abused by a family member.

When he was initially incarcerated, Robert had no history of mental illness though he was assessed at a third grade reading level and fifth-grade math level. His juvenile record contains charges of disorderly conduct, burglary and theft.

In 1989, another inmate at Hutchinson Correctional Facility assaulted Robert with a baseball bat. Robert suffered a traumatic brain injury. After being treated at a Wichita hospital, Robert was transferred to Lansing Correctional Facility. He was placed in extended care to work on his speech and information processing difficulties. He also participated in speech therapy. His pre-morbid IQ was reported as being average to low average with elementary-level capabilities. A subsequent neuropsychological exam suggested a drop in IQ to the mentally-retarded range.

During his initial incarceration, Robert received numerous disciplinary reports (DRs) for fighting and non-compliance with correctional staff. After his head injury, his DR history no longer contained reports of aggressive behavior. However, Robert spent time in segregation due to mental health issues. Robert would regularly refuse to eat, take care of his personal hygiene and deny that he was mentally ill and a sex offender.

Robert was eventually able to earn his GED for which he was especially proud because he was the first in his family to finish high school. Robert also successfully completed the Sex Offender Treatment Program in February 1993. He reportedly made good progress regarding his insight and the antecedents to his crime. He reported that his participation in the program taught him a great deal about himself and his emotions.

Robert was paroled for the first time in October 2005 to his mother's home in Lawrence. The beginning of his parole experience was unremarkable. He began his experience medication compliant and willing to address his mental illness. He was enrolled in sex offender aftercare with DCCCA, Inc. and he was compliant. Robert struggled in regard to finding employment.

However, he was able, with much encouragement from parole staff, to secure a job at a local flooring business. Robert took classes through the Salvation Army to earn a voucher for his own apartment. He kept parole apprised of his intent and was allowed to secure his own place.

One day, Robert made an unannounced visit at the parole office. He produced documentation from the community mental health center's doctor who stated that Robert no longer needed to take psychotropic medication to manage his mental illness. Within a few weeks, Robert was beginning to experience paranoia and delusions.

The first contact parole had from an outside agency was from DCCCA, the agency providing Robert's sex offender aftercare. The therapist agreed with the parole officer in that the offender was in need of a mental health intervention and the community mental health center should be notified. DCCCA suspended his participation in group until his mental health status was stable. The parole officer then attempted to meet Robert to talk about his mental health options. He became paranoid and angrily left. Soon Robert's employer was calling the parole officer because Robert thought people were "messing with his stuff" in his apartment and "messing with his lunch pail" at work.

Again, an intervention was attempted by parole. At this point the community mental health center had not returned any calls. As options were running low, Robert was arrested and taken to the county jail. Again parole staff attempted to contact the community mental health center and again the center failed to return any calls.

Eventually the center scheduled an appointment for Robert and he was let out of jail. By this time, Robert was homeless. However his employer agreed to try to work with him. Robert was released from jail psychotic and angry with parole staff for "setting him up". Parole staff attempted to offer Robert several options including assigning a different parole officer. These attempts failed as Robert was later determined to be too psychotic. Parole staff worked with correctional mental health staff and the courts to commit Robert to a state hospital until his mental health stabilized. The state hospital released Robert after three days. At that time the judge remanded Robert back to the hospital as a danger to himself and others. The hospital kept him for a week and then released him with only a few days worth of medications.

Eventually Robert requested to move to Topeka to Mirror, Inc. The request was approved, but Robert proved too unstable to stay. Robert's supervision was revoked. He was psychotic, refusing food and angry when he was transferred to Lansing Correctional Facility (LCF) on Halloween in 2006.

Robert entered LCF on a segregation status. He was compliant through the first part of orientation; however, staff determined Robert was in need of intensive mental health care. He was transferred to Larned Correctional Mental Health Facility (LCMHF) for treatment. Upon arriving at LCMHF, Robert began taking his medication and made progress though he returned to some old behaviors including fighting with peers and verbal aggression toward staff. Eventually he was sent to Larned State Hospital for more care and treatment. He remained angry about the revocation of his parole, but his behavior was described as being fairly compliant.

The Kansas Parole Board passed him for one year. Robert initially threatened to refuse all medication and treatment until, after several interventions by Larned State Hospital staff and facility staff, Robert began taking his medication and working on his treatment program.

As his next parole board date neared, Robert voiced his anxiety and began to decompensate mentally. Staff continued to have difficulty securing a housing placement for Robert due to his past behavior, crimes and institutional behavior.

Staff from the state hospital and Department of Corrections met to discuss Robert's case. Based on the meeting, staff agreed to attempt to place Robert in a mental health nursing home facility in the northern parole region. Hospital staff conducted a Level 1 preadmission screening and resident review (PASRR) screening with Robert and referred Robert for a Level II screen.

Working with hospital staff, Department of Corrections agreed to call every provider in the northern parole region for possible placement as well as filling out paperwork to assist Robert with gaining services through the Kansas Department of Social and Rehabilitation Services (SRS).

No provider agreed to place Robert. The LCMHF re-entry coordinator then arranged to meet personally with each provider to present Robert's case. A local community mental health center agreed to complete a courtesy screen for Robert. However, per state policy, the center needed a provider to accept Robert. Staff worked with the community mental health center, SRS and state hospital staff to agree to leave this placement open ended until a provider was found.

The LCMHF re-entry coordinator toured several providers in the Topeka area. By the time the tours were completed, three places had agreed to take Robert, who was excited to learn that he could pick a place to live. He chose Countryside Health Center based on the programming that was offered and was released to their care.

Robert was assigned to a parole officer who specializes in supervising mental health offenders. Upon his release in June 2009, Robert's parole officer scheduled appointments with DCCCA and Communityworks, a local service provider for individuals with disabilities. The parole officer also helped Robert with figuring out the bus system and took him to get a Kansas identification card. Robert also asked for permission to go to Sunshine Connection, Breakthrough House and Freedom House for activities during the day. Staff at Countryside said they were not yet comfortable with Robert attending unsupervised activities.

In September 2009, Robert asked about living independently. However, facility staff remained wary of moving too fast with Robert who continued to have anger issues when told he could not do something. Staff recommended Robert take on additional responsibilities such as folding laundry and other household-type chores. Robert's request to live independently will be reviewed again in three months.

H. Lawrence

Lawrence is a very physically large, 41-year-old man with severe mental health issues. He has a history of frightening others when he becomes upset or angry. While incarcerated, Lawrence received 65 disciplinary reports for committing such violations as battery, disruptive behavior, disobeying orders, threatening or intimidating another, fighting and lying.

In 1989, Lawrence was convicted of indecent liberties with a child in Sedgwick County. He was released to supervision in 1994 but returned a year and half later on a parole violation. He remained incarcerated until his sentence expired in 1999.

In 2006, Lawrence, who is diagnosed with mental retardation and developmental disabilities, was living at a group home operated by the Kansas Elks Training Center for the Handicapped (KETCH) in Sedgwick County. However, when he was told that he was not allowed to have cigarettes, he set his bed on fire. He was convicted of aggravated arson and began serving his sentence in June 2007.

Lawrence was released to supervision from Larned Correctional Mental Health Facility in February 2009. Lawrence, who has no family support, had to stay at the Union Rescue Mission because he could not secure more permanent housing. Lawrence's mother is in a retirement home in Wichita. His sister has been determined to be a negative influence on Lawrence including taking his Social Security benefits and providing inadequate supervision.

One week after his release, Lawrence was transported from the rescue mission to Comcare Crisis because he was hallucinating. The rescue mission reluctantly agreed to take Lawrence back after the parole officer could not find a program that had available room or would accept Lawrence based on his convictions. He also had previous experiences with several area organizations that now had Lawrence on their "do not admit" lists.

A few days later, Lawrence called Comcare Crisis all night threatening to hang himself because he did not want to stay at the overflow shelter at the rescue mission. Comcare staff asked if the parole officer could arrest Lawrence for his own safety. However, the parole officer could not issue the warrant if Lawrence had not committed a parole violation. Comcare staff said they could not assist Lawrence or take him to Osawatomie State Hospital as Lawrence's behavior was not related to his mental health. Staff said that Lawrence was throwing a tantrum by threatening to kill himself because he did not want to stay at the rescue mission. Staff at the rescue mission said that Lawrence had cut himself but was not threatening anyone else. Comcare agreed to pick up Lawrence and his parole officer would speak with him.

During this time, parole staff also were helping Lawrence in obtaining assistance through the Kansas Department of Social and Rehabilitation Services to ensure Lawrence could refill his medications, and applying for a case manager for Lawrence through KETCH.

A week later, Lawrence arrived at the parole office in a panic because he had used up his 20-ride bus card that his parole office had given him. He also wanted shoes. The parole officer provided another seven-day bus ride card and reminded Lawrence of the community resources

available for items such as clothing and shoes. The parole officer was able to calm Lawrence who was advised to visit the parole office if he needed to talk to someone.

The parole office was again called by Comcare staff a week later. This time, Lawrence was in the Comcare office threatening to harm himself if staff did not contact his case manager. Lawrence said he wanted to go back to prison but staff were eventually able to calm Lawrence.

The next day Lawrence made an unscheduled visit to see his parole officer. He did not want to talk about his actions the day before. However, he said he wanted money. The parole office again tried to convince Lawrence to sign his Social Security paperwork to start his benefits. However, Lawrence refused. Lawrence had been continually refusing for some unknown reason. Lawrence then left for Comcare.

Comcare continued to have issues with Lawrence who had attended only six of 29 scheduled sessions. Lawrence also was not participating in the sessions when he did attend. Comcare staff reported that Lawrence was walking in to offices without knocking and asking security staff to share food with him. He would ask other people in the office for money or food and talk so loudly that he interfered with the receptionist's work. Comcare staff stated that they would have to look for alternate day activities for Lawrence.

That same day, Lawrence's parole officer was called to Comcare. Lawrence was angry and was throwing chairs in the lobby. Lawrence told his parole officer that he wanted to go back to prison. He said he no longer wanted to attend his group sessions or take his medications. Comcare had called the police and were pressing charges because Lawrence had exhibited similar behavior a couple of years prior at Comcare.

Six weeks after his release to supervision, Lawrence was incarcerated for violating his parole. During his incarceration, an override was approved for Lawrence to no longer be managed as a sex offender. By September 2009, Lawrence was again preparing for release to supervision and again, facility staff had difficulty finding a place for Lawrence to live upon his latest release.

Eventually facility staff were able to find a Wichita nursing home which agreed to house Lawrence. However the day before he was to be released, the nursing home declined to accept Lawrence, and re-entry staff learned that Lawrence had to be transported to Sedgwick County Jail on a detainer. The detainer was related to Lawrence's damage to property at Comcare during his previous release.

Facility staff worked late into the evening and eventually found a nursing home in Topeka that would accept Lawrence. To keep his placement, Topeka re-entry staff had to work quickly to develop Lawrence's medication list, a CARE assessment that the nursing home required before residency, and calm the concerns of nursing home staff about Lawrence. The nursing home, Countryside Health Care Center stated it had attempted to work with Lawrence in previous years. Donnie Hibler, a re-entry case manager with extensive experience working with the special needs population, agreed to take Lawrence's case despite not having pre-release meetings with Lawrence.

At the same time, Lawrence's parole officer, who also has experience working with special needs populations in Wichita, began working with the Sedgwick Count District Attorney's office to resolve the questions surrounding Lawrence's detainer. Lawrence was given probation and the case would be monitored as part of his parole.

On Lawrence's first day in Topeka, his parole officer took Lawrence home to shop for clothes and shoes. The parole officer dropped off Lawrence at a gas station near the parole officer's parents' home. The parole officer then drove to ask his mother for a pair of his father's size 15 shoes. When the parole officer returned, Lawrence was smoking a cigarette he had fished out of the trash. The pair discussed how unhealthy his actions were and discussed how Lawrence should not panhandle for money or cigarettes. The pair went shopping for clothes but they were unable to find socks and underwear that were large enough to fit Lawrence.

Two days later, Lawrence was in jail. Lawrence had begun cutting himself, throwing pool table balls, tossing his clothes in his room and destroying patio equipment. He was mad because he did not want to take his medications and felt that he was not being fed enough. He also wanted cigarettes.

Valeo Behavioral Health Care agreed to screen Lawrence while he was in jail. Lawrence then voluntarily committed himself for placement at Osawatomie State Hospital. His parole officer transported Lawrence to the hospital.

The hospital later notified the parole officer that Lawrence would be held by the hospital on an involuntary commitment order because of his behavior.

At the end of September 2009, Countryside agreed to screen Lawrence to see if the nursing home would take him back.

I. Kathryn

Having first received psychological services at age two, Kathryn has an extensive history of violence and hospitalizations. Kathryn was adopted when she was two weeks old and began exhibiting attachment issues by her second birthday. She was hospitalized for mental health concerns four times while in high school.

Kathryn spent 30 days at the Johnson County Juvenile Detention Center following a violent outburst in 2003. After dropping out of high school, Kathryn was hospitalized approximately 10 times due to committing extreme violence against family members and others. Kathryn also has documented mental health concerns that cycle between aggression and depression and impulsiveness. Prior to her felony conviction, Kathryn was arrested and held in county jail and juvenile detention centers six times. She was sentenced to the custody of the Department of Corrections in 2005. Kathryn had assaulted a police officer who was responding to an emergency call that involved Kathryn attacking her mother. Kathryn also attacked a corrections officer while in custody in 2006. Kathryn was appointed a legal guardian and was only to contact family members through the guardian following the assault against her mother.

Shortly after Kathryn was admitted to Topeka Correctional Facility (TCF), staff members learned that Kathryn had been writing inmates at Lansing Correctional Facility while in the county jail. Kathryn had given the male inmates directions to her parents' home and provided information as to how to threaten and obtain money from her adoptive parents. Upon arriving at TCF, Kathryn refused to take her mental health medication and got into fights. Kathryn also had episodes where she would punch the walls of her cell while in maximum custody and had an incident where she attacked another inmate. Facility staff met with Kathryn frequently and assisted her in enrolling in facility programming including GED courses, vocational programming and the Pearl Project, a community based arts project.

Kathryn started the re-entry program in July 2008. She participated in case management services, and worked on a mental health relapse prevention plan with reentry staff. Staff worked with Kathryn to examine her thinking processes and the hostile relationship Kathryn had with her family. Kathryn expressed that she has made mistakes and that she had issues with anger and problem solving skills. Family specialist staff also contacted the adoptive family and began engaging the family in the reentry process. Kathryn's family was connected to Victim Services, received family orientation services and family liaison services. Prior to Kathryn's release, her family wrote a letter to Kathryn stating their ability to be a support for Kathryn if she met the family's expectations of behavior. Her reentry case manager met with Kathryn repeatedly to discuss family expectations and family transitioning issues.

Kathryn also was matched with a mentor, who is a professional artist. Prior to her release, Kathryn and her mentor had built a rapport surrounding Kathryn's interest in art. Her mentor and reentry case manager met with Kathryn to discuss safety planning, leisure time, future goals, and family reintegration.

Upon her release in 2009, Kathryn resided at the Topeka Rescue Mission and began the Topeka Moving Ahead Program (TMAP). Kathryn's parole officer and her mentor worked

with Kathryn to secure a safety plan on where to go when the rescue mission became too stressful and identified pro-social activities to participate in during her free time. Kathryn attended TMAP daily and obtained an internship at Helping Hands through her participation in the TMAP program. Kathryn was evaluated for mental health services in the community but the evaluation showed no need for additional mental health services.

Her parole officer, family specialist and Victim Services staff continued to keep the family informed of Kathryn's progress and behaviors in the community. Due to Kathryn remaining violation free and maintaining mental health stability, Kathryn was able to participate in a family visit three months following her release.

The twenty-four year old successfully graduated the TMAP program in June 2009. Kathryn has continued her relationship with her mentor, who is now one of her main supports in addition to her family and friends. Kathryn and her mentor meet weekly to discuss what is happening in Kathryn's life and attend pro-social events in the community. Kathryn also was referred to vocational rehabilitation services to assist her with developing employment possibilities.

She has been accepted into the vocational rehabilitation program and plans to attend graphic design school at Kaw Valley Technical School in 2010. Kathryn's internship at Helping Hands also led to a full-time position with the organization which offers a competitive wage and health insurance.

Kathryn has been in the community for seven months. She has had several incidents of antisocial thinking and sometimes reverts back to old thinking patterns. When these incidents have occurred, Kathryn has called her parole officer and her mentor immediately.

Kathryn calls her parole officer to discuss stressful situations. Two months after Kathryn moved into the rescue mission, a former inmate, the same inmate Kathryn attacked during her incarceration, came to the mission for a community dinner. The female approached Kathryn and began taunting her to finish the fight that was started in the facility. Kathryn removed herself from the dining hall and advised mission staff. When the mission staff did not remove the female from the property, Kathryn left the dining hall and called her parole officer on her work cell phone as it was a Friday night. Kathryn and her parole officer talked about the incident and the choices Kathryn could make regarding what to do about the female. Kathryn also called her mentor and discussed her agitation and options. Kathryn decided to return to her room and did not continue the confrontation. The following day Kathryn went to the police station and filed a police report about the incident. On subsequent incidents when Kathryn was in contact with the same female, Kathryn took the same steps to remove herself from the incident: call her parole officer, call her mentor and process her options.

Since her release to supervision, Kathryn has been violation free. She moved in to an apartment in September 2009. She has continued family meetings that are arranged through her parole officer and she completed the re-entry program in September 2009. Kathryn will continue under supervision until her sentence discharges in 2011.

C&JJ Oversight
Attachment 8
10-28-29-09

Table 1: Approximate Remittances of District Court Fines, Penalties, and Forfeitures pursuant to KSA 74-7336

Agency	Fund	Purpose of Fund	Percent of Total Remittance	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Attorney General	Crime Victims Compensation Fund	Payment of compensation pursuant to KSA 74-7301 et seq., and amendments thereto, and for state operations of the crime victims compensation board.	11.99%	$ 2,310,958	$ 2,427,342	$ 2,505,793	$ 2,548,005	$ 2,480,564	$ 2,444,537
Attorney General	Crime Victims Assistance Fund	Grants for on-going operating expenses of victim assistance programs. (KSA 74-7334).	2.45%	472,214	495,996	512,026	520,652	506,871	499,509
Attorney General	Children's Advocacy Center Fund	Operating expenditures of children's advocacy centers in the state that are eligible for funding pursuant to law.	0.12%	23,129	24,294	25,079	25,501	24,826	24,466
Corrections, Department of	Department of Corrections Alcohol and Drug Abuse Treatment Fund	Alcohol and drug abuse treatment programs for Department of Corrections inmates.	2.01%	387,408	406,919	420,070	427,147	415,841	409,802
Emergency Medical Services Board	EMS Revolving Fund	Financially assist EMS agencies and organizations purchase EMS equipment and vehicles, and to assist in education and training.	2.50%	481,851	506,118	522,476	531,277	517,215	509,703
Health and Environment - Health, Department of	Trauma Fund	Development of a statewide trauma system including the establishment of an Advisory Committee of Trauma.	2.50%	481,851	506,118	522,476	531,277	517,215	509,703
Social and Rehabilitation Services, Department of	Community Alcoholism and Intoxication Programs Fund	Provide financial assistance to community-based alcoholism and intoxication treatment programs (KSA 41-1126).	3.01%	580,149	609,366	629,061	639,658	622,727	613,683
Transportation, Department of	Traffic Records Enhancement Fund	Enhancing and upgrading the traffic records systems in the state	2.50%	481,851	506,118	522,476	531,277	517,215	509,703
Wildlife and Parks, Department of	Boating Fee Fund	Operating expenditures in Administration program, Law Enforcement program, Parks program, and some capital improvements.	0.17%	32,766	34,416	35,528	36,127	35,171	34,660
	State General Fund		72.75%	14,021,867	14,728,036	15,204,040	15,460,165	15,050,960	14,832,368
	Total District Court Fees Remitted		100.00%	$ 19,274,044	$ 20,244,722	$ 20,899,024	$ 21,251,086	$ 20,688,605	$ 20,388,135

Office of Revisor of Statutes

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MEMORANDUM

To: JCCJJO

From: Sean Ostrow, Assistant Revisor

Date: October 28, 2009

Subject: Disposition of district court fines for drug and alcohol treatment

Committee Members and Staff,

The following bills show the necessary changes in district court fine allocation required to fund the therapeutic communities in prison, 7.83%, and DUI alcohol treatment, 8.51%. Based on the current projections, these percentage increases will amount to roughly the $1,163,646 necessary to fund the therapeutic communities, and the $1.3 million necessary to fund the DUI alcohol treatment program.

2010 9rs1208

HOUSE BILL NO. ____

By Representative Colloton

AN ACT relating to the disposition of district court fines, penalties and forfeitures and the funding of the alcohol and drug abuse treatment fund; amending K.S.A. 2009 Supp. 74-7336 and repealing the existing section.

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

Section 1. K.S.A. 2009 Supp. 74-7336 is hereby amended to read as follows: 74-7336. (a) Of the remittances of fines, penalties and forfeitures received from clerks of the district court, at least monthly, the state treasurer shall credit:

(1) 11.99% to the crime victims compensation fund;

(2) 2.45% to the crime victims assistance fund;

(3) 3.01% to the community alcoholism and intoxication programs fund;

(4) ~~2.01%~~ 8.51% to the department of corrections alcohol and drug abuse treatment fund;

(5) 0.17% to the boating fee fund;

(6) 0.12% to the children's advocacy center fund;

(7) 2.50% to the EMS revolving fund;

(8) 2.50% to the trauma fund;

(9) 2.50% to the traffic records enhancement fund; and

(10) the remainder of the remittances to the state general fund.

(b) The county treasurer shall deposit grant moneys as provided in subsection (a), from the crime victims assistance fund, to the credit of a special fund created for use by the county or district attorney in establishing and maintaining programs to aid witnesses and victims of crime.

Sec. 2. K.S.A. 2009 Supp. 74-7336 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

2010 9rs1207

HOUSE BILL NO. ____

By Representative Colloton

AN ACT relating to the disposition of district court fines, penalties and forfeitures and the funding of the alcohol and drug abuse treatment fund; amending K.S.A. 2009 Supp. 74-7336 and repealing the existing section.

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(10)

Mental Health Courts

A Primer for Policymakers and Practitioners

BJA Bureau of Justice Assistance

JUSTICE CENTER
THE COUNCIL OF STATE GOVERNMENTS

C&JJ Oversight
Attachment 10
10-28 & 29-09

Mental Health Courts
A Primer for Policymakers and Practitioners

A report prepared by the
Council of State Governments Justice Center
Criminal Justice/Mental Health Consensus Project
New York, New York

for the

Bureau of Justice Assistance
Office of Justice Programs
U.S. Department of Justice

JUSTICE CENTER
THE COUNCIL OF STATE GOVERNMENTS

BJA Bureau of Justice Assistance

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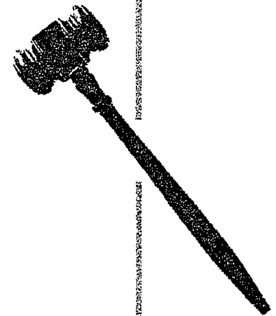


Acknowledgments

A great many people contributed to the development of this publication. Daniel Souweine, a Project Director with the Council of State Governments Criminal Justice Program (now the Justice Center), was the principal author of early drafts of the guide. Over a three-year period, he drew on the extensive knowledge gained through his visits and meetings with numerous mental health court professionals and lengthy conversations with a broad array of experts in the field to make this guide a reality.

He was given valuable insights and suggestions by fellow staff member Denise Tomasini, a Senior Policy Analyst who for many years spearheaded the Justice Center's work on courts and mental health. Policy Analyst Lauren Almquist and Director of Communications Martha Plotkin helped bring the document to completion by incorporating the views of Dr. Fred Osher, Director of Health Systems and Services Policy, and others to ensure the timeliness and practicality of the primer. Thanks are also due to Elizabeth Hurwit, who edited the final version of the document.

Subject matter experts Judge Stephanie Rhoades, of the Anchorage District Court; Henry J. Steadman, President of Policy Research Associates; and Carol Fisler, Director of Mental Health Court Programs at the Center for Court Innovation, reviewed drafts and provided direction that made this guide a more useful and informative product. Their contributions are truly appreciated. Recognition is also owed to the many court practitioners who hosted visits and engaged in interviews. Any value this guide has in the field is largely due to their generous contributions of ideas and recommendations.

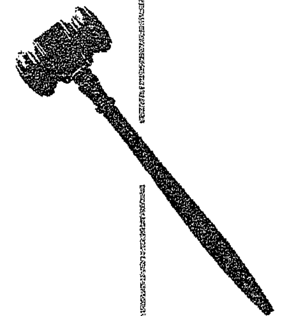
The Council of State Governments Justice Center board and staff also thank those individuals at the Bureau of Justice Assistance, U.S. Department of Justice, who have provided guidance and support for this project and ushered the publication through the many tiers of helpful reviews, particularly Domingo S. Herraiz, Director; A. Elizabeth Griffith, Deputy Director for Planning; Robert Hendricks, former Acting Senior Policy Advisor for Substance Abuse and Mental Health; Michael Guerriere, former Senior Policy Advisor for Substance Abuse and Mental Health; Ruby Qazilbash, Senior Policy Advisor for Substance Abuse and Mental Health; and Rebecca Rose, Policy Advisor for Substance Abuse and Mental Health.

Introduction

Mental health courts have spread rapidly across the country in the few years since their emergence. In the late 1990s only a handful of such courts were in operation; as of 2007, there were more than 175 in both large and small jurisdictions.[1]

If this recent surge in popularity is any indicator, many more communities will consider developing a mental health court in the coming years. This guide is intended to provide an introductory overview of this approach for policymakers, practitioners, and advocates, and to link interested readers to additional resources.

The guide addresses a series of commonly asked questions about mental health courts:



- Why mental health courts?
- What is a mental health court?
- What types of individuals participate in mental health courts?
- What does a mental health court look like?
- What are the goals of mental health courts?
- How are mental health courts different from drug courts?
- Are there any mental health courts for juveniles?
- What does the research say about mental health courts?
- What issues should be considered when planning or designing a mental health court?
- What resources can help communities develop mental health courts?

Why Mental Health Courts?

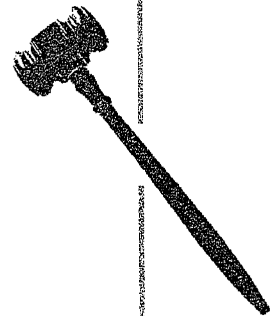
Mental health courts are one of many initiatives launched in the past two decades to address the large numbers of people with mental illnesses involved in the criminal justice system. While the factors contributing to this problem are complicated and beyond the scope of this guide, the over-representation of people with mental illnesses in the criminal justice system has been well documented:[2]

- Prevalence estimates of serious mental illness in jails range from 7 to 16 percent, or rates four times higher for men and eight times higher for women than found in the general population.[3]
- A U.S. Department of Justice study from 1999 found that half of the inmates with mental illnesses reported three or more prior sentences.[4] Other research indicates that people with mental illnesses are more likely to be arrested than those without mental illnesses for similar crimes and stay in jail and prison longer than other inmates.[5]
- In 1999, the Los Angeles County Jail and New York's Rikers Island jail held more people with mental illnesses than the largest psychiatric inpatient facilities in the United States.[6]
- Nearly two-thirds of boys and three-quarters of girls detained in juvenile facilities were found to have at least one psychiatric disorder, with approximately 25 percent of these juveniles experiencing disorders so severe that their ability to function was significantly impaired.[7]

Without adequate treatment while incarcerated or linkage to community services upon release, many people with mental illnesses may cycle repeatedly through the justice system. This frequent involvement with the criminal justice system can be devastating for these individuals and their families and can also impact public safety and government spending. In response, jurisdictions have begun to explore a number of ways to address criminal justice/mental health issues, including mental health courts, law enforcement–based specialized response programs, postbooking jail diversion initiatives, specialized mental health probation and parole caseloads, and improved jail and prison transition planning protocols. All of these approaches rely on

extensive collaboration among criminal justice, mental health, substance abuse, and related agencies to ensure public safety and public health goals.

Mental health courts serve a significant role within this collection of responses to the disproportionate number of people with mental illnesses in the justice system. Like drug courts and other "problem-solving courts," after which they are modeled, mental health courts move beyond the criminal court's traditional focus on case processing to address the root causes of behaviors that bring people before the court.* They work to improve outcomes for all parties, including individuals charged with crimes, victims, and communities.



*Drug courts have been particularly instrumental in paving the way for mental health courts. Some of the earliest mental health courts arose from drug courts seeking a more targeted approach to defendants with co-occurring substance use and mental health disorders.

What Is a Mental Health Court?

Despite the recent expansion of mental health courts, there are not yet nationally accepted, specific criteria for what constitutes such a court. Although some initial research identified commonalities among early mental health courts, the degree of diversity among programs has made agreement on a core definition difficult.[8] Mental health courts vary widely in several aspects including target population, charge accepted (for example, misdemeanor versus felony), plea arrangement, intensity of supervision, program duration, and type of treatment available. Without a common definition, national surveys developed on mental health courts have relied primarily on self-reported information to identify existing programs.[9]

The working definition that follows distills the common characteristics shared by most mental health courts. The Justice Center worked with leaders in the field to also develop consensus on what these characteristics should look like and how they can be achieved, as documented in *The Essential Elements of a Mental Health Court.**

A Working Definition of a Mental Health Court

A mental health court is a specialized court docket for certain defendants with mental illnesses that substitutes a problem-solving model for traditional criminal court processing. Participants are identified through mental health screening and assessments and voluntarily participate in a judicially supervised treatment plan developed jointly by a team of court staff and mental health professionals. Incentives reward adherence to the treatment plan or other court conditions, nonadherence may be sanctioned, and success or graduation is defined according to predetermined criteria.[10]

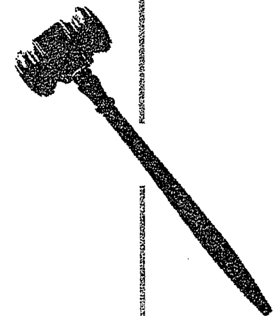
---

*As the commonalities among mental health courts continue to emerge, practitioners, policymakers, researchers, and others have become interested in developing consensus not only on what a mental health court is but on what a mental health court should be. *The Essential Elements of a Mental Health Court* describes 10 key characteristics that experts and practitioners agree mental health courts should incorporate. Michael Thompson, Fred Osher, and Denise Tomasini-Joshi, *Improving Responses to People with Mental Illnesses: The Essential Elements of a Mental Health Court* (New York, NY: Council of State Governments Justice Center, 2008), www.consensusproject.org/mhcp/essential.elements.pdf.

What Types of Individuals Participate in Mental Health Courts?

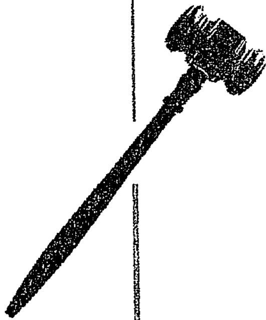
The majority of mental health court participants suffer from serious mental illnesses. Mental illness is a general term that includes a range of psychological disorders. A subset of serious mental illnesses is severe and persistent mental illness. This includes conditions that involve long-term and profound impairment of functioning—for example, schizophrenia, schizoaffective disorder, bipolar disorder (formerly called manic depression), severe depression, and anxiety disorders. In addition to describing level of functioning, most states also use criteria for "severe and persistent" to prioritize access to public mental health services.

Some mental health courts accept individuals with a broader array of disabling conditions than mental illness alone. While developmental disabilities, traumatic brain injuries, and dementias are not included in federal statutory and regulatory definitions of serious mental illness, they may be the cause of behavioral problems that result in criminal justice contact and may also co-occur with serious mental illnesses. Each mental health court determines how flexible to be on eligibility requirements and, when screening an individual who does not precisely fit standard criteria, whether to accept participants on a case-by-case basis. Working with individuals who have needs that fall outside the typical mental health service continuum requires additional partnerships with other community agencies, and so acceptance decisions are based, in part, on an individual's ability to benefit from a court intervention given these clinical and system capacity considerations. All individuals must be competent before agreeing to participate in the program.



Although addictive disorders are considered mental illnesses and are included in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders,* their diagnosis, treatment interventions, and providers differ from those for nonaddictive mental illnesses. Nevertheless, the majority of people with mental illnesses involved with the criminal justice system—approximately three out of four—also suffer from a co-occurring substance use disorder.[11] As a result, mental health courts must address this population and treat both mental health and substance use disorders in a comprehensive and integrated fashion. The vast majority of mental health courts accept individuals with co-occurring disorders, and some courts even seek out this population, but few mental health courts accept defendants whose only mental disorders are related to substance use.

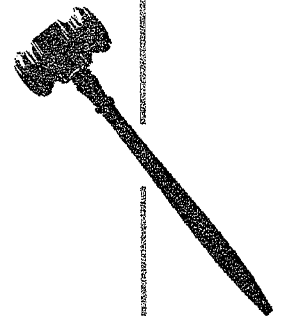
The prevailing belief in the scientific community is that mental disorders, both addictive and nonaddictive, are neurobiological diseases of the brain, outside the willful control of individuals. People with mental illnesses cannot simply decide to change the functioning of their brain. As with physical illnesses, it is believed that mental disorders are caused by the interplay of biological, psychological, and social factors. This acknowledged lack of control contributes to the belief that mental health courts, which rely on treatment and flexible terms of participation rather than the traditional adversarial system, represent a more just way for courts to adjudicate cases involving people with mental illnesses. Nevertheless, entering a mental health court does not negate individuals' responsibility for their actions. Mental health courts promote accountability by helping participants understand their public duties and by connecting them to their communities.



What Does a Mental Health Court Look Like?

The enormous variability in mental health court design and operation has led some observers to note that "if you have seen one mental health court, you have seen one mental health court." Nevertheless, while great variety exists, mental health courts share several core characteristics. What follows is a description of one mental health court in action that reflects some of these central features, the "essential elements."

Every Wednesday afternoon, County Courthouse Room 13 assumes a mental health docket. The courtroom team (judge, defense attorney, prosecutor, probation officer, court coordinator, and case manager) has already met for several hours to discuss the people who will be appearing that day.



The first individuals before the bench are those entering the court for the first time. They have already undergone basic screening for program eligibility, had their mental health needs assessed, and been given a description of the mental health court program. The judge explains why they have been offered the opportunity to participate and describes the court's procedures. She asks if they want to enter the program and whether they fully understand the terms of participation. Those who agree to participate (the majority) are welcomed into the court.

After the new participants have been admitted, the court proceeds with status hearings for current program participants. The judge inquires about their treatment regimens, and publicly congratulates those who received positive reviews from their case managers and probation officers at the staff meeting. One participant receives a certificate for completing the second of four phases of the court program. The judge hands down sanctions of varying severity to individuals who have missed treatment appointments—tailored to the needs of each participant. The judge also informs several participants that certain privileges they had hoped to obtain will be withheld because of their misconduct over the past two weeks. Throughout the status hearings, conversation remains informal and individualized, often relaxed. Observers unfamiliar with mental health court procedures may be uncertain of what they are witnessing, but they will be sure of one thing: this is not a typical courtroom.

In the following days, the mental health court team will work to develop a service plan for each new participant to connect him or her quickly to community-based mental health treatment and other supports. Those individuals who have declined to participate will return to the original, traditional court docket.

What Are the Goals of Mental Health Courts?

At their heart, mental health courts represent a response to the influx of people with mental illnesses into the criminal justice system. They seek to use the authority of the court to encourage defendants with mental illnesses to engage in treatment and to adhere to medication regimens to avoid violating conditions of supervision or committing new crimes. Unlike some programs that divert individuals from the justice system and merely refer them to community service providers, mental health courts can mandate adherence to the treatment services prescribed, and the prospect of having charges reduced or dismissed provides participants with additional incentives.

Communities start mental health courts with the hope that effective treatment will prevent participants' future involvement in the criminal justice system and will better serve both the individual and the community than does traditional criminal case processing. Within this framework, mental health court planners and staff cite specific program goals, which usually fall into these categories:

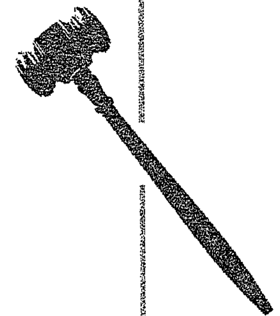
- Increased public safety for communities—by reducing criminal activity and lowering the high recidivism rates for people with mental illnesses who become involved in the criminal justice system
- Increased treatment engagement by participants—by brokering comprehensive services and supports, rewarding adherence to treatment plans, and sanctioning nonadherence
- Improved quality of life for participants—by ensuring that program participants are connected to needed community-based treatments, housing, and other services that encourage recovery
- More effective use of resources for sponsoring jurisdictions—by reducing repeated contacts between people with mental illnesses and the criminal justice system and by providing treatment in the community when appropriate, where it is more effective and less costly than in correctional institutions

How Are Mental Health Courts Different from Drug Courts?

Drug courts are the best known and most widespread of the various problem-solving court models and have in many ways served as a prototype from which mental health courts have evolved. The high rate of co-occurring mental health and substance use disorders among individuals in the criminal justice system also suggests significant overlap in the target populations of these related court programs. In fact, in some jurisdictions, the inability of the local drug court to effectively manage individuals with serious mental illnesses precipitated the development of a mental health court.

Important differences remain in the principles and operation of drug courts and mental health courts; mental health courts are not merely drug courts for people with mental illnesses.[12] Although little research has been conducted comparing drug courts and mental health courts, it is already clear that jurisdictions interested in building on the experiences of their drug courts to develop a mental health court will need to adapt the model in significant ways to accommodate individuals with mental illnesses.

The majority of the differences listed below stem from the fact that mental illness, unlike drug use, is, in and of itself, not a crime; mental health courts admit participants with a wide range of charges, while drug courts focus on drug-related offenses. Also, whereas drug courts concentrate on addiction, mental health courts must accommodate a number of different mental illnesses, and so there is greater variability among treatment plans and monitoring requirements for participants than in drug courts.



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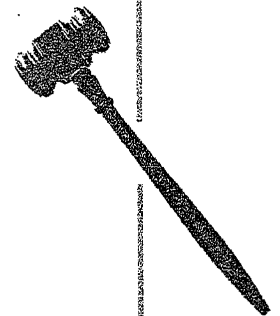
Key Differences between Drug Courts and Mental Health Courts

PROGRAM COMPONENT	DRUG COURTS . . .	MENTAL HEALTH COURTS . . .
Charges accepted	Focus on offenders charged with drug-related crimes	Include a wide array of charges
Monitoring	Rely on urinalysis or other types of drug testing to monitor compliance	Do not have an equivalent test available to determine whether a person with a mental illness is adhering to treatment conditions
Treatment plan	Make treatment plans structured and routinized; apply sanctioning grid in response to noncompliance, culminating with brief jail sentence	Ensure that treatment plans are individualized and flexible; adjust treatment plans in response to nonadherence along with applying sanctions; rely more on incentives; use jail less frequently
Role of advocates	Feature only minimal involvement from advocacy community	Have been promoted heavily by some mental health advocates, who are often involved in the operation of specific programs; other mental health advocates have raised concerns about mental health courts, either in general or in terms of their design
Service delivery	Often establish independent treatment programs, within the courts' jurisdiction, for their participants	Usually contract with community agencies; require more resources to coordinate services for participants
Expectations of participants	Require sobriety, education, employment, self-sufficiency, payment of court fees; some charge participation fees	Recognize that even in recovery, participants are often unable to work or take classes and require ongoing case management and multiple supports; few charge a fee for participation

Are There Any Mental Health Courts for Juveniles?

The development of mental health courts for juveniles began several years after the emergence of adult programs. In 2001 Santa Clara, California, became the first jurisdiction to use this strategy to address the large numbers of youth with mental health needs involved with the juvenile justice system.[13] A number of other juvenile mental health courts have since been catalogued, and as of 2007 the National Center for Mental Health and Juvenile Justice (NCMHJJ) had identified 18 juvenile mental health courts in operation. An additional 20 jurisdictions indicated they were either considering or actively planning a juvenile mental health court.[14] The small number of juvenile mental health courts does not in any way reflect an infrequency of mental illnesses among youth in the juvenile justice system. In fact, the percentage of individuals with mental illnesses is just as significant in the juvenile justice system as in the adult system, if not more so.

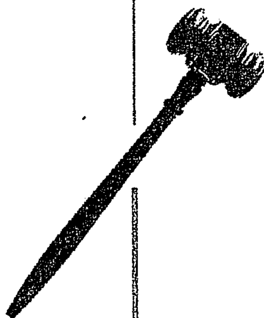


Given that the juvenile mental health courts have developed more slowly than adult mental health courts, less is known about their operation and effectiveness. NCMHJJ's study of juvenile mental health courts has revealed that many different models exist; nevertheless, like adult courts, several themes characterize these courts:

- They work best when part of a larger comprehensive plan that incorporates other elements, such as diversion and treatment, to address the mental health needs of these youth.
- The majority use a postadjudication model, although several function at the preadjudication stage.
- Most juvenile mental health courts accept youth who have committed either felonies or misdemeanors; however, many have broad discretion in determining whether to include youth who have committed very serious felonies.
- They vary on which mental health diagnoses to focus on when identifying participants, with some accepting youth with any mental health disorder, others including only youth with certain serious disorders, and still others concentrating on youth with co-occurring mental health and substance use disorders.[15]

10-15

Juvenile mental health courts offer many of the same benefits as adult programs. They also confront many of the same operational problems, but because of their participants' status as minors, juvenile mental health courts also must address an additional layer of challenges and tasks. These include identifying developmental issues that affect cognition, behavior, and the potential effectiveness of mental health treatment; working with parents and guardians; and involving a larger number of other systems, including the education and foster care systems.

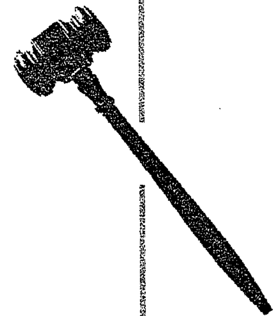


What Does the Research Say about Mental Health Courts?

Research on mental health courts can be divided into two main types: studies assessing court operations (process evaluations) and studies assessing court effectiveness (outcome evaluations). Given the short tenure of most mental health courts, the greatest volume of research examines court operations and the way in which participants flow through the various programs.

Process evaluations

Process evaluations completed as of 2007 confirm that all mental health courts have some commonalities, but there are also some important differences. One of the few comparative studies, which looked at seven mental health courts' operations, found there were differences between early mental health courts and more recently developed ones, deemed "second-generation courts."[16] According to this study, while procedures varied greatly from court to court, the newer courts were more likely to share these elements:



- They consider defendants charged with felonies, as opposed to only misdemeanors, for acceptance into the program.
- They allow only postplea program enrollment, which means that the time from jail admission to program enrollment is usually longer.
- They rely more heavily on criminal justice staff, as opposed to community treatment providers, to monitor and supervise participants.
- They use jail more regularly to sanction nonadherence to court orders.[17]

These findings were published in 2004, and since then many of the "first-generation" courts have expanded the charges and pleas they accept. It is also not uncommon for new courts that would be labeled as second generation to begin as misdemeanor programs. Nevertheless, these general trends illustrate that as mental health courts become more commonplace and accepted, planning groups have more opportunities to focus on higher-risk populations than when mental health courts first emerged.

Outcome evaluations

In addition to describing mental health court operations generally, several studies have evaluated individual mental health courts and their impact on a range of participant and system outcomes. Their findings suggest the following:

- Mental health court participation resulted in comparatively fewer new bookings into jail and greater numbers of treatment episodes compared with the period prior to program participation.[18]
- Participants were significantly less likely to incur new charges or be arrested than a comparison group of individuals with mental illnesses who did not enter the mental health court program.[19]
- Participation increased the frequency of treatment services, as compared with involvement in traditional criminal court.[20]
- Mental health court participants improved their independent functioning and decreased their substance use compared with individuals who received treatment through the traditional court process.[21]
- Participants spent fewer days in jail than their counterparts in the traditional court system.[22]
- Mental health court participants reported more favorable interactions with the judge and perceived that they were treated with greater fairness and respect than in traditional court.[23]

Researchers have also begun to explore the fiscal impact of mental health courts. A recent study by the RAND Corporation assessed the Allegheny County Mental Health Court in Pennsylvania.[24] The study found that the program did not result in substantial added costs, at least in the short term, over traditional court processing for individuals with serious mental illnesses. The findings also suggested that over the longer term, the mental health court may actually result in net savings for the government.*

In assessing the impact of mental health courts, it is important to note that these findings draw on a handful of studies, many of which look at individual programs and so cannot be generalized. Furthermore, research has not yet explored how changes in a mental health court's program elements or procedures affect outcomes. A comparative study of outcomes across different mental health courts has yet to be completed.[25]

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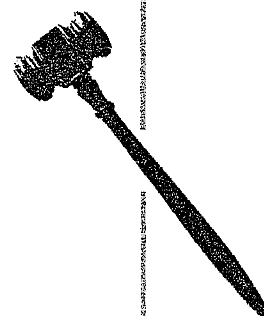
*This savings projection is based on an analysis of the anticipated costs associated with incarceration and utilization of the most expensive mental health treatment (hospitalization) and the expectation that mental health court participation would reduce both of the above.

What Issues Should Be Considered When Planning or Designing a Mental Health Court?

Fueled by emerging data on the utility of mental health courts, the popularity of problem-solving courts in general, and the desire to respond to a deep-rooted social problem, jurisdictions will likely continue to launch mental health courts in the coming years. Policymakers and practitioners interested in establishing or enhancing mental health courts should consider some important issues related to the formation and design of these courts.



Practicality in local context

Mental health courts may be impractical in some jurisdictions, either because of jurisdiction size and insufficient staff and resources or because of local resistance to problem-solving courts.[26] Accordingly, communities considering the development of a mental health court should also investigate the array of other court-based strategies being employed across the country, including postbooking jail diversion programs, specialized dockets within existing court structures, mental health–specific probation caseloads, and improved training for court personnel.

Limited data

As the previous section indicates, while only limited research has been completed, the available studies indicate that mental health courts may have more positive outcomes for people with mental illnesses than traditional criminal court processing. More research is nevertheless needed to compare different mental health court practices and evaluate outcomes across programs. Jurisdictions planning a mental health court should build data collection and evaluation into their program operations, so that the court will eventually be able to conduct its own basic data analyses.

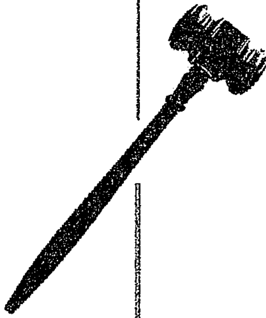
Effect on overall service capacity

Though mental health courts have arisen in part because of the inadequate treatment services and resources in community mental health systems, implementing a program does not usually result in expanded service capacity.

Instead, mental health court staff works within the existing framework of local resources and treatment providers. As a result, if mental health courts are effective in linking their participants with services, they can actually reduce the availability of treatment options for people with mental illnesses outside the criminal justice system. To avoid disadvantaging individuals in the community, therefore, mental health court administrators, other criminal justice professionals, and mental health and substance use treatment providers should ensure the availability of services for all people with mental illnesses and work collaboratively to fill gaps in the treatment system.

Need for a continuum of response strategies

Some communities have developed mental health courts without considering alternatives across the criminal justice continuum. In these communities mental health courts might be viewed as the only strategy needed to improve outcomes for people with mental illnesses in the justice system, when in fact no single initiative can address the driving factors behind this problem. Focusing solely on mental health courts can also lead to a lack of coordination with law enforcement–based diversion programs, drug courts, reentry programs, and other initiatives at the intersection of the criminal justice, mental health, and substance use systems. Without cooperation among different criminal justice/mental health programs, limited resources cannot be shared and efforts may be duplicated. To avoid these pitfalls, policymakers and practitioners should work together to coordinate responses to their shared clientele.



Integration with traditional case processing

Regardless of their effectiveness, mental health courts alone cannot respond to the vast numbers of people with mental illnesses who enter the criminal justice system. Traditional court officials must adopt the principles and policies at the core of mental health courts to ensure that these approaches are not limited to the small number of individuals who enter specially tailored programs. Accordingly, traditional court judges and administrators should strive toward three goals: making training available to all court personnel on mental health issues; integrating mental health information into pretrial and presentence reports and responses to violations of community supervision conditions; and improving collaboration among all criminal justice agencies and mental health and substance use treatment systems.

Design considerations

Many complex issues related to mental health court design and implementation deserve greater scrutiny. For example, mental health court practitioners and observers differ on the types of participants mental health courts should

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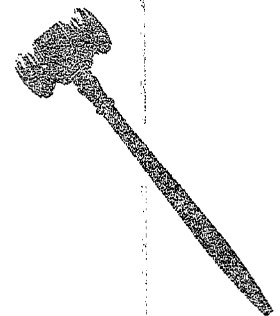
accept, the plea agreements courts should offer, appropriate program length, and how program success should be measured. Readers interested in these issues should consult this guide's companion document, *A Guide to Mental Health Court Design and Implementation* (www.consensusproject.org/mhcp/info/mhresources/pubs).



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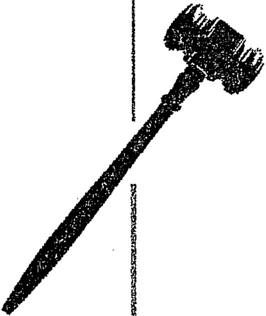
What Resources Can Help Communities Develop Mental Health Courts?

Jurisdictions interested in developing a mental health court can benefit from a range of resources and documents offering support.

Federal grant support

Although many mental health courts emerged as community-level responses to locally identified problems, they have also been supported at the federal level.



- *Justice and Mental Health Collaboration Program*

  In 2004, Congress authorized the creation of the Justice and Mental Health Collaboration Program (JMHCP).[27] This program strives to increase public safety by facilitating collaboration among the criminal justice, juvenile justice, mental health treatment, and substance use systems and to improve access to effective treatment for people with mental illnesses involved with the criminal justice system.

  The JMHCP does not exclusively support mental health courts; nevertheless, of the 27 grantees selected in 2006 and the 26 selected in 2007, approximately one-third have focused on court-related initiatives. Congress appropriated $5 million for both 2006 and 2007 and increased appropriations to $10 million for the program in 2008.

  The JMHCP is administered by the Bureau of Justice Assistance (BJA).[28] At this writing, technical assistance is provided to the grantees by the Justice Center, as well as the Pretrial Justice Institute and the National Association of Counties (NACO).[29]

  To learn more about the JMHCP and grantees, see www.consensusproject.org/jmhcp.

- *Targeted Capacity Expansion Program*

  In addition to funds from criminal justice agencies, mental health courts have also received support from federal health agencies, namely, the Substance Abuse and Mental Health Services Administration (SAMHSA).

  Since 2005, SAMHSA has supported several mental health courts directly through its Targeted Capacity Expansion (TCE) program.[30] The

Technical Assistance and Policy Analysis (TAPA) Center for Jail Diversion provides technical assistance to TCE grantees.[31]

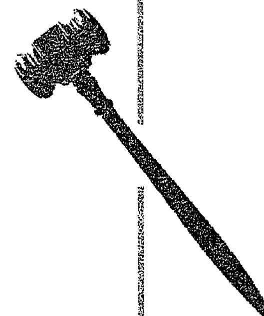
State grant support

Several states have developed broad programmatic support to address the prevalence of people with mental illnesses in the criminal justice system. As with the JMHCP, these grant dollars can be used for mental health courts. Such programs can be found in California and Florida, and many states are considering similar proposals.

- *Mentally Ill Offender Crime Reduction Grant Program (California)*

  The California Mentally Ill Offender Crime Reduction (MIOCR) program seeks to (1) support the implementation and evaluation of county efforts to increase access to community-based services and supports, (2) facilitate successful transitions from incarceration to the community, and (3) reduce recidivism among both adults and juveniles with mental illnesses involved with the criminal justice system.

  In 2006, 44 grants were awarded to 28 different counties, totaling $44.6 million. Many of these counties have used the funding to plan or improve mental health court programs. Nearly $30 million was appropriated for MIOCR in 2007. For more information, see www.cdcr.ca.gov/Divisions_Boards/CSA/CPP/Grants/MIOCR/MIOCRG.html.



- *Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program (Florida)*

  In 2007, the Florida Substance Abuse and Mental Health Corporation announced the availability of $3.8 million under the newly created Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program. In 2008, planning or implementation grants were given to counties to develop initiatives to improve public safety, avoid an increase in spending on criminal and juvenile justice, and better connect individuals with mental health or substance use disorders who are involved with the criminal justice system to treatment. More information can be found at www.samhcorp.org/RFA/index.htm.

In addition to federal and state grants, a number of other resources are available to jurisdictions interested in planning a mental health court.

BJA mental health court learning sites

Besides its work with the Justice and Mental Health Collaboration Program, BJA has designated five mental health courts as learning sites to provide a

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peer support network for local and state officials interested in planning a new—or improving upon an existing—mental health court:

- Akron Municipal Mental Health Court (Ohio)
- Bonneville County Mental Health Court (Idaho)
- Bronx County Mental Health Court (New York)
- Dougherty Superior Court (Georgia)
- Washoe County Mental Health Court (Nevada)

These courts serve as a resource for jurisdictions across the country looking to develop or refine their approach to individuals with mental illnesses. Since each mental health court has a unique set of policies and procedures, the learning sites program allows jurisdictions to observe different models and the flexibility needed to tailor a program to a specific community. The learning sites also work with the Justice Center, the technical assistance provider for this program, to assess and improve their own court operations and to develop tools for the mental health court field.

The five learning sites are indeed representative of the great variability in mental health court models. For example, the Bronx County Mental Health Court started with only felony charges and began accepting misdemeanors in 2007, whereas the Akron Municipal Mental Health Court has continually focused on misdemeanor charges. Similarly, the Bonneville County Mental Health Court serves a rural jurisdiction and averages approximately 35 participants at a time, whereas the Washoe County Mental Health Court—located in a more urban area—has an estimated 200 people under its supervision at a given time. As a dual mental health court and drug court, the Dougherty Superior Court uses a different program model than all of the other learning sites. Interested jurisdictions are encouraged to visit the learning site most similar to the program model envisioned or to contact several or all of the courts to compare their models and processes.[32]

Policy guides

As part of the Mental Health Court Program and with support from BJA, the Justice Center has produced a number of practical policy guides to aid mental health courts across the country. The following publications explore in more depth a number of issues and lessons presented in this primer. They can be found at www.consensusproject.org/mhcp/info/mhresources/pubs.[33]

- *The Essential Elements of a Mental Health Court*
- *A Guide to Mental Health Court Design and Implementation*
- *A Guide to Collecting Mental Health Court Outcome Data*
- *Navigating the Mental Health Maze*

Web resources

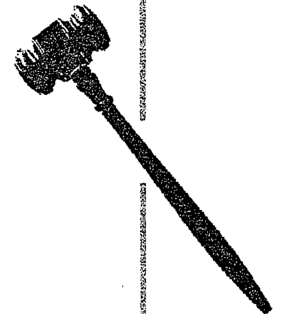
The Consensus Project website, which the Justice Center maintains, is a helpful place to begin exploring criminal justice/mental health issues or gathering information on mental health courts. The homepage can be found at www.consensusproject.org, and the following web pages also provide relevant information.

- *Consensus Project Report*

  The landmark *Criminal Justice/Mental Health Consensus Project* report, a comprehensive discussion of the involvement of people with mental illnesses in the criminal justice system, from before arrest to after reentry from prison or jail, is available at www.consensusproject.org/the_report. A chapter of the report has been dedicated to issues that must be considered when looking at possible court-based strategies.

- *Mental Health Court Web Page*

  Within the Consensus Project website, the Justice Center maintains a page specifically for mental health courts, www.consensusproject.org/mhcp/. Many of the publications described above can be found on this page, as well as information on the learning sites and other relevant materials and websites.



- *Criminal Justice/Mental Health Information Network*

  A number of relevant mental health court resources can be found on the Criminal Justice/Mental Health Information Network (InfoNet) website, www.cjmh-infonet.org, an online database that provides a comprehensive inventory of collaborative criminal justice/mental health activity across the country and serves as a platform for peer-to-peer networking.

  At this writing, the InfoNet contains approximately 175 mental health court profiles, which are added to the site once a court fills out a survey about its program. Viewers can sort by type of program (in addition to courts, the InfoNet contains information on law enforcement, corrections, and community support programs) or by state to find the mental health courts closest to them. Users can also get a sense of the type of model these courts follow, the participants and charges they accept, and how long they have been up and running. The InfoNet also contains information on mental health court research, as well as relevant media articles.[34]

- *JMHCP Web Page*

  Grantees and nongrantees alike can find useful resources on the JMHCP web page, www.consensusproject.org/jmhcp. JMHCP provides access to

grantee snapshots and technical assistance resources, as well as links to detailed program profiles for each grantee represented on the InfoNet.

- *Center for Court Innovation Website*

  The Center for Court Innovation, which helps courts and criminal justice agencies aid victims, reduce crime, and improve public trust in criminal justice, has worked extensively with mental health courts. Relevant publications are available on its website, www.courtinnovation.org.

- *National Center for State Courts Website*

  The National Center for State Courts (NCSC) strives to improve the administration of justice through leadership and service to state courts and courts around the world. The NCSC website contains a number of materials for specialty courts, including mental health courts, which can be found at www.ncsconline.org.

- *National Drug Court Institute Website*

  Readers interested in learning more about drug courts should visit the website of the National Drug Court Institute (NDCI), www.ndci.org. NDCI promotes education, research, and scholarships for drug court and other court-based intervention programs.

- *National GAINS Center Website*

  The National GAINS Center works to collect and disseminate information about effective mental health and substance abuse services for people with co-occurring disorders involved with the justice system. Within the GAINS Center, the TAPA Center for Jail Diversion focuses on policies related to jail diversion, and both GAINS and TAPA resources can be found at www.gainscenter.samhsa.gov.

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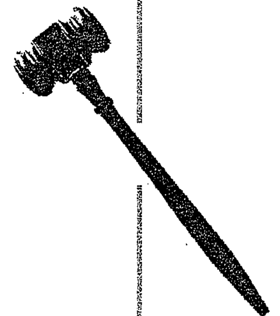
Notes

1. The Justice Center catalogues mental health court programs on its Criminal Justice/Mental Health Information Network (InfoNet) website: www.cjmh-infonet.org.

2. For a comprehensive discussion, see the *Criminal Justice/Mental Health Consensus Project* report (New York, NY: Council of State Governments, 2002).

3. Paula M. Ditton, *Special Report: Mental Health and Treatment of Inmates and Probationers* (Washington, DC: U.S. Department of Justice, 1999). *The Prevalence of Co-occurring Mental and Substance Use Disorders in Jails* (Delmar, NY: National GAINS Center, 2002). Revised Spring 2004. L. Teplin, K. Abram, and G. McClelland, "Prevalence of Psychiatric Disorders among Incarcerated Women: Pretrial Jail Detainees," *Archives of General Psychiatry* 53 (1996): 505–512. A study released by the Bureau of Justice Statistics in 2006 (*Mental Health Problems of Prison and Jail Inmates*) found that more than half of all prison and jail inmates studied reported having mental health "problems," a measure that had not been used previously.



4. Paula M. Ditton, *Special Report: Mental Health and Treatment of Inmates and Probationers* (Washington, DC: U.S. Department of Justice, 1999), www.ojp.usdoj.gov/bjs/pub/pdf/mhtip.pdf.

5. Linda Teplin, *Keeping the Peace: Police Discretion and Mentally Ill Persons* (Washington, DC: U.S. Department of Justice, 2000). Fox Butterfield, "Asylums behind Bars: A Special Report: Prisons Replace Hospitals for the Nation's Mentally Ill," *New York Times*, March 5, 1998, section A, p.1.

6. E. F. Torrey, "Reinventing Mental Health Care," *City Journal* 9, no. 4 (1999), www.city-journal.org/html/9_4_a5.html.

7. L. Teplin, K. Abram, G. McClelland, M. Dulcan, and A. Mericle, "Psychiatric Disorders in Youth in Juvenile Detention," *Archives of General Psychiatry* 59 (2002): 1133–1143. Jennie L. Shufelt and Joseph J. Cocozza, *Youth with Mental Health Disorders in the Juvenile Justice System: Results from a Multi-state, Multi-system Prevalence Study* (Delmar, NY: National Center for Mental Health and Juvenile Justice, 2006).

8. John Goldkamp and Cheryl Irons-Guynn, "Emerging Judicial Strategies for the Mentally Ill in the Criminal Caseload: Mental Health Courts in Fort Lauderdale, Seattle, San Bernardino, and Anchorage" (Washington, DC: U.S. Department of Justice, 2000). Henry J. Steadman, Susan Davidson, and Collie Brown, "Mental Health Courts: Their Promise and Unanswered Questions," *Psychiatric Services* 52 (2001): 457–458.

9. The Council of State Governments Justice Center, with support from the National Alliance on Mental Illness and the National GAINS Center, developed three annual surveys on mental health courts between 2004 and 2006.

10. Adapted by Henry J. Steadman from Henry J. Steadman, Susan Davidson, and Collie Brown, "Mental Health Courts," *Psychiatric Services* 52 (2001): 457–458.

11. Linda Teplin and Karen Abram, "Co-occurring Disorders among Mentally Ill Jail Detainees: Implications for Public Policy," *American Psychologist* 46, no. 10 (1991): 1036–1045.

12. John Petrila, Norman G. Poythress, Annette McGaha, and Roger A. Boothroyd, "Preliminary Observations from an Evaluation of the Broward County Mental Health Court," *Court Review* (Winter 2001): 14–22.

13. Joseph J. Cocozza and Jennie L. Shufelt, *Juvenile Mental Health Courts: An Emerging Strategy* (Washington, DC: National Center for Mental Health and Juvenile Justice, 2006).

14. Ibid., with updated numbers from personal correspondence with Jennie Shufelt, September 5, 2007.

15. Ibid.

16. A. Redlich, H. Steadman, J. Monahan, J. Petrila, and P. Griffin, "The Second Generation of Mental Health Courts," *Psychology, Public Policy, and Law* (2004): 527–538.

17. Ibid.

18. E. Trupin, H. Richards, D. Werthheimer, and C. Bruschi, *Seattle Municipal Court, Mental Health Court: Evaluation Report* (Seattle, WA: City of Seattle, 2001). M. J. Cosden, J. Ellens, J. Schnell, and Y. Yamini-Diout, *Evaluation of the Santa Barbara County Mental Health Treatment Court with Intensive Case Management* (Santa Barbara, CA: Gevirtz Graduate School of Education, 2004). H. A. Herinckx, S. C. Swart, S. M. Ama, C. D. Dolezal, and S. King, "Rearrest and Linkage to Mental Health Services among Clients of the Clark County Mental Health Court Program," *Psychiatric Services* 56 (2005): 853–857.

19. Dale E. McNiel and Renee L. Binder, "Effectiveness of a Mental Health Court in Reducing Criminal Recidivism and Violence," *American Journal of Psychiatry* 164 (2007): 1395–1403. M. Moore and V. Aldige Hiday, "Mental Health Court Outcomes: A Comparison of Re-arrest and Re-arrest Severity between Mental Health Court and Traditional Court Participants," *Law and Human Behavior* 164 (2006): 1395–1403.

20. R. Boothroyd, N. Poythress, A. McGaha, and J. Petrila, "The Broward Mental Health Court: Process, Outcomes, and Service Utilization," *International Journal of Law and Psychiatry* 26 (2002): 55–71.

21. M. Cosden, J. Ellens, J. Schnell, Y. Yasmeen, and M. Wolfe, "Evaluation of a Mental Health Treatment Court with Assertive Community Treatment," *Behavioral Sciences and the Law* 21 (2003): 415–427.

22. Boothroyd, Poythress, McGaha, and Petrila, "The Broward Mental Health Court."

23. Ibid.

24. M. Susan Ridgely et al., *Justice, Treatment, and Cost: An Evaluation of the Fiscal Impact of Allegheny County Mental Health Court* (Santa Monica, CA: RAND Corporation, 2007).

25. At this writing, Policy Research Associates is working on such a study, which is being funded by the John D. and Catherine T. MacArthur Foundation and is projected to be published in 2010.

26. For information on how to build political support and assess whether mental health courts are appropriate for a community, see the Criminal Justice/Mental Health Consensus Project's *Essential Elements of a Mental Health Court* (www.consensusproject.org/mhcp/info/mhresources/pubs).

27. The Justice and Mental Health Collaboration Program was authorized through the Mentally Ill Offender Treatment and Crime Reduction Act (MIOTCRA). This program replaced the Mental Health Court Program, which funded 37 mental health court initiatives over the course of 2002–2004.

28. BJA is a component of the Office of Justice Programs, U.S. Department of Justice, and the former administrator of the Mental Health Court Program. BJA provides leadership, funding, training, and technical assistance to states, local governments, and other justice and prevention agencies to reduce crime, violence, and drug abuse and improve the functioning of the criminal justice system.

29. The Justice Center coordinates the Criminal Justice/Mental Health Consensus Project, a national effort to help local, state, and federal policymakers and criminal justice and mental health professionals improve the response to people with mental illnesses involved in the criminal justice system. Through the Consensus Project, the Justice Center works closely with

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BJA on a number of criminal justice/mental health issues and served as the technical assistance provider for the Mental Health Court Program. For more information on the Consensus Project and technical assistance opportunities, see www.consensusproject.org. For more information on the Pretrial Justice Institute and NACO, see their respective websites: www.pretrial.org and www.naco.com.

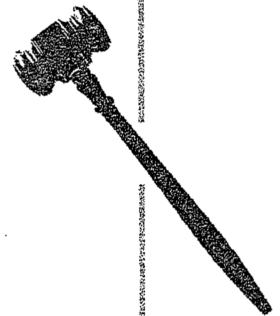
30. SAMHSA originally coordinated the TCE Jail Diversion Program with BJA's Mental Health Court Program and helped to provide technical assistance to the grantees, but mental health courts were not eligible to apply directly for TCE grants until 2005. The TCE program is intended to expand the community's ability to provide a comprehensive, integrated response to substance use treatment capacity issues and to improve the quality of services.

31. For more information on TAPA, see www.gainscenter.samhsa.gov/html/tapa/cmhs/role.asp.

32. For more information on BJA mental health court learning sites, see www.consensus project.org/mhcp/.

33. Hard copies of all of these policy guides can be requested from the Justice Center.

34. The Justice Center coordinates the InfoNet and developed it with assistance from key partners, namely, the National GAINS Center, the National Alliance on Mental Illness (NAMI), and the Police Executive Research Forum (PERF). The InfoNet is made possible through the support of BJA, National Institute of Corrections (NIC), Office for Victims of Crime (OVC), SAMHSA, the Center for Mental Health Services (CMHS), and the John D. and Catherine T. MacArthur Foundation.



The Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, provides leadership training, technical assistance, and information to local criminal justice agencies to make America's communities safer. Read more at www.ojp.usdoj.gov/BJA/.

The Council of State Governments Justice Center is a national nonprofit organization serving 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. Read more at www.justicecenter.csg.org.

The Criminal Justice/Mental Health Consensus Project is an unprecedented national effort coordinated by the Justice Center to improve responses to people with mental illnesses who become involved in, or are at risk of involvement in, the criminal justice system. Read more at www.consensusproject.org.

Improving Responses to People with Mental Illnesses

The Essential Elements of Specialized Probation Initiatives

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Improving Responses to People with Mental Illnesses

The Essential Elements of Specialized Probation Initiatives

A report prepared by the
Council of State Governments Justice Center

for the

National Institute of Corrections,
U.S. Department of Justice,
Federal Bureau of Prisons

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Fred C. Osher, M.D.

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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.

This report is informed by, and builds on, two previous *Essential Elements* publications for court and law enforcement specialized responses to people with mental illnesses (available at *www.consensusproject.org*).

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- Ms. Carole Carothers, *Executive Director, NAMI Maine**
- Dr. Valerie Chakedis, *Director of Diversion, Re-Entry and Community Education, New York State Office of Mental Health**
- Mr. Bryan Crocker, *Assistant District Attorney, Mecklenburg County (NC)**
- Ms. Cheryl Frenette, *Probation Supervisor (Ret.), Denver (CO) Adult Probation Department**
- Ms. LaVerne Miller, *Senior Project Associate, Policy Research Associates**
- Hon. Brent Moss, *Judge, Bonneville County (ID) Mental Health Court**
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- Dr. Geraldine Nagy, *Director, Travis County (TX) Adult Probation Department**
- Mr. Dave Norman, *Staff Attorney, Public Defender Service, Mental Health Division, District of Columbia**
- Mr. Jeff Walters, *President and CEO, Rushford Center (CT) and Secretary-Treasurer, National Council for Community Behavioral Healthcare**

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Introduction

Probation officers across the country—already facing staggeringly large caseloads and expanding workloads—are supervising unprecedented numbers of people with mental illnesses, most of whom have co-occurring substance use disorders. This population has extensive treatment and service needs and requires supervision strategies that traditional probation agencies were not designed to provide.[1] Probation supervision, however, represents a crucial window of opportunity to link people with mental illnesses to treatments and services that can help them avoid rearrest and reincarceration and ultimately become contributing members of their communities. But all too often this opportunity is missed: people with mental illnesses are nearly twice as likely as others under supervision to have their community sentence revoked, deepening their involvement in the criminal justice system.[2] These revocation rates also confirm what many probation administrators and community treatment providers already know to be true—that inadequate or inappropriate responses to this group can heighten risks to individual and public safety, miss crucial public health opportunities, and make inefficient use of taxpayer dollars.

As a growing number of communities grapple with implementing specialized probation responses, there is a commensurate demand for more information on the key components, or elements, that communities should consider and address to successfully implement such an initiative. This report articulates 10 essential elements for *all* probation interventions that involve people with mental illnesses, regardless of the particular program model. The elements are intended to provide practitioners and policymakers with a common framework for designing and implementing an initiative that will achieve positive outcomes while being sensitive to every jurisdiction's distinct needs and resources.

About the Problem

The reasons why increasingly large numbers of people with mental illnesses become entrenched in the criminal justice system generally, and the probation system specifically, are complex and involve multiple systemic and individual factors.[3] It is clear, however, that once people with mental illnesses are under probation supervision, it can be extremely difficult for them to succeed in the community. This difficulty may be linked to their mental illnesses in a number of ways:

- They might be unable to access treatment, decompensate, and then be arrested for disturbing or dangerous public behavior;
- Functional impairments may make it difficult for them to comply with standard conditions of release, such as maintaining employment and paying fines;

1. Some portions of this document draw heavily from the Justice Center's *Improving Outcomes for People with Mental Illnesses under Community Corrections Supervision: A Guide to Research-Informed Policy and Practice* (New York: Council of State Governments Justice Center, 2009), which was developed on a parallel track.
2. Dauphinot, L. "The Efficacy Of Community Correctional Supervision For Offenders With Severe Mental Illness" (PhD. diss., University of Texas at Austin, 1996); Skeem, J., and J. E. Louden, "Toward Evidence-based Practice for Probationers and Parolees Mandated to Mental Health Treatment," *Psychiatric Services* 57 (2006); Porporino, F. J., and L. Motiuk, "The Prison Careers of Mentally Disordered Offenders," *International Journal of Law and Psychiatry* 18 (1995): 29–44; Messina, N., W. Burdon, G. Hagopian, and M. Prendergast. "One Year Return to Custody Rates among Co-disordered Offenders," *Behavioral Sciences and the Law* 22 (2004): 503–18.
3. To learn more about the overrepresentation of people with mental illnesses in the criminal justice system, see Council of State Governments. Criminal Justice/Mental Health Consensus Project (New York: Council of State Governments. June 2002), http://consensusproject.org/the_report.

- Their federal benefits (in particular, Medicaid coverage of pharmacy costs), which were probably terminated rather than suspended upon incarceration, were not reinstated immediately upon release;
- They often have unaddressed risk factors associated with criminal behavior and increased public safety concerns, such as antisocial peers or attitudes;
- Probation officers may monitor them exceptionally closely and report technical violations readily because they mistakenly believe that people with mental illnesses are more likely to be violent.

Compounding these challenges, traditional probation supervision strategies and techniques may make it even more difficult for people with mental illnesses to succeed in the community. Some agencies may view their role solely as monitors of compliance and not consider that addressing their supervisees' complex treatment and service needs can be integral to maintaining public safety and reducing recidivism. In some jurisdictions, challenges to supervising this population (for example, the increased time and energy this group frequently requires) may be perceived as disincentives for probation officers to keep people with mental illnesses on their caseloads. In such jurisdictions, the traditional probation response contributes to poor outcomes for these individuals.

From the perspective of over-burdened probation officers, the complicated circumstances and comprehensive needs of people with mental illnesses can represent a nearly insurmountable challenge. Officers' caseloads can reach into the hundreds, and their workloads (for example, the number of supervision conditions for which they must ensure compliance) have also increased. They typically do not receive the resources or training to collaborate with community-based treatment providers, monitor individuals' compliance with

Pre-Trial Release

There are a variety of pre-trial interventions that avoid court-ordered supervision for people with mental illnesses when appropriate. In these circumstances, the criminal justice and mental health systems can collaborate before an individual with mental illness is convicted of an offense, so that conviction and sentencing are not the mechanisms that trigger linkages to appropriate treatments and services. Successful adherence to the terms of these pre-trial interventions (which often include mandated treatment) can then result in reduced or dismissed charges. For example, police-based responses can link people with mental illnesses to treatment without processing charges. Mental health courts can supervise conditions of release without corrections involvement.

In many cases, probation agencies may be involved with pre-trial services. Probation officers may help monitor the conditions of pre-trial release for people with mental illnesses who are charged with minor offenses and who prosecutors, attorneys, and judges agree should not become further involved with the criminal justice system. Pre-trial programs that involve probation agencies are beyond the scope of this document, but the authors encourage policymakers to consider these and other "front-end" interventions that prevent an appropriate subset of individuals from becoming entrenched in the criminal justice system altogether.

For further reading on these and related issues, please see *Improving Responses to People with Mental Illnesses: The Essential Elements of a Specialized Law Enforcement-Based Program* and *Improving Responses to People with Mental Illnesses: The Essential Elements of a Mental Health Court* available at *http://consensusproject.org*.

treatment, and watch for potentially harmful or dangerous behaviors.[4] From the perspective of equally over-burdened mental health treatment providers, coordinating both the legal and clinical issues of people with mental illnesses under probation supervision presents a challenge—made even more daunting by the large number of clients without justice involvement competing for the same scarce resources.

Specialized Probation Responses

Many community corrections officials and their counterparts in the mental health system understand that their target populations—and their public safety and public health missions—overlap, and that the need for new approaches has never been greater. Across the country, a growing number of probation officials are working with law enforcement officers, jail and prison administrators, judges, prosecutors, defense attorneys, and community-based treatment providers to develop strategies that maintain public safety while improving outcomes for people with mental illnesses under probation supervision.

This heterogeneous group often faces a variety of challenges. They face clinical conditions, functional impairments, socioeconomic challenges, and criminal charges or convictions of varying severity, and they pose different degrees of risk to public safety. Probation strategies and interventions designed to improve outcomes for this diverse group are therefore wide-ranging and can be spearheaded by probation systems, community-based mental health systems, or collaboratively by both systems. The essential elements outlined in this document apply to specialized probation responses to people with mental illnesses that are delivered in any of these three ways, but focus primarily on initiatives in which participants have been adjudicated and sentenced to participate, with conditions, in a specialized probation initiative after or in lieu of a jail term.

About the Elements

Each of the 10 essential elements contains a short statement (in italics) describing criteria that specialized probation initiatives should meet in order to be effective, followed by an explanation

Generalizing from Specialized Probation to Parole

This document focuses squarely on locally administered probation responses to people with mental illnesses; however, it may have utility for those interested in specialized parole or other types of community supervision. Individuals with mental illnesses under parole supervision have much in common with those under probation supervision. Both groups share similar challenges to reentry and may even compete for the same limited resources. In some jurisdictions the same community corrections officers provide supervision for both populations. Nevertheless, there are issues unique to parole populations and parole responses that this document does not explicitly address.

For information on strategies to improve outcomes for all individuals on parole (not people with mental illnesses specifically), please see Solomon, A. L., Jenny W. L. Osborne, Laura Winterfield, Brian Elderbroom, Peggy Burke, Richard P. Stroker, Edward E. Rhine, and William D. Burrell. *Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes.*

4. See Policy Statement 22, Council of State Governments Justice Center. *Criminal Justice/Mental Health Consensus Project Report* (New York: Council of State Governments Justice Center, 2002).

of the element's importance and how its principles can be achieved. All of the elements rest on two key assumptions. First, each element depends on meaningful collaboration among professionals in the criminal justice and mental health systems. Although achieving the requisite level of collaboration is often difficult—particularly when faced with long-standing systemic or cultural barriers—successful partnerships are needed to carry out each element. Second, probation represents only one "intercept point" for individuals with mental illnesses who have been in contact with law enforcement, courts, jails, and, in some cases, prisons. To address problems raised by the large number of people with mental illnesses in the criminal justice system, a comprehensive community- and system-wide strategy in which specialized probation interventions play only one part is required. Therefore, such an initiative's impact on other components of the criminal justice and community mental health systems must be considered during the planning and implementation process.

This report is meant to guide agents of change in communities that want to develop a specialized probation intervention. As such, it can be used as a practical planning tool at each stage of the process (designing the initiative, developing or enhancing policies and procedures, monitoring practices, and conducting evaluations).[5] It can also be used by personnel from seasoned, long-standing initiatives to improve the organization and functioning of an existing effort. The *Essential Elements* is intended to be a "living document" that will be updated or supplemented as specialized probation responses mature, incorporating new research findings that can provide a stronger base of knowledge about how these initiatives can best operate, their impact on the community, and the relative importance of each of the essential elements.

Methodology

The essential elements are based on information from a variety of sources, including the experiences of probation officials, mental health professionals, advocates, and consumers of mental health services, as well as a review of the scholarly and policy literature. A panel of national experts composed of policymakers and practitioners guided early drafts of this document. They also gathered at an advisory meeting in September 2008 to review, discuss, and debate each element in depth. Comments and suggestions from the advisory meeting and from subsequent reviews by other national experts, are reflected in this publication.

5. Although this document is intended to assist in the design and implementation of programmatic interventions for people with mental illnesses under probation supervision, there may be state legislative or statutory issues that policymakers must address before such programs can be effectively developed. For more information on improving community corrections at the state level, including full provisions and suggested language for legislation, please see The Public Safety Performance Project of the Pew Center on the States. *Policy Framework to Strengthen Community Corrections* (Washington: The Pew Charitable Trusts, 2008).

The Essential Elements

1

COLLABORATIVE PLANNING AND ADMINISTRATION

A multidisciplinary committee of elected and appointed officials, agency administrators and their staffs, treatment providers, consumers of mental health services, and other community stakeholders—representing the criminal justice, mental health, substance use treatment, and social service systems—work together to articulate the goals and objectives of the specialized probation initiative and guide the design, implementation, and oversight of the initiative.

Specialized probation responses to people with mental illnesses occur at the intersection of the criminal justice, mental health/substance use treatment, and social service systems. Their planning and implementation should reflect extensive collaboration among policymakers and practitioners from each of these fields who have the authority to implement significant changes in their agencies' policies, procedures, funding, and staffing. A planning committee should be convened by an official (or officials) with the respect and stature to encourage these changes.[6]

People with mental illnesses under probation supervision have been in contact with law enforcement, courts, and/or jails. Their mental illnesses may be known to these agencies, either from self-reporting or through screening and assessment procedures. A judge, in consultation with prosecutors and defense attorneys, likely determined the conditions of their supervision. Community-based providers may have treated many of these individuals and appropriately shared information about their diagnoses, psychotropic medications, and treatment plans with court, jail, and probation staff. For others, contact with the criminal justice system may be the first time they have been assessed as having a mental illness and linked to community treatment and support services. Because the operation of a specialized probation response is linked so closely with the operations of these and other agencies and systems, the planning committee should include—at minimum—probation agency directors and officers, jail administrators/sheriffs, jail staff, judges, pre-trial services staff, prosecutors, defense attorneys, law enforcement officials, mental health and substance use treatment agency directors and case workers, and individuals with mental illnesses and their family members.

In addition to this core group, the planning committee should include advocates, victims of crime committed by people with mental illnesses, housing agencies, and other community stakeholders to reflect and integrate broader efforts

6. This element can be adapted to well-established, operational initiatives whose planning has long since concluded. If the planning process for such programs did not initially consider aspects of this element, program administrators are encouraged to adapt the element to the ongoing oversight and administration of their initiative.

to improve outcomes for people with mental illnesses involved in the criminal justice system.

The composition of the planning committee raises two critical issues that each community must resolve in its own way. First, there are key local and state agencies in every jurisdiction whose absence from the initial planning process may complicate all subsequent activities. Second, and conversely, in many jurisdictions there may be key stakeholders who present obstacles to collaborative efforts, even when included in the planning process from the beginning. Resolving these issues requires strong leadership and effective tactics that will differ by locale. If obstacles arise from the competing interests of different stakeholders (for example between the public defenders and prosecutors), tackling these issues, identifying shared goals, and devising appropriate compromises can actually strengthen collaborations—and initiative design—in the end.

The planning committee should examine the particular issues facing its community; identify clear, specific, and measurable goals and objectives to address them; and consider how they will measure (and others will evaluate) their progress. This will entail early consideration of key process and outcome data (see Element 10). Committee members, in collaboration with other partners, should also assess gaps in services and identify mechanisms to address them. In so doing, the committee should also determine how it will relate to other criminal justice/mental health boards or task forces that may already exist at the local and state levels.

The next step is to develop processes for determining the initiative's clinical and legal eligibility criteria, supervision conditions, and treatment/service linkages. It should also develop a review process to ensure the policies and procedures of all relevant agencies and organizations are consistent with the goals and objectives of the specialized probation response.[7]

The planning committee should also identify the lead agency or agencies that will administer the initiative's day-to-day activities, train probation officers and community treatment providers, measure the initiative's progress toward achieving stated goals, and resolve ongoing challenges to effectiveness. Administrators should report back regularly to the planning committee, which can advise on adjustments to the initiative's policies, procedures, and operations where appropriate, and assist in keeping key policymakers, the media, and the community-at-large informed of initiative costs, developments, and progress.

To overcome challenges inherent in cross-system collaboration, including staff turnover and leadership changes, policies and procedures should be institutionalized to the greatest extent possible. Interagency memoranda of understanding (MOUs) can be developed to address key issues such as which resources each organization will commit and what information can be shared through identified mechanisms.

7. For example, a jail policy of providing only three days' worth of an individual's medications upon release might be inconsistent with a program goal of ensuring continuity of care from incarceration to community supervision.

2 DEFINING, IDENTIFYING, AND ASSESSING A TARGET POPULATION

Criminal justice and mental health agencies jointly define legal and clinical eligibility criteria to select a subset of individuals whose placement in limited specialized probation supervision slots will have the biggest impact on public safety, spending, and health. Potential participants are identified at intake to a jail facility and/or upon transition to probation supervision by staff qualified to administer standardized and validated screening instruments, followed by standardized and validated clinical and risk assessment procedures.

Specialized probation responses can accommodate only a small percentage of people with mental illnesses involved in the criminal justice system; they are one intervention within a comprehensive set of strategies to provide law enforcement, court, and corrections systems with options other than arrest, detention, and sentenced supervision for this population. Understood in this broader context, careful consideration must be given to determining eligibility to participate in such initiatives.

Individuals with mental illnesses under community corrections supervision are a heterogeneous group. They pose different degrees of criminogenic risk, determined by the nature of their offense; dynamic factors associated with their attitudes, circumstances, and patterns of thinking; and public safety concerns. These individuals also have a wide range of functional impairments determined in part by diagnoses, disabilities, and circumstances. Criminogenic risk and functional impairment are core components in the design of traditional supervision and treatment strategies, respectively. As such, it follows that the range of specialized supervision and treatment options for this population should be derived from an assessment of these two basic dimensions, and the planning committee must carefully choose a subset of individuals who will be eligible for participation in the specialized probation initiative based on these factors.[8]

Figure 1 illustrates this concept.[9] The chart, derived from similar efforts to organize responses to people with co-occurring mental illnesses and substance use disorders,[10] highlights the central considerations that drive criminal justice and mental health system responses. Although it has not been validated, it provides a conceptual approach for matching supervision and treatment options to varying degrees of criminogenic risk and functional impairment, both of which can range from low (nominal) to high (severe). Figure 1 proposes that the level of response intensity and the degree of coordination/integration between probation and mental health agencies should increase as both criminogenic risk and functional impairment increase.[11] The chart suggests reserving the most resource-intensive specialized

8. This paragraph is adapted from Prins, S. J., and Draper, L. *Improving Outcomes For People With Mental Illnesses Under Community Corrections Supervision: A Guide To Research-Informed Policy And Practice* (New York: Council of State Governments Justice Center, 2009).
9. Ibid.
10. National Association of State Mental Health Program Directors and National Association of State Alcohol and Drug Abuse Directors. *National Dialogue on Co-occurring Mental and Substance Abuse Disorders* (Alexandria, VA and Washington, DC: NASMHPD/NASADAD, 1999).
11. *Coordination* exists when each agency is aware of the other's activities and occasionally shares clinical or legal information

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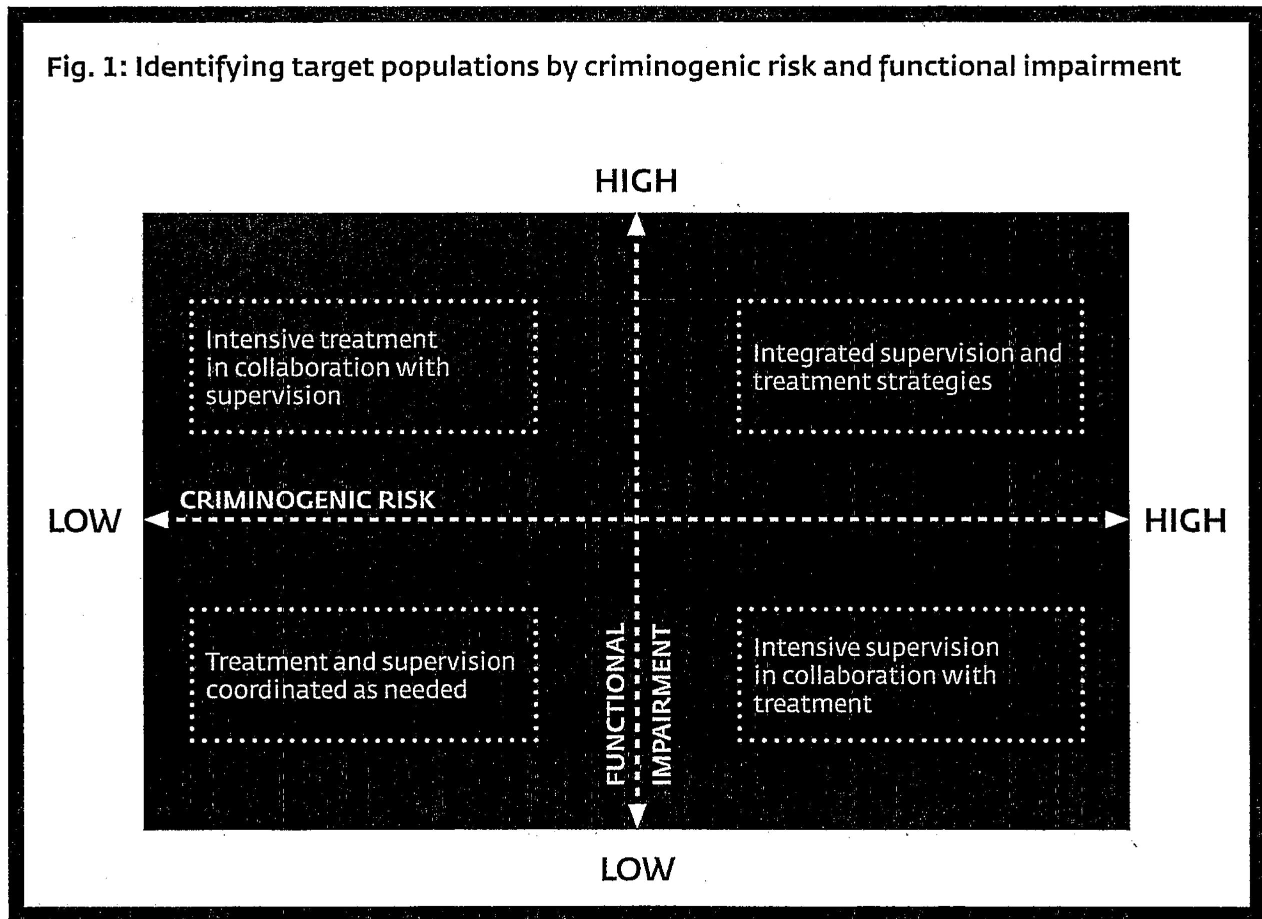
probation packages for those individuals with the highest levels of risk and impairment (that is, the highest risk of recidivism). The chart also assumes that relevant criminal justice and mental health agencies can collect and track data on the different subsets of individuals in their systems to determine which group to focus on based on community-relevant factors (see Elements 3 and 10 for discussions on data collection).

When defining a target population, key considerations should be the availability of treatments and support services in the community, the state's definition of its "priority population" for publicly funded mental health services, and the capacities and competencies of relevant agency staff. These factors help narrow the focus of the initiative to a subgroup of individuals who, when provided effective treatment and supervision, can achieve the greatest public safety and public health outcomes.

Determining which subgroups to include will inevitably be informed by addressing questions about which subgroups to *exclude* from the initiative. These questions, the importance of which should not be underestimated, can take a number of forms: "Is there a certain threshold

Fig. 1: Identifying target populations by criminogenic risk and functional impairment



about particular individuals in contact with both agencies. *Integration* exists when community corrections and mental health agencies develop and implement a single supervision and treatment plan, share responsibility for this supervision and treatment, share staff and other resources, and participate in each other's case staffing. Adapted from Center for Substance Abuse Treatment. *Definitions and Terms Relating to Co-occurring Disorders: COCE Overview Paper 1,* DHHS Publication No. SMA 06-4163 (Rockville, MD: Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, 2006).

of criminogenic risk and functional impairment at which community resources can no longer be effective, or at which political support will evaporate?" "Are there specific charges (for example, sexual offenses) or circumstances (for example, citizenship status) that require different responses?" The planning committee must carefully deliberate about these issues.

Once the planning committee defines the target population based on the key dimensions above, it should ensure that this definition is communicated to the court, jail, probation agency, and community treatment providers—which may have different classification systems, diagnostic categories, and treatment priorities—to encourage collaboration based on a common understanding of the program's goals and who would benefit most from the specialized initiative. Policies and interagency protocols should be in place to ensure all relevant agencies are using similar standardized, validated, and easy-to-administer screening instruments to identify individuals who fit the eligibility criteria.[12] Instruments such as the Brief Jail Mental Health Screen and the Correctional Mental Health Screen are short and accurate and can replace outdated instruments—or be incorporated into existing procedures—with relative ease.[13] Qualified personnel must then use standardized and validated clinical and risk assessment procedures to determine the specific needs of people who "screen positive," and identify the subset of people who meet the initiative's eligibility criteria.

This is not to say that standardized screening and assessment processes create a rigid "scoring rubric" for inclusion or exclusion in the specialized probation initiative. The processes are the objective filters used to identify potential participants. Participation will ultimately be at the discretion of prosecutors, public defenders, judges, probation officials, and community-based treatment providers.

In addition to its obvious impact on the specialized probation initiative's design and implementation, eligibility criteria also play a central role in determining whether the initiative, once operational, is meeting its stated goals and objectives. Focusing on individuals with certain needs and risks can have a differential impact on public safety, public spending, and public health outcomes. For example, using intensive supervision and treatment strategies to target low-risk, low-impairment individuals who have committed minor offenses may actually increase recidivism rates for this population as officers observe minor technical violations that would otherwise go unnoticed.[14] This increased scrutiny may mitigate potential cost savings to the community as supervisees are returned to expensive jail beds; in fact, a focus on a target population with these characteristics may be *more* expensive than the status quo.[15] In contrast, supervising individuals charged with more serious offenses may avert a larger number of jail stays, but may also require more concerted political will to assuage the perceived—but not validated—increase in risk to public safety.

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12. Ideally, jurisdictions would employ electronic jail information systems that can be adapted to code screening categories for mental illnesses and provide monthly reports on the number of people screened into these different groups. This is critical in determining whether adequate resources are available for the specialized probation intervention, and if they are not, determining how to re-focus on a particular group. The probation agency should also ideally have an electronic case tracking system in which key data elements can be captured to identify individuals who have participated in the specialized probation intervention and those who have not. This will allow for process and outcome research to refine the initiative. For many jurisdictions, however, obtaining and implementing advanced electronic information systems is not currently feasible.
13. Goldberg, A. L., and B. R. Higgins. "Brief Mental Health Screening for Corrections Intake," *Corrections Today* August, 2006, http://www.ncjrs.gov/pdffiles1/nij/215592.pdf.
14. Lowenkamp, C., and E. J. Latessa. "The Risk Principle in Action: What Have We Learned from 13,676 Offenders and 97 Correctional Programs?" *Crime and Delinquency* 51 (2006): 1–17, as cited in The Public Safety Performance Project of the Pew Center on the States. *Policy Framework to Strengthen Community Correction.* (Washington: The Pew Charitable Trusts, 2008).
15. Ridgely, M. S., J. Engberg, M. D. Greenberg, S. Turner, C. DeMartini, and J. W. Dembosky. *Justice, treatment, and cost: An evaluation of the fiscal impact of Allegheny County Mental Health Court* (Santa Monica: Rand Corporation, 2007), http://www.rand.org/pubs/technical_reports/TR439/.

3

DESIGNING THE INITIATIVE AND MATCHING INDIVIDUALS TO SUPERVISION AND TREATMENT OPTIONS

The design of the specialized probation initiative is informed by analyses of the target population; the policies and procedures of relevant agencies; and available resources, services, and other supports. The planning committee and initiative administrators identify agency- and systems-level obstacles to effective probation supervision of people with mental illnesses and design the specialized initiative to address these issues.

Participant eligibility criteria should be consistent with the specialized probation initiative's design. There are two broad and related sets of issues that planners and administrators should consider. First, they should determine the most effective combination of treatment and supervision for the criminogenic risks and functional impairments of the initiative's intended target population. Second, they should determine the initiative's participant capacity, that is, its ideal scale, which will largely depend on the fiscal realities and availability of resources in a given community. Decisions regarding these two sets of issues should be well-documented, and limitations should be openly acknowledged.

The first set of issues includes the type and intensity of supervision and treatment that participants will receive, the degree to which probation and mental health agencies coordinate or integrate their responses, and the setting in which supervision and treatment is provided.[16] System-level obstacles such as the availability of case management, integrated substance use and mental health treatment, trauma-specific services, and housing should also be considered as most individuals under probation supervision have multiple issues that require a response including co-occurring disorders,[17] a history of victimization and other trauma,[18] and limited access to stable housing.[19]

16. For example, participants with low criminogenic risk and low functional impairment may require little (or no) supervision and less intensive outpatient mental health treatment. Community corrections and mental health staff may not need to coordinate extensively, dedicate additional resources, or change the setting in which supervision and treatment are provided if both systems are implementing good, routine practices. People with low risk/high impairments or high risk/low impairments may require coordination between probation and mental health staff, but not full-fledged integration. These groups may also require mental health agencies to take the lead and coordinate with probation, or probation agencies to take the lead and coordinate with mental health treatment providers, respectively. Intensive, integrated interventions should be reserved for those with high criminogenic risk and high functional impairment.
17. Lurigio, A. J., I. C. Young, J. A. Swartz, T. P. Johnson, I. Graf, and L. Pickup. "Standardized Assessment of Substance-related, Other Psychiatric, and Comorbid Disorders among Probationers," *International Journal of Offender Therapy and Comparative Criminology* 47 (2003): 630–52; Skeem, J., E. Nicholson, and C. Kregg. March 2008. "Understanding Barriers to Re-entry for Parolees with Mental Disorder. In D. Kroner (Chair), *Mentally disordered offenders: A special population requiring special attention* (Jacksonville: Symposium conducted at the meeting of the American Psychology-Law Society, https://webfiles.uci.edu:443/skeem/Downloads.html.
18. Ditton, P. M. *Mental health and treatment of inmates and probationers* (Washington: Bureau of Justice Statistics, 1999).
19. Ibid.

The planning committee should also review agency-level policy and procedural obstacles to participants' supervision and/or treatment, such as inadequate information-sharing protocols (see Element 9), if they present barriers to appropriate coordination or integration. Furthermore, in some jurisdictions, pre-sentence investigations, level of charge or offense, plea agreements, strict sentencing guidelines, victims' rights statutes, or other laws may dictate specific conditions of supervision, the duration of community supervision, and the impact of successful completion of a community sentence. Planners and administrators should work with relevant officials to adjust these restrictions where appropriate and be clear on issues around which there can be little flexibility for the specialized initiative. If officials cannot be persuaded to remove or modify these sorts of policy and procedural obstacles for the specialized initiative, planners and administrators may need to redefine the initiative's objectives.

The second set of issues, determined in large part by probation and mental health agencies' policies and resources, includes the specialized initiative's capacity—that is, caseload size and composition. The American Probation and Parole Association has explored caseload standards for individuals under probation supervision (but not explicitly for individuals with mental illnesses).[20] In general, the number of individuals an officer supervises should decrease as the overall "case priority" of their roster increases. Furthermore, a national survey found that "specialized caseloads" for people with mental illnesses are smaller than traditional caseloads, averaging fewer than 50 people per probation officer (as compared to more than 100 for traditional caseloads).[21] That said, there is no ideal caseload size. The quality of contacts between probation officers and supervisees has shown to be more important than the quantity of contacts.[22]

Planners need to consider whether caseload composition should be limited only to people with mental illnesses. Officers with smaller caseloads dedicated exclusively to people with mental illnesses can better monitor their supervisees' treatment progress.[23] This is important because recovery from mental illnesses is often a cyclical process; for example, individuals on psychotropic medications who display low criminogenic risk and low functional impairment may become higher risk and more impaired if they stop taking their medications. Officers with small, dedicated caseloads will be better able to detect these sorts of fluctuations and respond in a more targeted, flexible manner than officers with large, mixed caseloads.

If planners do not feel they can design an initiative with appropriate scope and scale due to agency- and systems-level obstacles such as those described above, or general funding and workforce capacity issues, they should reconsider the initiative's eligibility criteria or restrict the number of participants to a pilot project with expansion dependent on outcomes and future resources. All too often a perceived lack of resources can forestall creative planning and problem solving that considers such issues as blending funding sources, sharing staff, identifying in-kind contributions, and public/private/academic partnerships. Planners and administrators are encouraged to be realistic and open about

20. See Burrell, B. *Caseload Standards for Probation and Parole* (Lexington: American Probation and Parole Association, 2006), http://nicic.gov/Library/021896); DeMichele, M. T. *Probation and Parole's Growing Caseloads and Work Allocation: Strategies for Managerial Decision Making* (Lexington: American Probation and Parole Association, 2007), http://www.appa-net.org/eweb/docs/appa/pubs/SMDM.pdf).
21. Skeem, J. L., Paula Emke-Francis, and Jennifer Eno Louden. "Probation, Mental Health, And Mandated Treatment: A National Survey," *Criminal Justice and Behavior* 33 (2006): 158–84.
22. The Public Safety Performance Project of the Pew Center on the States. *Policy Framework to Strengthen Community Corrections* (Washington: The Pew Charitable Trusts, 2008).
23. In small jurisdictions, however, dedicated caseloads may not be practical or feasible. Under these circumstances, the central objective is providing officers with small enough caseloads to dedicate adequate time to people with mental illnesses under their supervision.

resource limitations, but not allow them to hinder exploration of all possible options. Starting small and building on success can be a useful approach.

Although the basic structure of the initiative should be informed by research on effective probation interventions for people with mental illnesses, administrators (with advice from the planning committee) will likely need to make decisions about the integration of treatment and supervision, caseload size and composition, and the duration and intensity of supervision and treatment without the benefit of jurisdiction-specific research. A "systems mapping" process can complement any available research and help identify how people with mental illnesses move through the criminal justice system (arrest, adjudication, incarceration, and reentry), where "bottlenecks" occur, which types of people receive which types of existing treatment/supervision, and where gaps need to be filled.[24] Planners and administrators should assess the jurisdiction's ability to collect and track new data and revise this systems map once the initiative is operational. This information will be critical to initiative sustainability.

24. For more information on systems mapping, please see Munetz, M. R., and P. Griffin. "Use of the Sequential Intercept Model as an Approach to Decriminalization of People with Serious Mental Illness," *Psychiatric Services* 57 (2006): 544–49 or the National GAINS Center at http://gainscenter.samhsa.gov/pdfs/integrating/GAINS_Sequential_Intercept.pdf.

4 SETTING CONDITIONS OF COMMUNITY SUPERVISION

Conditions of community supervision are commensurate with specific criminal charges and offenses, promote public safety, and are clearly enumerated and accurately conveyed to supervisees. Conditions facilitate supervisees' engagement in treatment, are flexible over changing circumstances, and are individualized according to assessments of public safety risk and clinical needs.

Conditions of community supervision are the guideposts for maintaining a law-abiding life and define individuals' responsibilities for successful participation in the specialized probation initiative. During the design process, including the selection of a target population, the planning committee should resolve any of the traditional factors that determine conditions of community supervision (for example, pre-sentence investigations, level of charge or offense, plea agreements, sentencing guidelines, or victims' rights statutes) that conflict with initiative goals. Within the parameters that are ultimately established, the conditions of community supervision should be individualized for each supervisee, and signed by potential participants before they enter the initiative. They should also be made aware of the consequences of noncompliance with these conditions (see Element 7).

Conditions of supervision will likely include adherence to a case plan (that is, a treatment and services plan developed for individuals' transition from jail to the community or upon being sentenced to probation). In many jurisdictions, a judge or prosecutor may make little distinction between supervision conditions and case plans and set both at the same time, without involving probation officers, community-based treatment providers, or other social services personnel. Although conditions of supervision and case plans should inform one another and may ultimately be packaged together for participants, it is vital that any personnel involved in "case staffing" be included in developing each component. Because case plan design must consider the complex and multi-systemic social, economic, and clinical challenges facing people with mental illnesses involved in the criminal justice system, Element 5 is dedicated to a more complete discussion of these issues.

Regardless of whether a jurisdiction makes clear distinctions between supervision conditions and case plans or treats them synonymously, a number of general issues should be considered. First, conditions of supervision should be the least restrictive necessary and reasonably calculated to prevent recidivism or further involvement in the criminal justice system.[25] This is especially true for individuals who pose low risk of future criminal activity; have fewer service or treatment needs; and have been convicted of misdemeanors, ordinance offenses, or other nonviolent crimes. Unlike individuals with higher criminogenic risk, these individuals may require less frequent (or no) contacts with their probation officer. For individuals who have been convicted of more serious offenses, are at greater risk of future criminal activity, and have more

25. Council of State Governments Justice Center. *Criminal Justice/Mental Health Consensus Project Report* (New York: Council of State Governments Justice Center, 2002).

significant clinical needs, their more restrictive conditions might be relaxed after a predetermined period of successful adherence. For all individuals, increases in functionality, decreases in psychiatric symptoms, and reductions in risk behaviors should prompt less intensive supervision regimens, while clinical decompensation or increases in risk behaviors should trigger more intensive regimens.

The ability to adjust the restrictiveness and intensity of supervision conditions depends not only on their flexibility and individualization but also on probation officers or other probation officials having the discretion to modify them based on their best judgment and special training (see Element 8). In some jurisdictions, probation officers are able to make these modifications without involving the courts; in other jurisdictions, consultation with judges may be required.

Second, the development of supervision conditions should be informed by individuals' ability to understand the responsibilities and expectations that these conditions carry. There are important distinctions between the requisite competency to stand trial and the need to ensure competency to comply with conditions of community supervision. Individuals with a high level of clinical disability and functional impairment may need clear, written descriptions and repetitive discussions to fully understand their obligations.

Third, regardless of their charges, public safety risks, or functional impairments, participants should be aware of the sanctions they will incur for violating their supervision conditions and the incentives for ongoing progress (see Element 7). The parameters for these graduated sanctions and incentives should be part of the documentation that individuals sign before they participate in the initiative. Particularly important are any distinctions the specialized probation initiative makes regarding its tolerance for violations of "control conditions" versus "treatment conditions." Control conditions may dictate a very low tolerance for violations, (for example, a supervisee attempts to visit a former spouse despite a condition of supervision that prohibits such an action), whereas treatment conditions may allow for infractions without triggering a violation report to the courts (for example, a supervisee fails to take some of his or her medication or misses an appointment with a treatment provider).

Finally, because many supervisees are adjudicated and granted participation in a specialized probation initiative after, or in lieu of, a jail term, it may not be possible to reduce charges or expunge convictions upon successful completion of a community sentence; however, when appropriate, such options should be considered. In either case, supervisees' length of participation in the initiative should not exceed the maximum sentence they could have received under traditional circumstances.

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5 DEVELOPING AN INDIVIDUALIZED CASE PLAN

The specialized probation initiative, working with jail discharge planners and community-based treatment providers, collaboratively develops a treatment and services plan for individuals transitioning to probation supervision. The case plan is developed as soon as possible after individuals' initial contact with the criminal justice system and considers their criminal charges; public safety risk and functional impairments; treatment, service, and housing needs; and the resources of both the community corrections agency and community-based treatment and service providers.

Although case plans will likely be developed in conjunction with conditions of community supervision (as suggested above), they are explored here as a separate element because they represent a traditional function of the mental health system, whose expertise and experience should inform this aspect of collaboration between the probation agency and community-based treatment providers. Furthermore, case plan development involves multiple agencies beyond the criminal justice system and should respond to supervisees' wide-ranging social, economic, and clinical circumstances. Despite the fact that lengths of stay in jail can be relatively short compared to prison terms,[26] the time people with mental illnesses spend in jail after arrest presents a critical public safety and public health opportunity. Nearly all of the 13 million people booked into jails each year will be released,[27] many of them under the supervision of probation agencies.

Within hours of arrest, individuals should be screened and assessed for mental illnesses and co-occurring substance use disorders, perhaps for the first time. Based on the results of screening and assessment, a judge or team of criminal justice/mental health staff should determine whether individuals should be considered for some type of specialized response, such as pre-trial release (with or without conditions), a mental health court or docket, or a specialized probation initiative. In other cases, judges may decide simply to place individuals under probation supervision, and then probation officials may determine who should become part of their specialized initiative. Other individuals may serve sentences of less than a year (although as prisons become more crowded, jails may hold people for increasingly longer periods of time).[28] Rapid, collaborative planning among jail, probation, and community treatment staff is essential to ensure that people who are entering jail at a high risk of crisis do not return to the community for supervision in days, weeks, or months in the same condition—or worse—to the detriment of any specialized probation initiative.[29]

One best-practice model for jail case planning, "Assess, Plan, Identify, and Coordinate" (APIC), is practical and research-based.[30] It can be applied to all individuals with mental illnesses and co-occurring substance use disorders who

26. Even if people who will eventually be supervised by probation agencies were never detained or incarcerated, the period between their initial contact with the criminal justice system and their community supervision is equally important. This element refers to jail transition planning in the interest of brevity, but still applies to these alternative scenarios.
27. Sabol W. J., and T. D. Minton. *Jail Inmates at Midyear 2007* (Washington: Bureau of Justice Statistics, 2008).
28. Osher, F. C., H. J. Steadman, and H. Barr. *A Best Practice Approach to Community Re-entry from Jails for Inmates with Co-occurring Disorders: The APIC Model* (New York: The National GAINS Center, 2002), http://gainscenter.samhsa.gov/pdfs/reentry/apic.pdf.
29. Ibid.
30. Ibid.

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spend time in jail, and can be used to develop plans for the subset of people who are eligible to participate in the specialized probation initiative. According to the APIC model, screening and assessment conducted at intake should be the first step in developing individualized treatment and community supervision plans for people with mental illnesses. Assessment should include cataloging individuals' criminogenic risks and functional impairments; gathering information from law enforcement, courts, corrections, family members, and community providers to fully inform the case plan; understanding issues of cultural identity, language, gender, and age that should be addressed in the plan; actively engaging individuals in identifying their own needs; and detecting barriers to accessing and paying for treatment and services in the community.[31]

After this assessment, staff should develop a plan that covers the critical period immediately following individuals' supervision assignment and their long-term needs. There are a range of issues that should be considered and addressed in different ways depending on the level of criminogenic risks and functional impairments of the initiative's intended target population. These include housing, food, clothing, transportation, and childcare; optimal medication regimens, including sufficient medication to last until individuals' first appointments and consistent jail and community treatment agency formularies; integrated treatment for individuals with co-occurring substance use disorders; and benefits applications/reinstatements for SSI/SSDI, Medicaid, and other entitlements.[32]

As the case plan is developed, staff should identify the community-based providers who will be responsible for treatment, make referrals, ensure that information-sharing protocols are in place according to confidentiality statutes (see Element 9), ensure that victim notification procedures are followed, and determine treatment and service agencies' level of coordination/integration with the probation officer monitoring the conditions of supervision.[33] The role of probation agencies may differ depending on where these individuals fall in terms of their risks to public safety and clinical needs.

After responsibilities for community-based services and supervision are identified, staff from all relevant agencies should coordinate their efforts. This involves establishing a team of caseworkers, including probation officers, treatment providers, court personnel, and others who meet regularly in "case staffings," to modify treatment plans, monitor adherence to the terms of release, and make changes to these conditions as appropriate.

Supervisees should be involved in developing their case plans to the greatest extent possible; such involvement is thought to increase their engagement in treatment and supervision and ultimately their success in the community. The degree to which supervisees' preferences are incorporated into their case plans, however, should be weighed against the nature of their criminal charges, criminogenic risks, and functional impairments. These preferences also should be balanced against the concerns of prosecutors, defense attorneys, and judges. For example, a district attorney or probation official may not be comfortable allowing an individual charged with a serious violent crime to provide as much input into his or her case plan as an individual charged with a minor misdemeanor. Issues such as these underscore the importance of clearly defined initiative parameters that are the product of collaborative planning and design processes.

31. Ibid.
32. Program planners and administrators should work with courts, jails, and probation departments to ensure that these benefits are suspended—and not terminated—during individuals' relatively short stays in jail and immediately reinstated upon release.
33. Osher, F. C., H. J. Steadman, and H. Barr. *A Best Practice Approach to Community Re-entry from Jails for Inmates with Co-Occurring Disorders: The APIC Model* (Delmar, NY: The National GAINS Center, 2002), http://gainscenter.samhsa.gov/pdfs/reentry/apic.pdf.

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6 PROVIDING OR LINKING TO TREATMENT AND SERVICES

Probation agencies connect their supervisees to comprehensive, individualized, and evidence-based treatment and services in the community, and work with community-based providers to coordinate and integrate the services that the probation agency and the public health and social service systems can provide.

People with mental illnesses under probation supervision require an array of services and supports, including medication; counseling; behavioral therapy; substance use treatment; halfway, transitional, or supportive housing; public benefits; crisis intervention services; peer supports; vocational training; and family counseling. Specialized probation initiatives should anticipate the needs of their target population and work with community providers to ensure that appropriate services—particularly those required to carry out desired case plans—will be available to participants during community supervision.

Parameters for the type, intensity, setting, and degree of coordination or integration of services should be determined by the initiative's intended target population and refined according to participants' unique criminogenic risks and functional impairments. Individuals with low risk/low impairment can be supervised and treated with little or no coordination. Individuals with high risk/high impairment need integrated strategies. These strategies can include co-location, where services and treatment are delivered in the supervision setting or supervision is provided in a service and treatment setting; staff sharing, where staff is hired by or "loaned" among collaborating agencies; and joint initiative administration in which supervision and case plans are developed and reviewed.

The menu of treatments and services that are provided by the probation agency or community providers will vary across jurisdictions. For example, probation agencies may contract for their own transitional housing programs, monitor drug abstinence requirements by conducting urinalyses, and contract with community providers to deliver treatments and services on premises. In other jurisdictions, community treatment agencies may have probation officers as part of their case management team. In some communities, probation agencies may have in-house staff that provides cognitive-behavioral treatments such as Moral Reconation Therapy to address participants' criminogenic risks.[34] In still other jurisdictions, these treatment modalities may be part of an integrated behavioral health approach provided by a community mental health center that is treating other psychiatric or substance use disorders.

Regardless of whether probation agencies directly provide treatments and services or broker their delivery, the specialized probation initiative should work to ensure that evidence-based practices (EBPs) and promising approaches for mental health treatment are provided to supervisees.[35] If community treatment providers

34. For more information on Moral Reconation Therapy, see the Substance Abuse and Mental Health Services Administration's *National Registry of Evidence-based Programs and Practices* at http://www.nrepp.samhsa.gov/programfulldetails.asp?PROGRAM_ID=181.

35. The Substance Abuse and Mental Health Services Administration defines EBPs as "the use of current and best research evidence in making clinical and programmatic decisions about the care of the client." Center for Substance Abuse Treatment. *Understanding Evidence-Based Practices*

do not have the capacity or training to implement these practices—or more broadly, any necessary treatments or supports—the specialized probation initiative should advocate to increase the availability of these services.

A number of EBPs and promising approaches have been shown to improve clinical functioning for people with mental illnesses and may be applicable for people with mental illnesses involved with the criminal justice system. First, given the high prevalence of co-occurring substance use disorders among individuals with mental illnesses, it is particularly important for specialized probation initiatives to access integrated treatment for mental illnesses and substance use disorders. Comprehensive, integrated efforts help people with co-occurring disorders attain remission and reduce substance use, hospital utilization, psychiatric symptoms, and rearrest.[36] Second, access to housing is essential to any case plan or treatment regimen, and supported housing is a promising practice for the successful community reintegration of people with mental illnesses.[37] Third, trauma-informed services, another promising practice, are also critical given the high rates of trauma among people with mental illnesses.[38] Finally, individuals with mental illnesses frequently require some form of case management services. One form, assertive community treatment (ACT), is an EBP associated with reductions in psychiatric hospitalizations and increases in functionality. Without modification, ACT has demonstrated a mixed impact on recidivism. To address this, forensic assertive community treatment (FACT) teams have been developed, often integrating probation officers, and have shown promise in positively impacting clinical outcomes and recidivism.[39]

In addition to linking individuals to evidence-based treatments and services, probation and mental health agency staff should develop protocols for ensuring supervisees' continuity of care (i.e., transitioning from various settings without changing treatment providers) in two critical situations. First, participants may be returned to jail for violating conditions of supervision or for committing a new offense. Probation officers and treatment providers should ensure that information about supervisees' treatment progress, medications, and other key information is transferred to jail staff so they can create a case plan based on this information. Second, participants will eventually complete their term of community supervision; probation officers and treatment providers should ensure they have sustained access to these treatments and other supports when supervision ends. This means that probation agencies and community providers should ensure that participation in their initiative (and more broadly, the criminal justice system) is not the sole mechanism for access to these services.

for Co-Occurring Disorders: COCE Overview Paper 5. DHHS Publication No. SMA 07-4278 (Rockville, MD: Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, 2007).

36. Osher, F. C., H. J. Steadman, and H. Barr. *A Best Practice Approach to Community Re-entry from Jails for Inmates with Co-Occurring Disorders: The APIC Model* (Delmar, NY: The National GAINS Center, 2002), http://gainscenter.samhsa.gov/pdfs/reentry/apic.pdf.
37. Ibid.
38. Other EBPs for mental health treatment include illness self-management and recovery, supported employment, psychopharmacology, and family psychoeducation. For more information on EBPs and promising practices, see the GAINS Center web site at http://gainscenter.samhsa.gov.
39. Osher, F. C., and H. Steadman. "Adapting Evidence-based Practices for Persons with Mental Illness Involved with the Criminal Justice System," *Psychiatric Services* 58 (2007): 1472–79.

7

SUPPORTING ADHERENCE TO CONDITIONS OF COMMUNITY SUPERVISION AND CASE PLANS

Probation officers—in coordination with community-based treatment providers—support individuals' adherence to the terms of their probation with a "firm but fair" relationship style and employ problem-solving strategies and graduated sanctions and incentives to encourage compliance, promote public safety, and improve treatment outcomes.

Once individualized conditions of supervision, a case plan, and specific treatment regimens are established, probation officers—in collaboration with community providers—are responsible for ensuring that their supervisees comply with the terms of their participation in the specialized probation initiative. The supervision strategies and techniques that officers employ can have a direct impact on whether their supervisees become further entrenched in the criminal justice system or successfully transition to their communities. Probation officials should ensure that their supervision methods are consistent with the objectives of the specialized probation initiative.

Probation agencies should view their role as more than monitors of compliance and consider their supervisees' complex treatment and service needs as integral to maintaining public safety and reducing recidivism. Probation officers should be provided incentives to keep individuals with mental illnesses on their caseloads,[40] with the knowledge that "closing a case" may result in missed opportunities to link individuals to appropriate treatment. Likewise, community-based treatment providers should not avoid working with individuals with criminal charges or convictions. These providers should view jails and community corrections agencies as part of a continuum of intervention settings, and mental health officials should create incentives for providers to implement treatments that target criminogenic risks.

Collaborative planning and cross-training can help ensure that probation agencies and community treatment providers have the workforce capacity to implement these practices and close existing gaps in resources or competencies; however, planning and training should be supported by strong leadership within probation and mental health agencies. In fact, probation administrators across the country have changed the culture of their agencies by articulating a mission—and incentivizing practices—that go beyond law enforcement and consider probation as part of a larger constellation of services that advance public safety and health and strengthen communities. At the same time, many mental health administrators have recognized their role in improving the safety of their communities and embraced this shared mission within their agencies.

40. The Public Safety Performance Project of the Pew Center on the States. *Policy Framework to Strengthen Community Corrections.* (Washington: The Pew Charitable Trusts, 2008).

Although all responses to supervisees' behavior, whether positive or negative, should be individualized, there are general proven supervision strategies and techniques that can reduce probation violations for all people under community supervision.[41] Specialized probation initiatives should ensure that the following strategies are incorporated into their efforts.[42] Officers should apply risk-needs-responsivity principles[43] and establish "firm but fair" relationships with their supervisees that are authoritative (not authoritarian) and characterized by caring, fairness, and trust. Officers should use problem-solving strategies (as opposed to relying on threats of incarceration or other negative pressures) to address compliance issues. For example, if a supervisee has functional impairments that make it difficult to adhere to standard conditions of release, such as transporting him- or herself to appointments, the probation officer should meet with the supervisee to identify and resolve these obstacles to compliance or make necessary adjustments to supervision or case plan conditions. In general, officers should conduct field supervision rather than monitor individuals remotely from a central location.

It is also important that probation officers working on a team with mental health and substance use treatment providers develop a shared understanding of behaviors that constitute a violation of the conditions of supervision. For example, substance use relapse is common early in the recovery process and should not necessarily be grounds for probation revocation. On the other hand, depending on an individual's level of public safety risk, functional impairment, and/or history of dangerous behavior when intoxicated, the response to relapse may include a technical violation. An individual whose past crimes were clearly related to intoxication might warrant less tolerance. The important principle is that responses to an individual's behavior should be consistent with an individual's supervision and case plans and reflect the team's short- and long-term objectives with each supervisee.

When supervisees' behavior does constitute a violation of their supervision conditions, the specialized probation initiative should employ a menu of graduated sanctions (that is, the severity of sanctions increases with the frequency or severity of violations) that are individualized to maximize compliance. The manner in which these sanctions will be applied should be explained to supervisees before they begin participating in the specialized initiative. Sanctions should encourage pro-social choices and adherence to treatment recommendations. They should avoid disengaging individuals from community treatment. Specific protocols should govern the use of jail as a consequence for serious noncompliance. In general, jail should be used only as a last resort, and probation agencies should explore alternatives such as intermediate-sanction facilities or day-reporting centers, staffed by probation officers and community treatment providers, to

41. These strategies and techniques have been explored in depth in the literature on evidence-based and promising community corrections practices. These community corrections EBPs and promising practices should be distinguished from the mental health treatment EBPs described in element 6. For more on community corrections EBPs and promising practices, see Crime and Justice Institute. *Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Intervention* (National Institute of Corrections, 2004), http://www.nicic.org/pubs/2004/019342.pdf. For information on incorporating general community corrections EBPs into broader statewide policy efforts, see The Public Safety Performance Project of the Pew Center on the States. *Policy Framework to Strengthen Community Corrections* (Washington: The Pew Charitable Trusts, 2008).

42. Skeem, J., and J. E. Louden. "Toward Evidence-based Practice for Probationers and Parolees Mandated to Mental Health Treatment," *Psychiatric Services* 57 (2006): 333–42.

43. Several meta-analyses of existing evaluations show that supervisees are less likely to recidivate when programs focus on higher risk cases, matching the intensity of supervision and treatment services to their level of risk for recidivism (*risk* principle), match modes of service to their abilities and styles (*responsivity* principle), and target a greater number of their criminogenic needs, or changeable risk factors for recidivism (*need* principle). For more information, see Andrews, D. A., et al. "Does Correctional Treatment Work? Clinically Relevant and Psychologically Informed Meta-analysis," *Criminology* 28 (1990): 369–404 and Andrews, D. A., and J. Bonta. *The Psychology of Criminal Conduct*, third ed. (Cincinnati: Anderson, 2003).

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ensure continuity of care and prevent further involvement with the criminal justice system.[44]

Probation officers should also have a menu of incentives for sustained adherence to the conditions of community supervision. These might include less frequent contacts with probation officers and treatment providers, certificates of compliance, non-cash rewards, and in some cases, reductions in the length of the probation sentence. Policymakers and practitioners involved with specialized probation initiatives generally agree that incentives are as critical as sanctions to supervisees' success.

It is also important for probation and treatment staff to recognize that, with reduced caseload size and greater coordination and integration between community corrections and mental health agencies, it may be far more likely for a team member to detect behaviors that constitute technical violations of supervision conditions. Treatment providers who have not historically provided services to justice-involved individuals may experience the "treater-turned-monitor dilemma" in which they may be tempted to engage in so-called "benevolent coercion" and use return to jail as a threat to get individuals to comply with treatment.[45] Such strategies undermine the potential benefits of collaboration between probation agencies and community-based treatment providers.[46] The specialized probation initiative should have clear protocols for mitigating these phenomena in a manner that is consistent with the initiative's objectives.

44. For detailed suggestions on developing state statutes that grant officers the authority to implement graduated sanctions for all people under probation supervision (not just those with mental illnesses), see The Public Safety Performance Project of the Pew Center on the States. *Policy Framework to Strengthen Community Corrections* (Washington: The Pew Charitable Trusts, 2008).

45. For example, see Solomon, P. Response to "A Model Program for the Treatment of Mentally Ill Offenders in the Community," *Community Mental Health Journal* 35 (1999) and Solomon, P., and Jeffrey Draine. "One-Year Outcomes of a Randomized Trial of Case Management with Seriously Mentally Ill Clients Leaving Jail," *Evaluation Review* 19 (1995): 256.

46. Ibid.

8 PROVIDING SPECIALIZED TRAINING AND CROSS-TRAINING

Probation officers who supervise individuals with mental illnesses receive substantial and sustained training on mental health issues, co-occurring substance use disorders, and effective supervision strategies for this population. Community-based treatment and service providers receive training on jail and probation policies and procedures, court reporting requirements, and the scope of behavioral health services provided by jail and community corrections staff. When possible, staff from probation and community-based treatment agencies cross-train each other on these issues.

Training should be provided to probation officers and community-based treatment providers to improve both systems' responses to people with mental illnesses under probation supervision. Probation agencies and community providers should work together to plan and implement a training regimen that supports the specialized probation initiative. Multi-disciplinary, multi-system collaboration ensures that training reflects an appropriate range of perspectives. This effort should be coordinated by initiative administrators who choose training content and techniques, select trainers, ensure the training is culturally competent, and evaluate the effectiveness of training.

Initiative administrators should consider a number of other training issues as well. First, they should weigh the costs and benefits of both centralized and local training, as the former can create efficient and uniform training for larger jurisdictions and the latter can create opportunities for building strong, local relationships. Second, initiative administrators should determine how they will select probation officers and mental health treatment providers to receive training. Soliciting volunteers, rather than assigning staff to receive training, may make it less likely that officers who have no desire to work with this population will feel forced to do so. Recruiting new staff who have already received training on mental illnesses or criminal justice issues, or who have a special interest in working with this population, is preferable for the same reasons. Nevertheless, probation agencies can incentivize this type of training as a form of professional development for staff who may not have strong preferences either way. Third, to the greatest extent possible, former supervisees with mental illnesses, their family members, and peers should be involved in training.

All probation officers, regardless of whether they are involved with a specialized initiative, should receive basic training on mental illness and its impact on individuals, families, and communities; signs and symptoms of mental illnesses; stabilization and de-escalation techniques; and legal issues such as confidentiality, victim notification, and other related procedures. Most importantly, probation staff should learn what treatment and services are available in the community and how to access them.

Officers involved with specialized probation initiatives should receive more significant and sustained training. In a survey of officers with specialized probation caseloads dedicated exclusively to people with mental illnesses,

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officers received 20 to 40 hours of training per year.[47] These officers should be trained to employ problem-solving strategies, apply risk-needs-responsivity principles, and use graduated sanctions in response to noncompliance. They should also be trained to act as boundary spanners with the mental health and service systems in order to actively coordinate treatments and services with supervision.

Community-based mental health providers working with the specialized probation initiative should be trained in the workings of the criminal justice system and the impact of arrest and incarceration on individuals with mental illnesses. They should understand legal terminology, jail and court processes, correctional classification systems, screening and assessment procedures, and the range of treatments and services provided by jail-based or specialty probation clinicians. Treatment providers should also receive training on when and how to report violations of supervision conditions to probation authorities, their role and responsibilities when warrants are issued, and how to provide information during court hearings. To the greatest extent possible, mental health agencies should also receive training on assessing and treating issues around criminogenic risk and incorporating these practices into their traditional behavioral health treatment packages.

Initiative administrators and collaborating agencies should recognize and acknowledge that the criminal justice and mental health systems have traditionally had different missions, and that cultural differences exist between their agencies. They should understand that cross-training is necessary, but not sufficient, for reconciling these differences, meeting shared goals, and achieving desired outcomes. Structural supports, policies, procedures, agency leadership, and program and performance evaluations discussed in the preceding and subsequent elements are crucial for enabling specialized training to be absorbed and implemented.

47. Skeem, J. L., Paula Emke-Francis, and Jennifer Eno Louden. "Probation, Mental Health, and Mandated Treatment: A National Survey," *Criminal Justice and Behavior* 33 (2006): 158–84.

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9 SHARING INFORMATION AND MAINTAINING CONFIDENTIALITY

Probation agencies and community-based treatment providers standardize a protocol for sharing health and legal information about individuals within their shared target population, and ensure that this procedure is understood and implemented by all relevant staff. The information-sharing protocol is consistent with local, state, and federal privacy regulations and facilitates the exchange of information among all components of the criminal justice system and between the criminal justice and community-based treatment systems.

Information exchange among jails, probation agencies, and community-based treatment providers is a prerequisite for developing case plans, linking individuals to treatment and services, ensuring continuity of care after periods of incarceration, and determining appropriate supervision strategies. In short, the success of specialized probation responses to people with mental illnesses can hinge on whether crucial information about diagnoses, medications, criminogenic risk assessments, substance use, public assistance, and other relevant details of personal history follows people across systems.

All information sharing must, of course, comply with local, state, and federal statutes on the confidentiality of mental health and/or substance use records, such as the federal Health Insurance Portability and Accountability Act (HIPAA); however, HIPAA is often erroneously cited as the reason why information crucial to the success of specialized initiatives cannot be shared. Planners and administrators should recognize the widely held misconceptions about HIPAA restrictions and work with all relevant staff to clarify these issues.[48]

Information should be shared in a way that protects and maintains individuals' confidentiality rights as consumers of mental health services and their constitutional rights as defendants. It is paramount that supervisees are educated about and involved in addressing these issues. Probation officers and treatment providers should establish trusting relationships that can mitigate information-sharing barriers. Informed consent leading to supervisees' signed release of information is the most effective way to honor confidentiality rights and create effective supervision and treatment responses.

Planners and administrators should determine which personnel have the authority to request and provide information about individuals' mental health and criminal histories. Information exchanges should be limited strictly to what is needed to inform appropriate supervision and case plans. To that end, release or consent forms should become standard interagency procedures. They should be developed in consultation with legal counsel; adhere to local, state, and federal laws; and specify what information will be released, to whom, and over what

48. For more information, see Petrila, J. *Dispelling Myths about Information Sharing between the Mental Health and Criminal Justice Systems* (Delmar, NY: National GAINS Center, 2007), http://gainscenter.samhsa.gov/text/integrated/Dispelling_Myths.asp.

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period of time. Potential participants in the specialized probation initiative should review these forms with the advice of defense counsel and treatment providers. To the greatest extent possible, and especially when competency may be at issue, staff must ensure that potential participants understand how information will and will not be used. Potential participants should not be asked to sign release forms until all competency issues are resolved.

Planners and administrators must carefully consider the type of information needed and existing barriers to its exchange, and then develop procedures and memoranda of understanding (MOUs) to ensure appropriate sharing. These protocols should be emphasized in cross-training sessions. Planners and administrators may also want to consider ways to share information electronically, by linking different agencies' information management systems on an ongoing or one-time basis.[49] Such arrangements, which can be part of a broader electronic data collection system, are expedient and efficient and can be designed to grant and deny access to appropriate staff.

The exchange of information facilitates communication and collaboration among law enforcement agencies, courts, jails, community corrections agencies, and the community-based treatment system. For example, jail staff can inform the courts when an individual with mental illness is identified at intake so a judge can determine if the person should be considered for participation in a specialized intervention. It is essential that information exchanges flow in both directions—that is, criminal justice agencies further along the continuum and community providers should also be prepared to send information upstream, such as when community treatment information-sharing protocols ensure relevant information follows an individual back into the corrections system if probation is revoked.

Planners and administrators should acknowledge that although the clearly defined policies and procedures described above are essential, they cannot replace trusting inter-system relationships among staff at agencies that have historically had very different goals and cultures. Probation officers should understand that some types of clinical information cannot (and should not) be shared, just as treatment providers should understand that other types of clinical information must be shared with probation officers to ensure successful community supervision. The development of these sorts of relationships is arguably as important as the establishment of any protocols or electronic data collection systems.

In addition to collecting and sharing data about individual participants to improve their clinical and legal outcomes, there is also tremendous value in sharing aggregate data. As discussed in Element 10, aggregate data are required to measure the impact of the specialized initiative and ensure its sustainability. Therefore, procedures and MOUs that explicitly cover the exchange of aggregate data should also be developed.

49. The Bureau of Justice Assistance supports the electronic exchange of information between agencies. To learn more about these and other national policies, practices, and technology capabilities that support effective and efficient information sharing, see www.it.ojp.gov.

10 CONDUCTING EVALUATIONS AND ENSURING SUSTAINABILITY

Data are collected and analyzed that demonstrate the impact of the specialized probation initiative on revocation rates, engagement in treatment, and the prevalence of mental illnesses in jails and prisons. These data inform a quality improvement process that results in modifications to the initiative. In addition, the evaluation of initiative effectiveness is used to sustain support for the initiative.

The planning committee and initiative administrators should take steps early in the design process to ensure that they can determine the effectiveness of the initiative and maintain its long-term sustainability. To this end, planners and administrators should identify performance measures based on initiative goals and objectives. These measures can include process data on key aspects of initiative operations; qualitative data on officers', supervisees', and community members' perceptions of the initiative; and outcome data including initiative costs and cost offsets. Where possible, the planning committee should also include program evaluators in the initial planning and design processes outlined in the preceding elements. This can be achieved by establishing early partnerships with local universities or identifying consultants if no in-house researchers or evaluators are available.

The specialized probation initiative should collect data that focus on questions most critical to the initiative's success. Process data include such items as the number of people who screen positive for mental illness, the number of people who have attended and completed treatment programs, or the number of contacts with probation or clinical staff. Qualitative data could include such measures as officers' impressions of how time consuming, easy, or difficult it is to supervise people with mental illnesses, and supervisees' impressions of the quality of supervision and treatment they receive. Outcome data include rates of technical violations, revocations, and rearrest; trends in the overall growth of the jail population; number of hospital days and emergency room costs avoided; as well as information about participants' functional improvements and symptom reductions. Initiative funders frequently request data about cost effectiveness; therefore, this information is of critical concern for continued support. However, cost effectiveness methodology is quite complex, and if the data are not collected correctly or reported clearly, they may not be compelling. Ideally, data on appropriate comparison groups are also collected to demonstrate outcomes that might have occurred in the absence of the specialized initiative. A feedback loop should be established that allows these data to inform initiative refinement.

As discussed in Element 1, formalizing the initiative's policies and procedures is an important component of sustaining the initiative. Compiling information about the initiative's history, goals, screening and assessment protocols, eligibility criteria, information-sharing protocols, supervision strategies, sanctions, and incentives helps ensure consistency and mitigates the impact of staff turnover. It also informs ongoing quality improvement processes and enables initiative administrators to make adjustments when appropriate.

Planners and administrators should also garner both external and internal support. Initiative

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leaders should reach out to community leaders and the media to educate them about the public safety goals and other objectives of the specialized probation initiative. They should also involve key elected and appointed officials and other policymakers as early as possible in the initiative's design and implementation, and keep them involved to promote supportive legislation and/or funding opportunities. Probation officers, mental health treatment providers, and other personnel—involved with the effort or not—should also be surveyed so initiative partners can better assess its impact and ideally develop a base of support from within the ranks of collaborating agencies.

Planners and administrators should also develop a crisis communication plan that builds on the positive relationships they forge between the specialized initiative and the community at large, the media, and policymakers. Plan implementers communicate that sometimes there will be incidents involving initiative participants, but that these rare—though often highly publicized—events should not undermine the broader benefits of the initiative.

In addition to calling on policymakers to advance financial support for an initiative, diverse funding options are key to long-term sustainability. Although in-kind contributions from multiple agencies can accomplish a great deal in offsetting initiative costs, planners and administrators should identify and cultivate additional resources. Requests for funding should be tied to clearly articulated initiative goals and incorporate data that demonstrate positive outcomes. Funding should include support for the process and outcome research mentioned above. In general, most local probation departments and other local agencies participating in the initiative do not have the expertise or staff to set up the data collection and analysis suggested in this document. With some outside expert assistance, however, agency personnel may effectively be guided to design and implement the data collection mechanisms that consultants (for example, graduate students supervised by an experienced researcher from a local university) can then analyze and report to initiative stakeholders at appropriate intervals.

10-62

Conclusion

Probation agencies across the country are seeing increasing numbers of people with serious mental illnesses on their caseloads. Traditional community supervision strategies are associated with poor outcomes for these individuals; they are twice as likely as people without mental illnesses to have their probation revoked and become further entrenched in the criminal justice system. As a group, they can be challenging to supervise. They have broad treatment and service needs and require supervision strategies that traditional probation agencies were not designed to provide.

Recognizing the need for innovative approaches, probation agencies and community-based treatment providers across the country are working to develop creative interventions that address the unique needs of their overlapping target populations. These agencies are engaged in problem solving with an array of partners from a range of disciplines. Together they are utilizing a growing knowledge base about what works, for whom, and under what circumstances. What the field has lacked is a concise construct of the essential elements of successful specialized probation responses to people with mental illnesses. This publication draws on the broad accumulation of information and the experiences of probation agencies and mental health treatment providers to fill that gap. It is hoped that these elements will help guide policymakers and practitioners who are initiating or enhancing their own initiatives.

The tone of this document may suggest that the changes recommended above are easy to make. They are not. There are many challenges, including complex politics, turf battles, competition for limited funding, and scarce probation and community mental health resources. Despite these obstacles, probation agencies and their community partners have demonstrated a willingness to coalesce around shared goals and purposes to address these difficult issues. These essential elements are written for such innovators and those who will follow in their footsteps, all of whom work tirelessly to make communities safer and healthier, use public resources and tax dollars efficiently and effectively, and improve outcomes for people with mental illnesses who become involved with the criminal justice system.

10-63

Council of State Governments
Justice Center

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20th Floor
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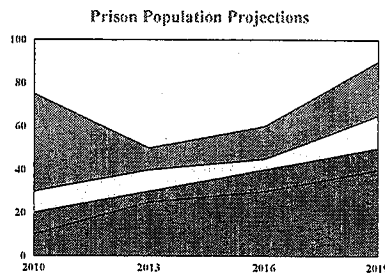
10-64

11

KANSAS SENTENCING COMMISSION

Fiscal Year 2010 Adult Inmate Prison Population Projections



August 27, 2009

GUIDELINE NEW COMMITMENT ADMISSION CHARACTERISTICS - FISCAL YEAR 2009

SEVERITY LEVEL	NUMBER ADMITTED	PERCENT ADMITTED	AVERAGE SENTENCE (MONTHS)	JAIL CREDIT (DAYS)	PROBATION CONDITION VIOLATORS (%)	PROBATION VIOLATORS W/NEW SENT (%)
D1	56	1.7%	92.0	210.2	14.3	1.8
D2	46	1.4%	56.0	154.9	19.6	4.3
D3	236	7.2%	30.7	171.7	37.3	3.0
D4	554	16.9%	22.8	151.3	65.5	2.5
N1	73	2.2%	249.8	461.0	5.5	0.0
N2	24	0.7%	203.6	335.0	4.2	0.0
N3	195	6.0%	90.9	226.3	10.3	1.0
N4	79	2.4%	63.8	189.1	13.9	2.5
N5	360	11.0%	54.9	220.7	24.0	0.8
N6	63	1.9%	36.8	212.9	38.1	3.2
N7	514	15.7%	27.8	198.7	55.1	4.7
N8	299	9.1%	16.7	148.8	54.8	5.7
N9	511	15.6%	12.2	137.8	60.5	2.2
N10	162	4.9%	8.6	110.8	53.1	1.2
OFF GRID	93	2.8%	-	-	N/A	N/A
NONGRID/ MISSING	10	0.3%				
TOTAL ADMITS	3275	100.0%				

Source: KDOC admission file.

C&JJ Oversight
Attachment 11
10-28 & 29-09

PRISON POPULATION CHARACTERISTICS
JUNE 30, 2009

SEVERITY LEVEL	PRE-GUIDELINE		GUIDELINE		TOTAL	
	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT
D1	0	0.0%	321	3.7%	321	3.7%
D2	0	0.0%	149	1.7%	149	1.7%
D3	0	0.0%	415	4.8%	415	4.8%
D4	0	0.0%	626	7.3%	626	7.3%
N1	139	1.6%	772	9.0%	911	10.6%
N2	88	1.0%	310	3.6%	398	4.6%
N3	62	0.7%	1224	14.2%	1286	15.0%
N4	6	0.1%	281	3.3%	287	3.3%
N5	9	0.1%	1096	12.7%	1105	12.8%
N6	0	0.0%	153	1.8%	153	1.8%
N7	2	0.0%	740	8.6%	742	8.6%
N8	0	0.0%	197	2.3%	197	2.3%
N9	0	0.0%	233	2.7%	233	2.7%
N10	0	0.0%	35	0.4%	35	0.4%
OFFGRID	244	2.8%	395	4.6%	639	7.4%
PAROLE CONDITIONAL VIOLATORS	317	3.7%	409	4.8%	726	8.4%
AGGREGATE SENTENCE	375	4.4%	0	0.0%	375	4.4%
SUBTOTAL	1242	14.4%	7356	85.5%	8598	100.0%
MISSING/NONGRID					4	0.0%
TOTAL					8602	100.0%

Source: DOC prison population file.

COMPARISON OF GUIDELINE NEW COMMITMENTS BY SEVERITY LEVEL ADMISSIONS AND AVERAGE LENGTH OF SENTENCE (LOS)
FY 2005 THROUGH FY 2009

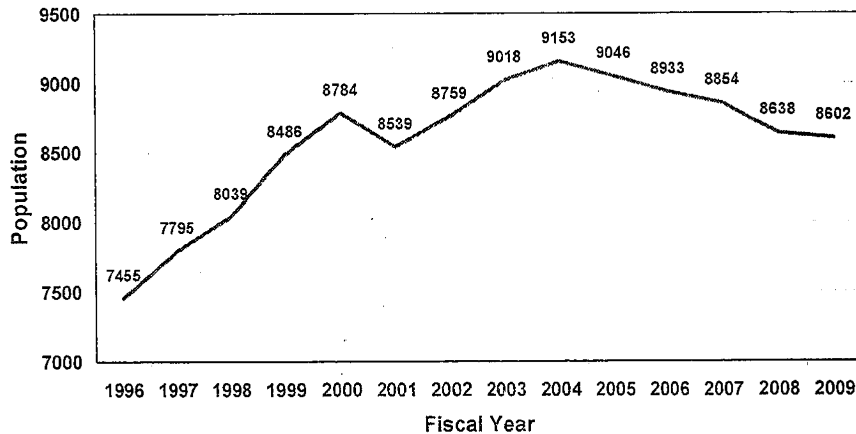
Severity Level	FY2005		FY 2006		FY 2007		FY 2008		FY 2009	
	Admission Number	LOS in Month	Admission Number	LOS in Month	Admission Number	LOS in Month	Admission Number	LOS in Month	Admission Number	LOS in Month
D1	140	53.4	145	69.0	89	71.9	56	85.8	56	92.0
D2	41	53.8	50	61.8	26	50.6	32	67.3	46	56.0
D3	263	28.5	310	29.3	284	30.0	215	27.5	236	30.7
D4	579	21.1	657	19.8	741	20.5	622	20.9	554	22.8
N1	57	226.5	76	245.6	67	263.8	79	217.5	73	249.8
N2	27	170.7	36	186.5	29	158.4	22	144.3	24	203.6
N3	210	99.5	227	90.1	187	89.5	189	92.0	195	90.9
N4	58	68.7	64	65.4	54	71.8	60	70.3	79	63.8
N5	256	54.4	309	50.6	293	51.9	297	55.1	360	54.9
N6	62	33.7	77	36.5	66	33.1	95	37.5	63	36.8
N7	584	27.3	611	26.2	525	26.3	537	26.0	514	27.8
N8	332	16.1	345	17.0	322	16.2	283	16.8	299	16.7
N9	548	11.7	650	11.6	549	11.5	527	12.1	511	12.2
N10	190	7.9	184	8.3	183	8.3	190	8.5	162	8.6
Total	3347		3741		3415		3204		3172	

Source: DOC admission file
Note: Guideline new commitment admissions include new court commitments, probation condition violators and probation violators with new sentence.

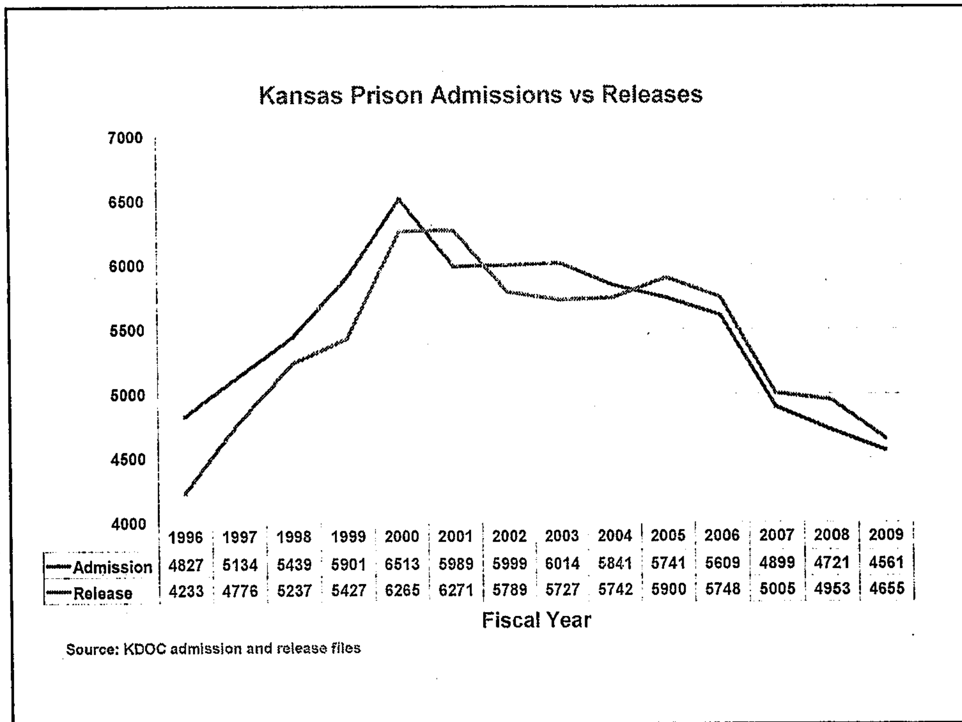
COMPARATIVE ANALYSIS OF PAROLE/POST RELEASE SUPERVISION CONDITION VIOLATORS BETWEEN FY 2008 AND FY 2009

Law	Admission Number				Average Length of Stay in Month			
	FY 2008	FY 2009	# Change	% Change	FY 2008	FY 2009	# Change	% Change
Guideline	1101	1031	-70	-6.4%	4.4	4.7	0.3	6.8%
Pre-guideline	167	123	-44	-26.3%	23.3	22.7	-0.6	-2.6%
Total	1268	1154	-114	-9.0%				

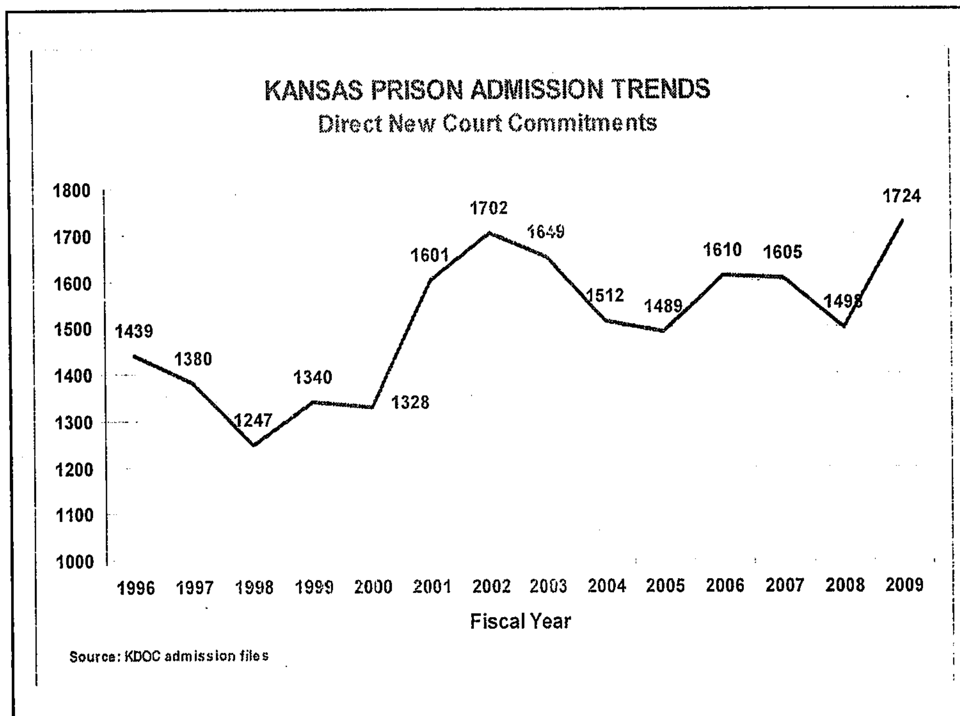
Source: DOC admission and release files.



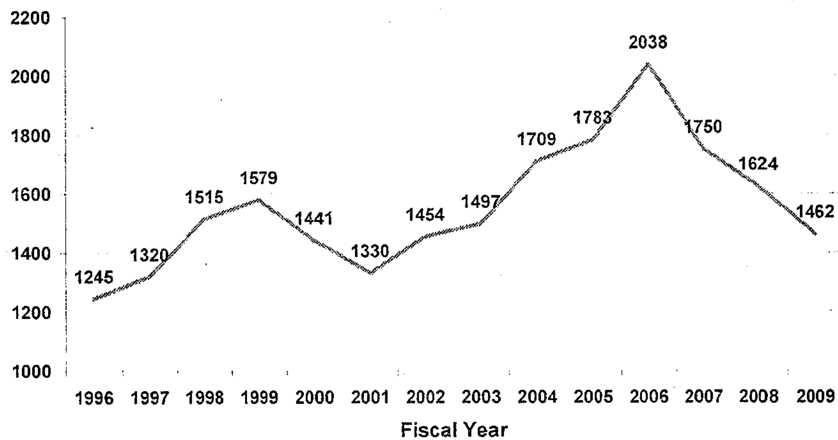
Source: KDOC prison population files
Note: Federal female inmates housed in KDOC are excluded

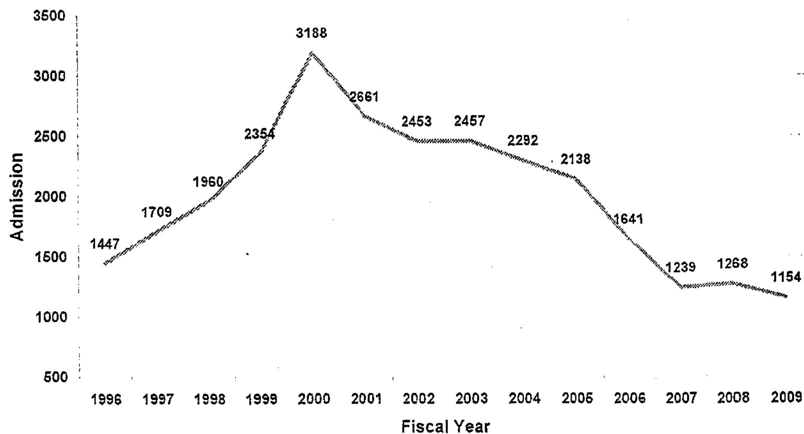


Kansas Prison Admissions vs Releases
7000
6500
6000
5500
5000
4500
4000
1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009
Admission 4827 5134 5439 5901 6513 5989 5999 6014 5841 5741 5609 4899 4721 4561
Release 4233 4776 5237 5427 6265 6271 5789 5727 5742 5900 5748 5005 4953 4655
Fiscal Year
Source: KDOC admission and release files

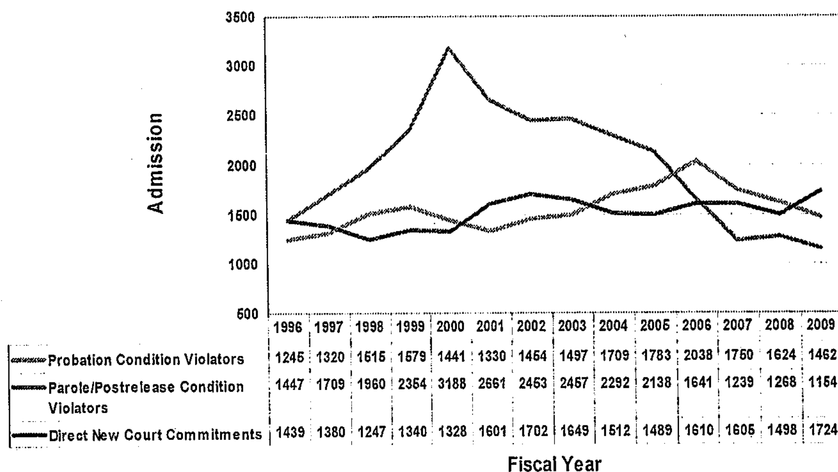


KANSAS PRISON ADMISSION TRENDS
Direct New Court Commitments
1800
1700
1600
1500
1400
1300
1200
1100
1000
1439
1380
1247
1340
1328
1601
1702
1649
1512
1489
1610
1605
1724
1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009
Fiscal Year
Source: KDOC admission files


KANSAS PRISON ADMISSION TRENDS
Probation Condition Violators
2200
2000
1800
1600
1400
1200
1000
1245
1320
1515
1579
1441
1330
1454
1497
1709
1783
2038
1750
1624
1462
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
Fiscal Year
Source: KDOC admission files


KANSAS PRISON ADMISSION TRENDS
Parole/Postrelease Condition Violators
Admission
3500
3000
2500
2000
1500
1000
500
1447
1709
1960
2354
3188
2661
2453
2457
2292
2138
1641
1239
1268
1154
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
Fiscal Year
Source: KDOC admission files
Note: Including condition conditional-release violators

KANSAS PRISON ADMISSION TRENDS
Admissions by Type

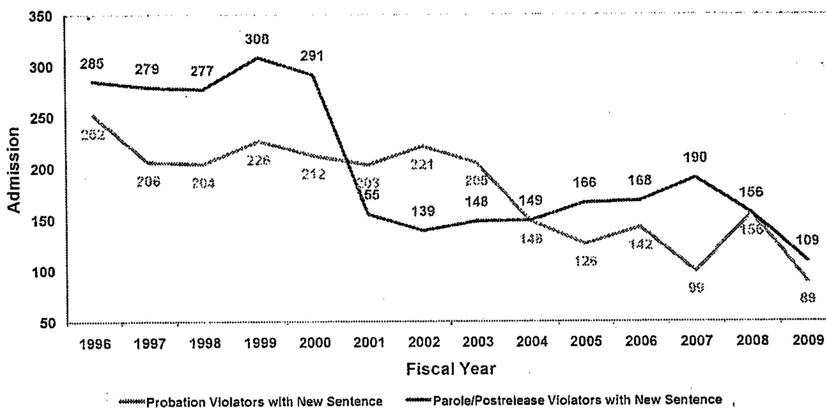


	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Probation Condition Violators	1245	1320	1515	1579	1441	1330	1454	1497	1709	1783	2038	1750	1624	1462
Parole/Postrelease Condition Violators	1447	1709	1960	2354	3188	2661	2453	2457	2292	2138	1641	1239	1268	1154
Direct New Court Commitments	1439	1380	1247	1340	1328	1601	1702	1649	1512	1489	1610	1605	1498	1724

Fiscal Year

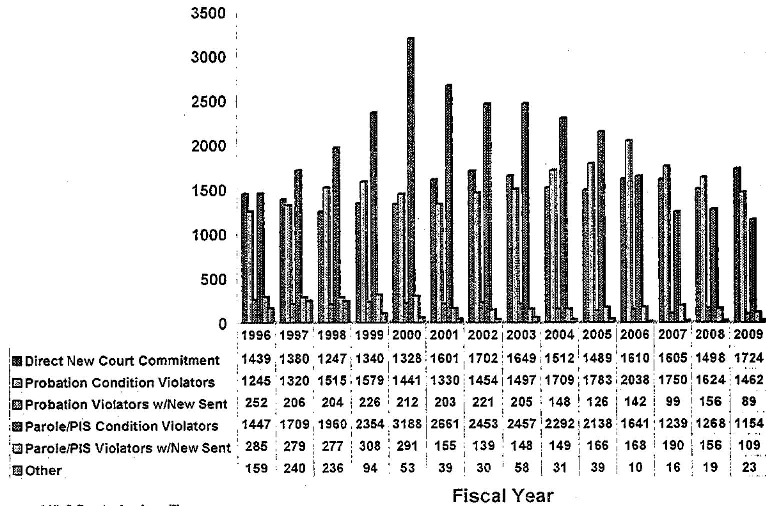
Source: KDOC admission files

KANSAS PRISON ADMISSION TRENDS
Comparison between Probation and Parole/Postrelease Violators with New Sentence



Source: KDOC admission files

KANSAS PRISON ADMISSION TRENDS BY TYPE
FY 1996 Through FY 2009



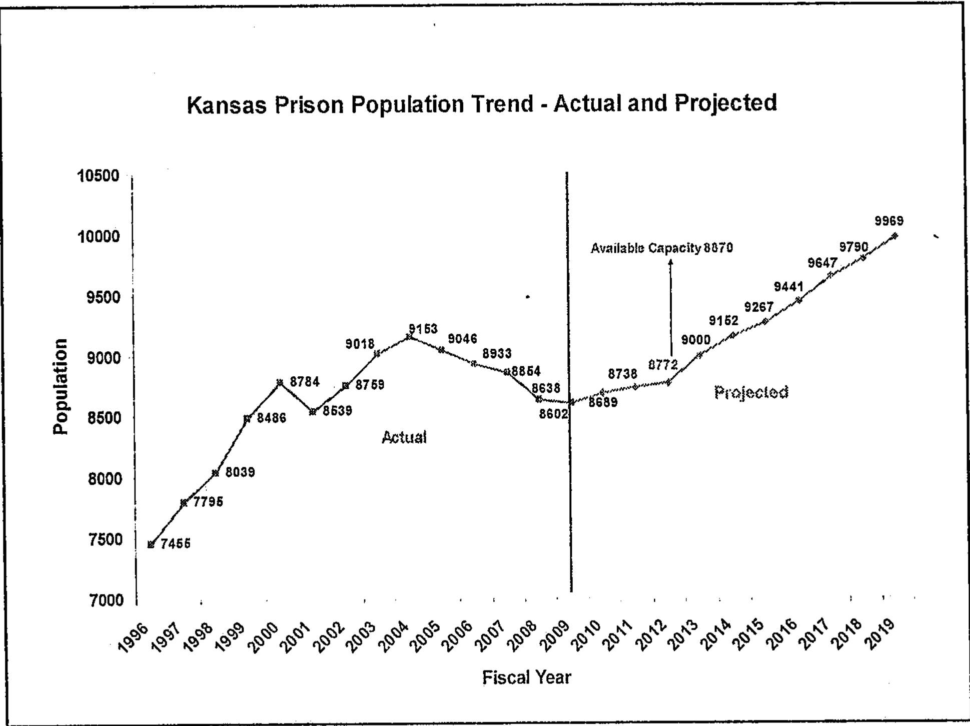
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Direct New Court Commitment	1439	1380	1247	1340	1328	1601	1702	1649	1512	1489	1610	1605	1498	1724
Probation Condition Violators	1245	1320	1515	1579	1441	1330	1454	1497	1709	1783	2038	1750	1624	1462
Probation Violators w/New Sent	252	206	204	226	212	203	221	205	148	126	142	99	156	89
Parole/PIS Condition Violators	1447	1709	1960	2354	3188	2661	2453	2457	2292	2138	1641	1239	1268	1154
Parole/PIS Violators w/New Sent	285	279	277	308	291	155	139	148	149	166	168	190	156	109
Other	159	240	236	94	53	39	30	58	31	39	10	16	19	23

Source: KDOC admission files

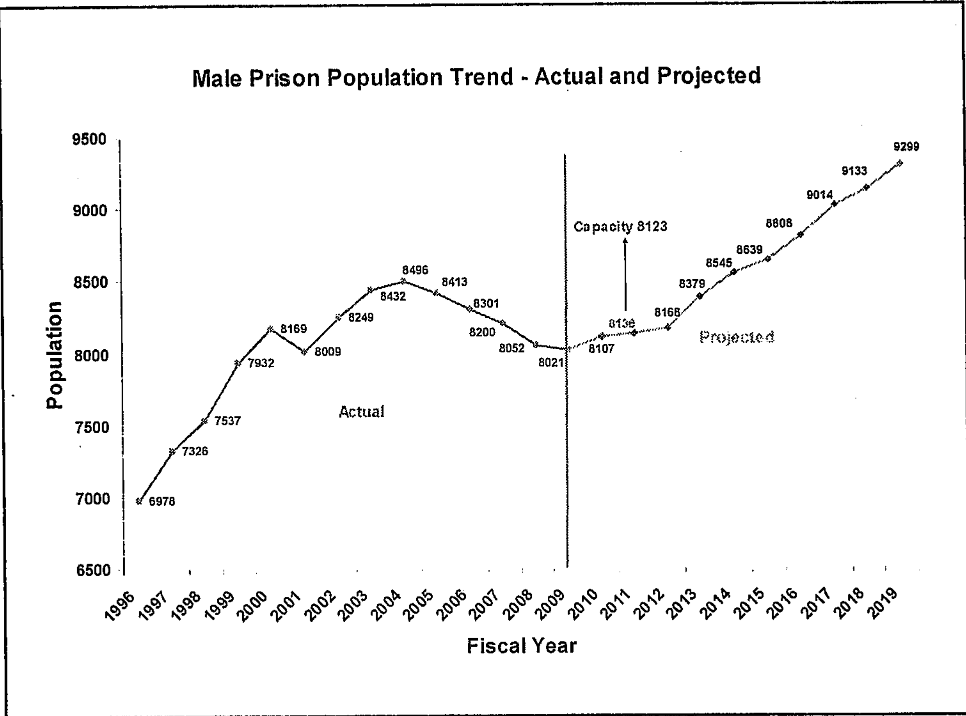
KANSAS SENTENCING COMMISSION
FY 2010 ADULT INMATE PRISON POPULATION PROJECTIONS

Severity Level	June 30 2009*	June 30 2010	June 30 2011	June 30 2012	June 30 2013	June 30 2014	June 30 2015	June 30 2016	June 30 2017	June 30 2018	June 30 2019	Total # Increase	Total % Increase
D1	321	318	312	305	316	318	314	320	340	344	348	27	8.4%
D2	150	136	151	151	161	167	166	179	192	182	188	38	25.3%
D3	415	418	422	418	419	390	407	410	409	426	422	7	1.7%
D4	630	621	597	578	589	583	558	585	597	591	632	2	0.3%
N1	930	961	991	1017	1047	1066	1085	1097	1122	1155	1158	228	24.5%
N2	415	420	420	424	427	429	441	438	433	436	428	13	3.1%
N3	1314	1276	1280	1287	1313	1301	1309	1320	1344	1359	1346	32	2.4%
N4	288	309	332	339	335	339	337	341	326	330	348	60	20.8%
N5	1120	1149	1164	1185	1212	1242	1269	1254	1262	1272	1295	175	15.6%
N6	153	153	154	145	134	145	147	143	146	144	153	0	0.0%
N7	746	772	767	762	746	747	732	715	748	774	751	5	0.7%
N8	197	191	176	169	166	181	190	199	201	189	200	3	1.5%
N9	233	209	192	195	204	193	207	202	204	212	230	-3	-1.3%
N10	35	43	39	42	41	57	50	47	48	49	45	10	28.6%
OFF GRID	891	958	1033	1096	1177	1262	1346	1429	1509	1586	1675	784	88.0%
Condition Parole/PIS Violators	760	755	708	659	713	732	709	762	766	741	750	-10	-1.3%
Total	8602	8689	8738	8772	9000	9152	9267	9441	9647	9790	9969	1367	15.9%

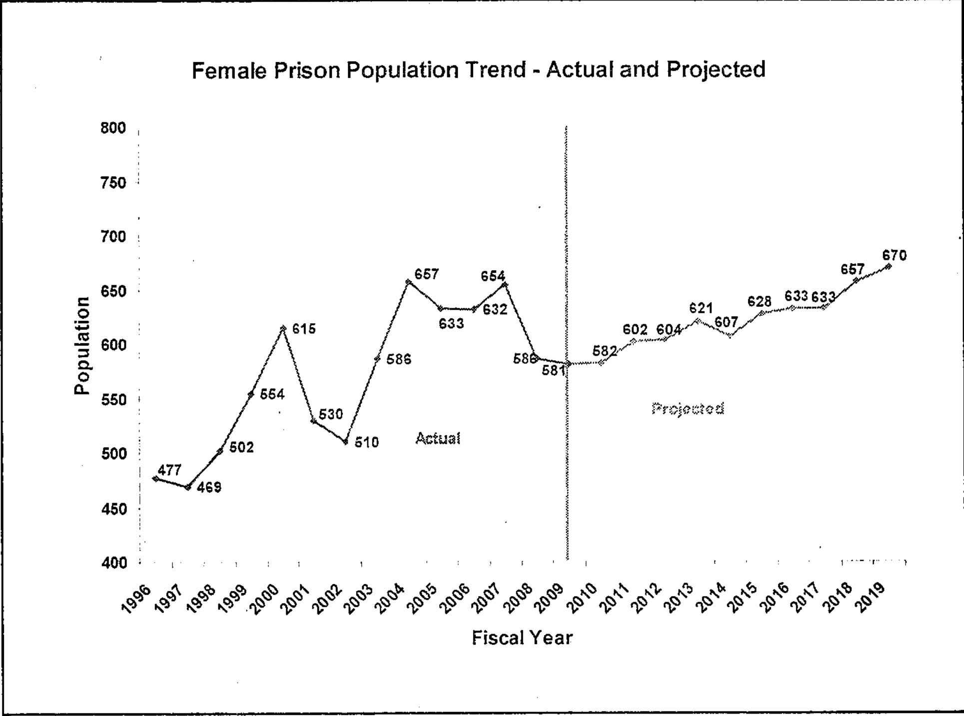
*. The numbers on June 30, 2009 are the actual prison population on that date. Total numbers include one non-grid and three missing.

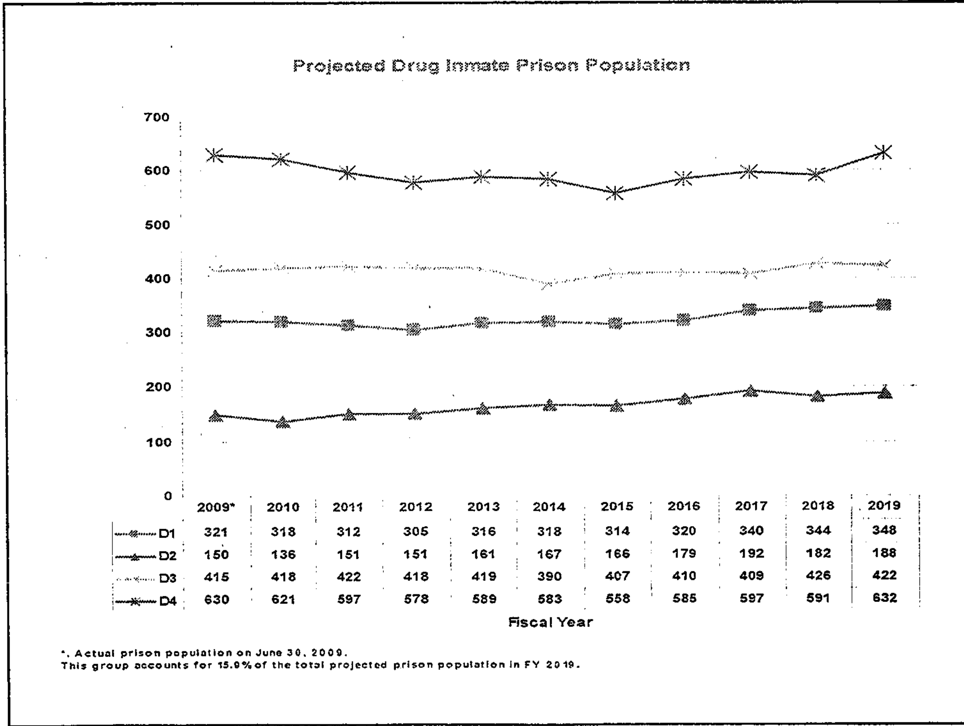


Kansas Prison Population Trend - Actual and Projected
Population
10500
10000
9500
9000
8500
8000
7500
7000
7455
7795
8039
8486
8784
8539
8759
9018
9153
9046
8933
8854
8638
8602
8689
8738
8772
9000
9152
9267
9441
9647
9790
9969
Available Capacity 8870
Actual
Projected
1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019
Fiscal Year



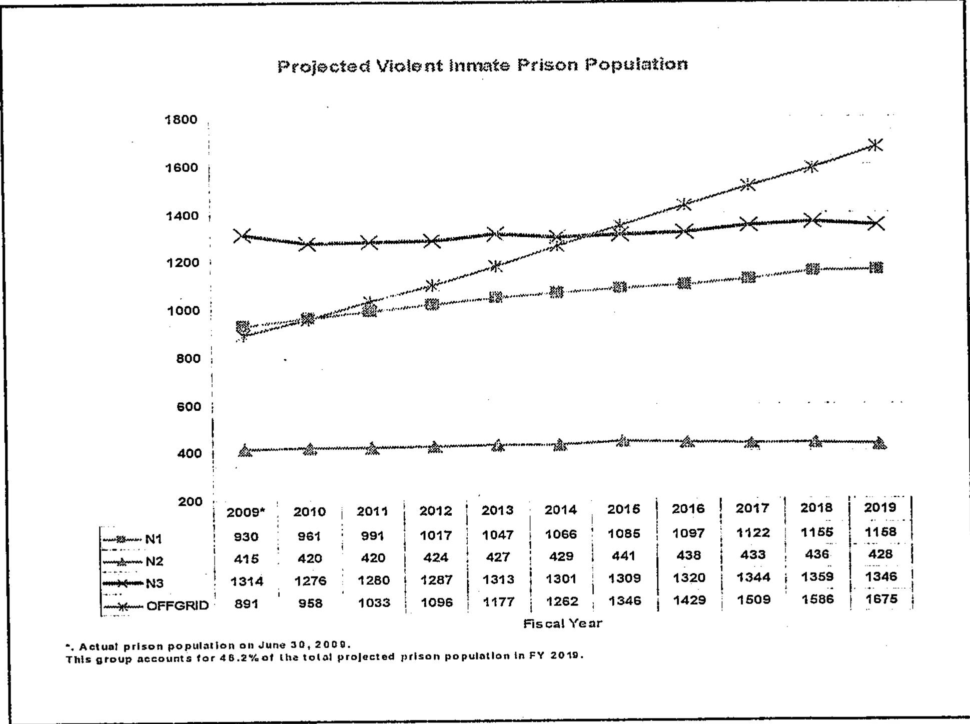
Male Prison Population Trend - Actual and Projected
Population
9500
9000
8500
8000
7500
7000
6500
6978
7326
7537
7932
8169
8009
8249
8432
8496
8413
8301
8200
8052
8021
8107
8136
8168
8379
8545
8639
8808
9014
9133
9299
Capacity 8123
Actual
Projected
1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019
Fiscal Year





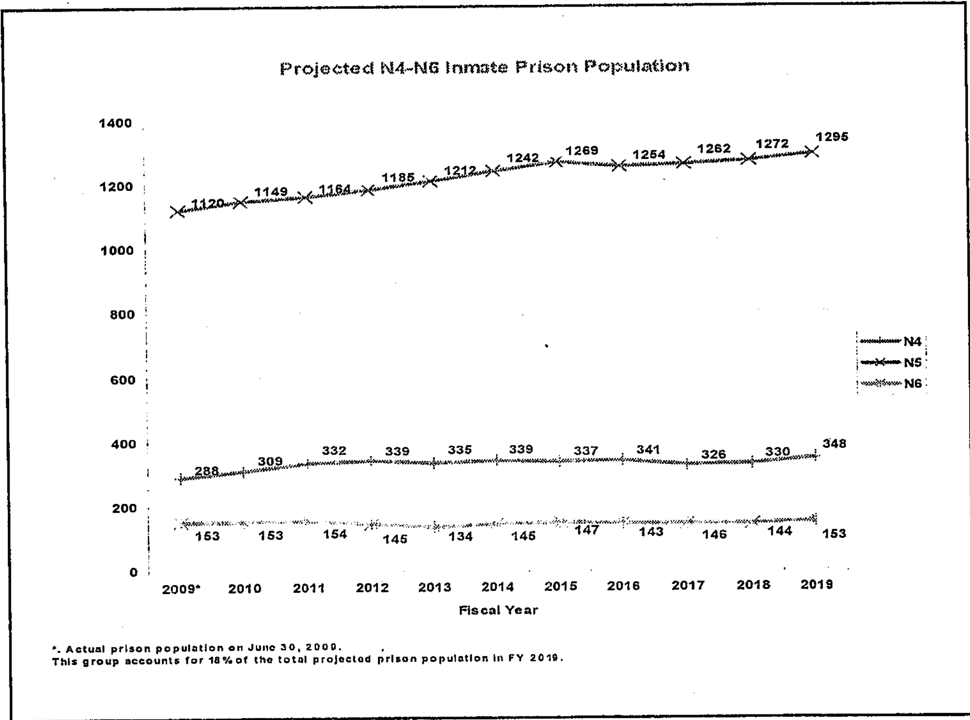
	2009*	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
D1	321	318	312	305	316	318	314	320	340	344	348
D2	150	136	151	151	161	167	166	179	192	182	188
D3	415	418	422	418	419	390	407	410	409	426	422
D4	630	621	597	578	589	583	558	585	597	591	632

*. Actual prison population on June 30, 2009.
This group accounts for 15.9% of the total projected prison population in FY 2019.



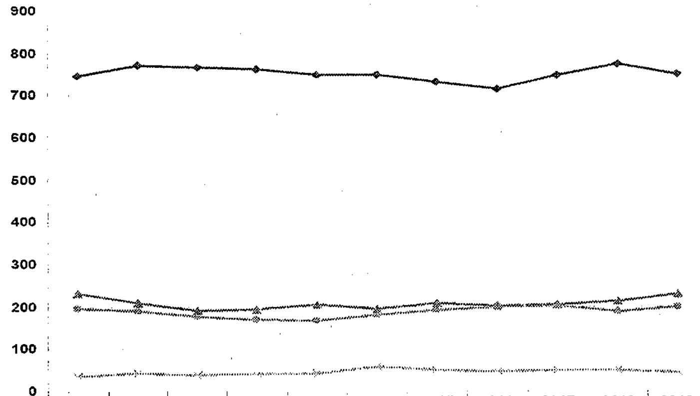
	2009*	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
N1	930	961	991	1017	1047	1066	1085	1097	1122	1155	1158
N2	415	420	420	424	427	429	441	438	433	436	428
N3	1314	1276	1280	1287	1313	1301	1309	1320	1344	1359	1346
OFFGRID	891	958	1033	1096	1177	1262	1346	1429	1509	1586	1675

*. Actual prison population on June 30, 2009.
This group accounts for 46.2% of the total projected prison population in FY 2019.



*. Actual prison population on June 30, 2009.
This group accounts for 18% of the total projected prison population in FY 2019.

Projected Nonviolent Inmate Prison Population

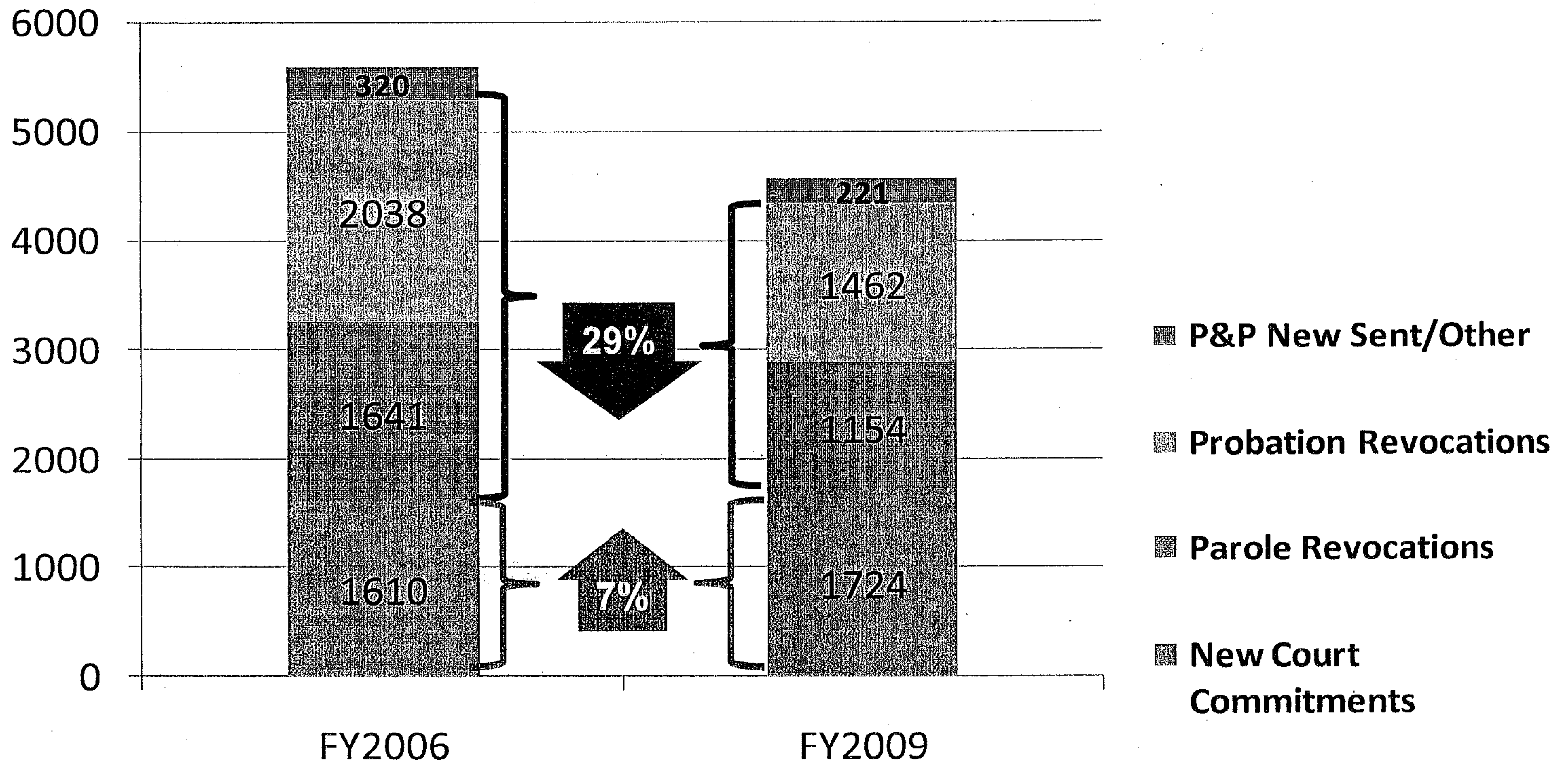


	2009*	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
N7	746	772	767	762	746	747	732	715	748	774	751
N8	197	191	176	169	166	181	190	199	201	189	200
N9	233	209	192	195	204	193	207	202	204	212	230
N10	35	43	39	42	41	57	50	47	48	49	45

Fiscal Year

*. Actual prison population on June 30, 2009.
This group accounts for 12.3% of the total projected prison population in FY 2019.

FY2006 vs. FY2009 Admissions



11-13

Why are New Court Commitments Increasing?

Offense	FY2008	FY2009
D3	**112**	**141**
Poss. w/ Int. to Sell; 1st off.	73	97
N5	**214**	**271**
Failure to register or return verification to KBI	0	25
Aggravated Burglary	24	35
N7	**178**	**207**
Burglary	61	77
N8	**73**	**118**
Criminal Possession of a Firearm	5	18
Forgery	31	43
N9	**154**	**191**
Criminal Threat	25	36
Off Grid	**65**	**91**
Murder; First Degree	23	35

KANSAS
DEPARTMENT OF CORRECTIONS

Kathleen Sebelius, Governor
Roger Werholtz, Secretary

www.dc.state.ks.us

October 2, 2009

Honorable Ernest L. Johnson
District Judge, Wyandotte County Courthouse
710 N. 7th Street, Division 5
Kansas City, Kansas 66101

Dear Judge Johnson:

Pursuant to provisions of K.S.A. 21-4725, I am hereby informing the Kansas Sentencing Commission that the number of KDOC inmates as of September 30, 2009 represented 97.4% of the overall capacity of the Kansas correctional system. On that date, there were 8,635 inmates compared to a total capacity of 8,870—including 8,749 beds in KDOC facilities and 121 placements available to the department in facilities operated by other agencies. Considering KDOC facilities only, the 8,520 inmates housed in them on September 30, 2009 represented 97.4% of the capacity of those facilities.

Of the total inmate population on September 30th, 8,064 inmates were male and 571 were female. The female population on that date included eight federal inmates housed at Topeka Correctional Facility (TCF) pursuant to a contract agreement between the department and the federal Bureau of Prisons. Total correctional system capacity for housing males is 8,123; for females, the capacity is 747. The September 30th inmate population represented 99.3% of capacity for males and 76.4% for females.

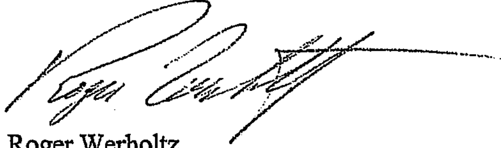
Due to the current budget situation, the Kansas Department of Corrections has had to remove 520 beds from our potential capacity between December 31, 2008 and July 1, 2009. Our agency will not be able to meet the demand for additional bed needs at our current capacity without the resources to reopen beds closed in FY 2009 or without new capacity added elsewhere.

The statistical breakdown for the classification status of males and females is as follows:

INMATE CUSTODY	MALE			FEMALE		
	Capacity	Population	%	Capacity	Population	%
Maximum/ Special Management	2326	1933	83.1%	69	97	140.6%
Medium High	2634	1414	53.7%	250	73	29.2%
Medium Low	1019	2439	239.4%	326	100	30.7%
Minimum	2144	2278	106.3%	102	301	295.1%
Total	8123	8064	99.3%	747	571	76.4%

***The security designation of much of the female capacity is medium security. While this capacity is suitable for housing medium custody females, it would not be appropriate for housing medium custody males.**

Sincerely,



Roger Werholtz
Secretary

cc: Governor Mark Parkinson
Helen Pedigo, Director, Kansas Sentencing Commission
Jarod Waltner, Budget Analyst, Kansas Legislative Research Department
Senator Jay Emler, Chair of the Senate Ways & Means Committee
Representative Kevin Yoder, Chair of the House Appropriations Committee
Senator Tim Owens, Chair of the Senate Judiciary Committee
Representative Pat Colloton, Chair of the House Corrections & Juvenile Justice Committee
Representative Lee Tafanelli, Chair of the House Public Safety Budget Committee

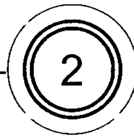
C&JJ Oversight
Attachment 12
10-28 & 29-09

Joint Committee on Corrections and Juvenile Justice Oversight

KANSAS DEPARTMENT OF CORRECTIONS
COMMUNITY AND FIELD SERVICES

KEVEN PELLANT
DEPUTY SECRETARY
COMMUNITY AND FIELD SERVICES

October 2009

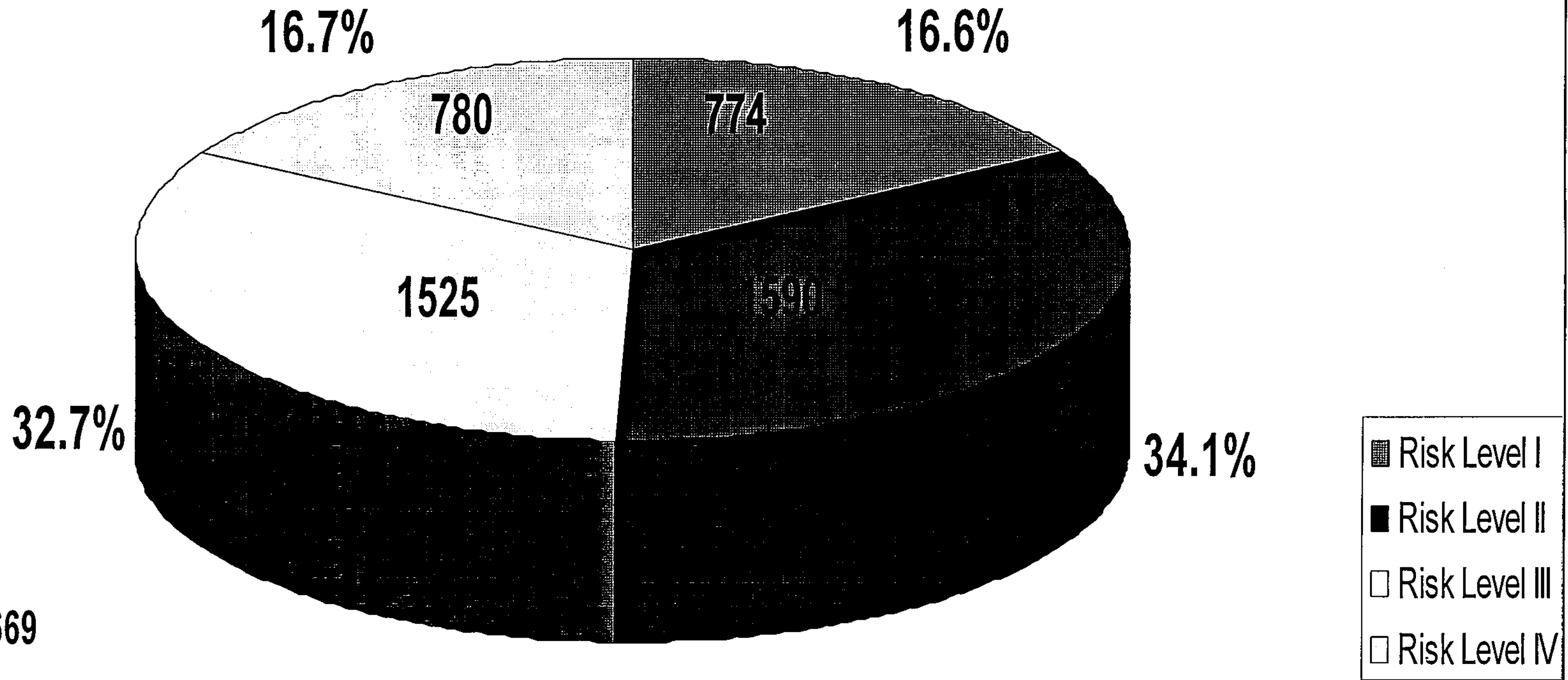


Overview

Community Corrections Population on June 30th

	2008	2009
Adult Intensive Supervision	8024	8181
Residential Services	259	255
Interstate Compact	568	607
Absconders	1468	1390
Total	10319	10433

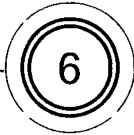
All Offenders by LSI-R Risk Level
Pre-Sentence/Initial Assessments Only
(Risk Level 1-4 with 1 Being Highest)



Community Corrections Risk Reduction Initiative

9-6

Community Corrections Risk Reduction Initiative



- FY 2008 Community Corrections Risk Reduction Activities:
  - Directors Conference and Training
  - Stakeholders Conferences
  - Competitive Grant Application
  - Office Hours across the state
  - 2 Resource Workshops
  - Case Management Staff Conferences
  - Targeted Skills Development Implementation
    - Advanced Communication and Motivational Strategies
    - Case Management Principles and Practices
    - Cognitive Tools

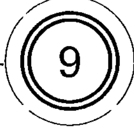
Risk Reduction
Efforts Being Pursued Locally

- Hiring new staff and/or reconfiguring existing staff structures.
- Delivering or contracting for cognitive groups.
- Partnering with community organizations (Mental Health Centers, Workforce Development Centers, Adult Education Centers, etc.).
- Training staff in evidence based practices.
- Revising policy and procedure to align with evidence based practice.
- Developing intermediate sanctions models of supervision.
- Developing systems of reward and positive reinforcement for staff and probationers.
- Revising staff evaluation procedures.
- Developing and maintaining program monitoring and evaluation procedures.

Risk Reduction
Efforts Being Pursued Locally

- Developing voucher money policy and procedure to address probationer needs.
- Developing in-house offender workforce development programs.
- Developing quality assurance procedures.
- Reduction of caseloads.
- Specialization of caseloads.
- Engagement of the community, and probationer family and significant others, in the supervision process.
- Investigation and/or implementation of specialized assessment tools.
- Revision of revocation procedures.
- Revision of absconder location practices.

Risk Reduction Progress
FY06 – FY09 Offender Case Closures



STATEWIDE

Number of Closures

3000
2500
2000
1500
1000
500
0

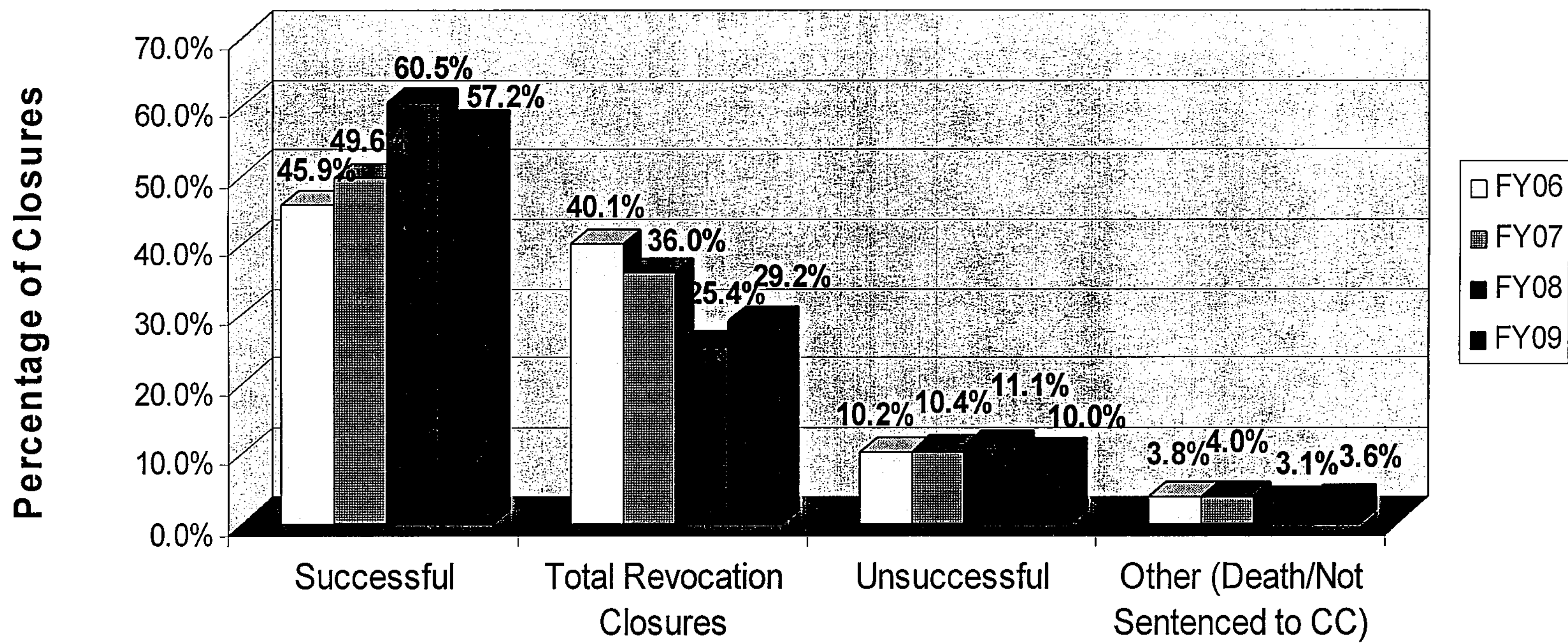
Successful: 2255, 2428, 2847, 2901
Total Revocation Closures: 1971, 1759, 1539, 1479
Unsuccessful: 500, 507, 478, 506
Other (Death/Not Sentenced to CC): 186, 197, 180, 184

□ FY06
▦ FY07
■ FY08
■ FY09

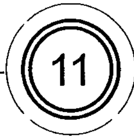
FY06 (N=4912)
FY07 (N=4891)
FY08 (N=5044)
FY09 (N=5070)

CC Closed Offender Files by Reason for Closure

Risk Reduction Progress
FY06 – FY09 Offender Case Closures



Number of Revocations and 20% Targeted Reduction FY 06-09

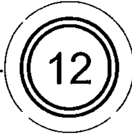


STATEWIDE

Number of Revocations and 20% Target Reduction

CC Total Revocation Closures	Value
FY06	1971
FY07	1759
FY08	1539
FY09	1479
20% Target Reduction	1576.8

*To meet the 20% reduction, the FY09 number must be smaller than the number in the 20% target reduction bar.



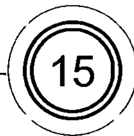
Training Overview

Risk Reduction Training

- Three major training initiatives were finished during FY 09
  - Advanced Communication and Motivational Skills
  - 2 Day Cognitive Tools
  - Case Management Principles and Practices

Planned for FY2010

- Current Training initiatives:
  - Deliver Sex Offender Management Training to Community Corrections and Parole case managers (CSOM Grant)
  - Assist with delivery of Management of Domestic Violence Offender Training to Community Corrections, Parole and Court Services Officers (GTEAP Grant)
  - Deliver Advanced Communication and Motivational Skills Refresher training to Community Corrections and Parole Officers
- Develop and deliver training for supervisors to mentor, support and increase staff motivational interviewing and case management skills



Facilitated Strategic Planning

Facilitated Strategic Planning

- Completed the Cooperative Agreement with NIC and the Criminal Justice Institute (CJI) to build KDOC Community Corrections Division Capacity to support and implement evidence based practices statewide in Community Corrections using the Integrated Model:
  - Organizational Development
  - Collaboration
  - Evidence Based Principles
- Developed and Delivered the first round of Facilitated Strategic Planning for Community Corrections

12-16

Facilitated Strategic Planning Activities

- Intensive On-Site assistance for each selected agency throughout the initiative year
- Kick-Off Meeting
  - Recognize and celebrate the selected sites
- Organizational Assessment
  - Likert Organizational Climate Survey
  - TCU Assessment of Organizational Functioning
  - Focus Groups
  - Evidence Based Practices Checklist

Facilitated Strategic Planning Activities

- Strategic Planning Retreat
  - Review of agency assessment data.
  - Definition of agency vision, mission and values.
  - Brainstorming and refine goals, objectives, action steps, timelines and benchmarks.
  - Development of work teams to pursue completion of each objective.
  - Definition of quality assurance and evaluation plans.
- Quality Assurance and Evaluation Retreat
  - Definition of components of a QA and Evaluation Plan
  - Assessment of current agency QA and its alignment with EBP
  - Develop a framework for ongoing evaluation and QA

Facilitated Strategic Planning

- FY 2009 Participating Agencies
  - 6th Judicial District Community Corrections
  - 8th Judicial District Community Corrections
  - Harvey/McPherson Counties Community Corrections
  - Shawnee County/2nd Judicial District Community Corrections

Facilitated Strategic Planning

- FY 2010 Participating Agencies
  - Riley County Community Corrections
  - Central Kansas Community Corrections
  - 4th Judicial District Community Corrections

Facilitated Strategic Planning

- Implementation of Training Seminars
  - Refresher training for agencies who have already participated
  - Available to all agencies to attend to build the foundation and prepare for participation in the Facilitated Strategic Planning

Seminar Topics

- Strategic Planning
- Change Management for Organizations
- Quality Assurance
- Effective Teams
- Organizational Development
- The Visionary Leader
- Process Facilitation
- Collaboration
- Myers-Briggs Type Indicator In Action
- Principles of EBP - Philosophy and Practice

12-23

Parole Services

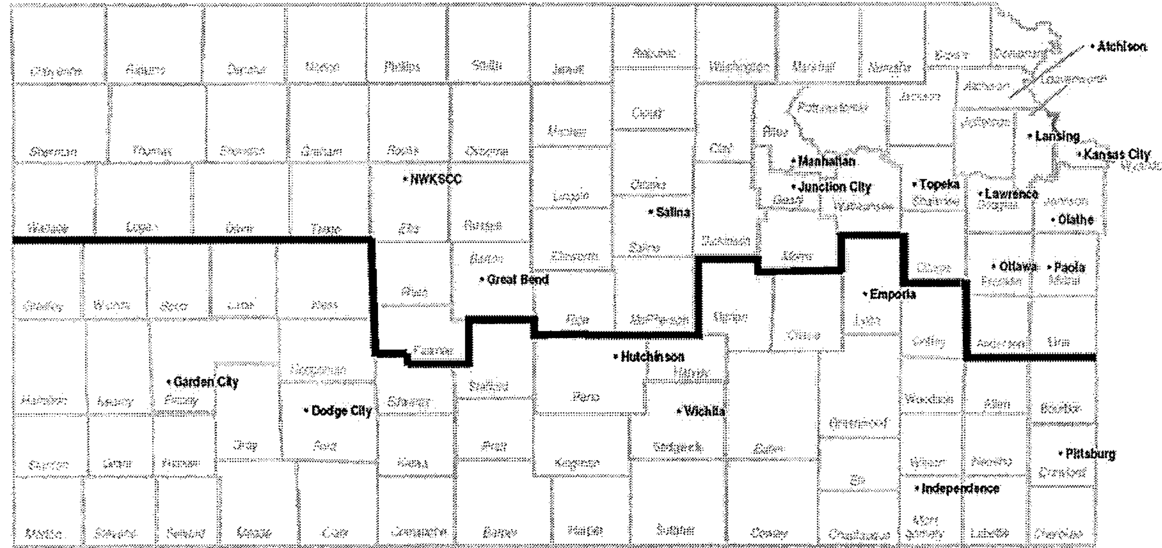
- Primary Focus - *Risk Reduction*
- Enhanced Release Planning
- Research Driven Supervision
- Use of Classification Instruments
- Case Planning
- Provision of Appropriate Resources
- Use of Responsivity Principle
- Intensive Training for Staff
- Parole/Reentry Collaboration

Parole Regions and Office Locations

19 Offices

State of Kansas

NORTHERN PAROLE REGION



SOUTHERN PAROLE REGION

MSOffice2

Parole Services Staffing & Caseloads

FTE staff assigned to Parole Services: 165.5

Number of Offenders supervised by Parole Staff as of 9-28-09: 5,999* (this is an increase of 242 offenders since September, 2008)

Of the 5,999, 1,932 are offenders from other states being supervised in Kansas.

Parole Services Staffing (Cont)

- 5,999 Offenders Under Supervision in Kansas
- 730 of these offenders are being supervised for a 4th or greater DUI offense
- Male Offenders: 5,195
- Female Offenders: 804
- * Not Included in the 5,999 are 311 DUI offenders who haven't yet reached Post Release Supervision but are in county jails making actual supervised total at 6,310.
- 2,375 Kansas offenders are being supervised out of state. Of these, 1,468 are probationers and 907 are parolees

Offender Supervision Levels

(Offenders Supervised in Kansas)

Offenders on <u>High</u> Level: 468 males and 53 females – Total - 521

Offenders on <u>Moderate</u> Level: 2,840 males and 364 females – Total - 3204

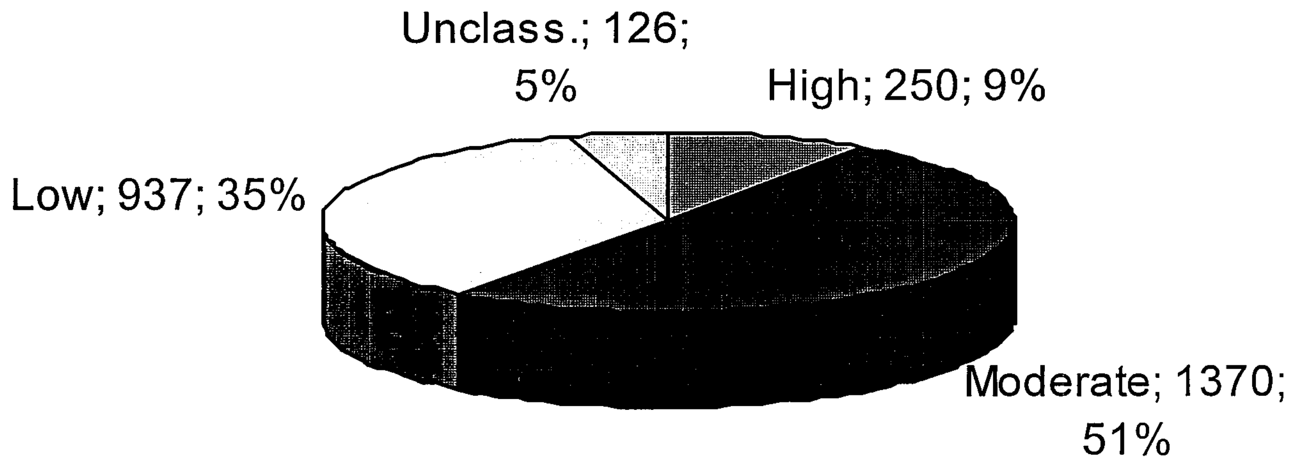
Offenders on <u>Reduced or Low Level</u>: 1,585 males and 357 females – Total – 1,942

Offenders not yet assessed for risk: 331

12-28

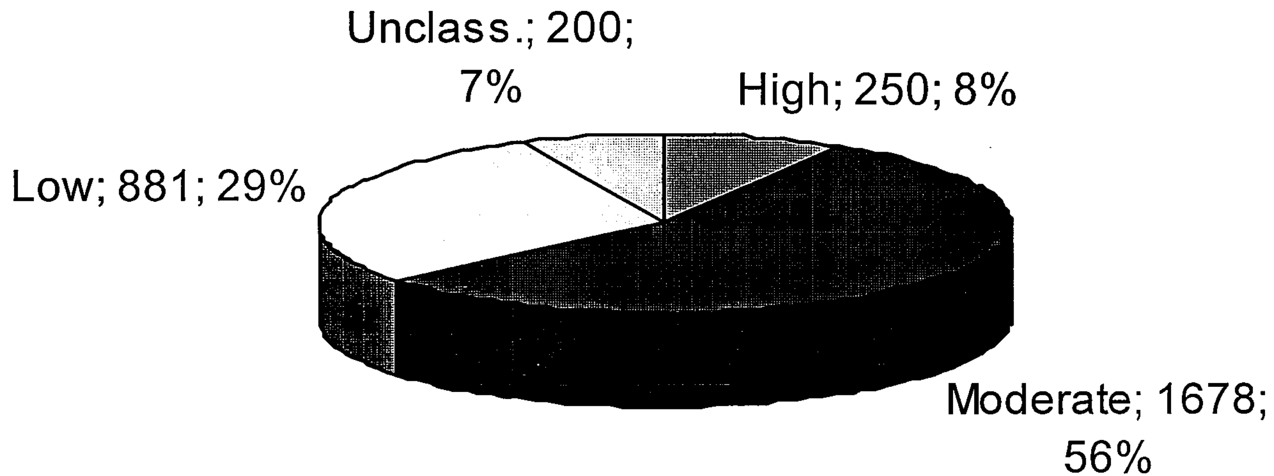
Southern Parole Region Offender Classification

28



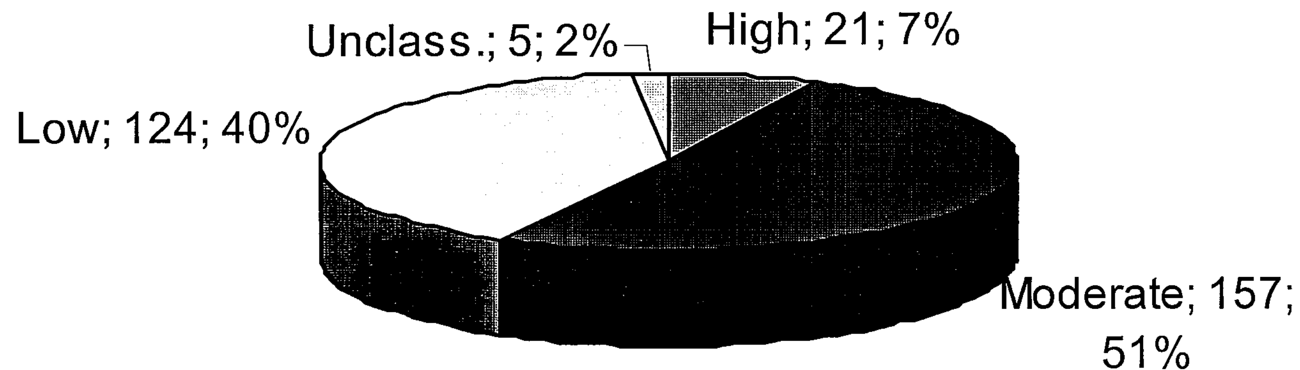
Total – 2,683

Northern Parole Region Offender Classification



Total – 3,009

GPS Unit Offender Classification



Total – 307 - Numbers Cited are 2nd Time Child Sex Offenders Assigned to a Specialized Unit.

Specialized Caseloads

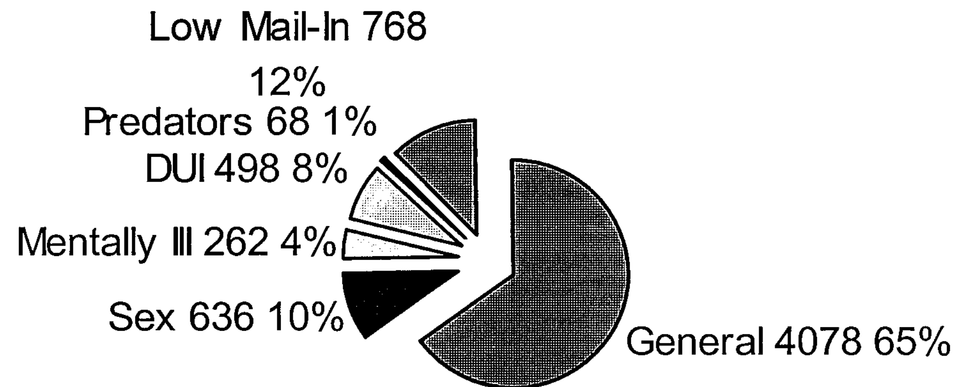
Because of the need for specific supervision expertise, certain types of offenders have been assigned to specialized caseloads, primarily in the urban offices.

Common Specialized Caseload Types are:

- DUI
- Gang
- Mentally Ill
- Sex Offenders
- Sex Predators
- Reduced Supervision

Parole Specialized Caseloads

32

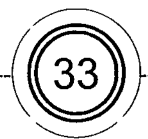


Figures as of 9-28-09 – Includes 311 4th DUIs in Tracking – Total 6,310

Specialization figures are reflected only for those offices that have specialized caseloads

12-32

Sex Offender-GPS Unit



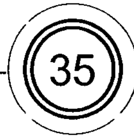
- Established In October, 2006 As A Governor's Initiative To Supervise Offenders With Two (2) Or More Counts Of Sex Offenses Against Children
- Unit Consists Of Nine (9) Staff Members Including Two Armed Officers And A Supervisor
- Located In Kansas City, Topeka, Olathe, Hutchinson And Wichita
- Unit Covers The Entire State
- All Offenders Assigned To The Unit Are On GPS Monitoring

Sex Offender - GPS Unit

(Statistics)

- As of 10-12-09, 307 Offenders are Supervised By The Unit
- Since July 1, 2008, 77 Of These Offenders Have Been Returned To Prison
- Fourteen (14) have sustained law violations alone or in combination with other violations
- 57 Had A Violation Of A Special Condition That At Least In Part, Resulted In Their Return To Prison
- KDOC has collaborated with the Exploited and Missing Children's Unit to engage in offender computer searches

Interstate Compact Unit



- The Interstate Compact for Adult Offender Supervision is mandated by federal and state law. Members include all 50 states and 2 U.S. territories
- Responsible for tracking all supervised offenders coming into and leaving the State of Kansas
- Responsible for Parole NCIC warrant entries, tracking and extradition of absconders arrested out of state
- Subscribe to the principles of controlled movement and continuous supervision to support the mission of community safety
- All states now subscribe to the national database for tracking offenders

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interstatecompact.org https://icots.interstatecompact.org/ICOTS

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ICAOS | Interstate Commission for Adu... | ICOTS

ICOTS

Interstate Compact Offender Tracking System

chrisr@doc.ks.gov | Logout

ssistants | Compact Workload | Offenders | Reports | Users | Help

Choose the process you would like to initiate

- ○ Request for Reporting Instructions
- ○ Request for Reporting Instructions Reply
- ○ Transfer Request
- ○ Transfer Request Reply
- ○ Notification of Departure
- ○ Notification of Arrival
- ○ Progress Report
- ○ Offender Violation Report
- ○ Response to Violation Report
- ○ Case Closure Notice
- ○ Case Closure Notice Reply
- ○ Compact Action Request
- ○ Compact Action Request Reply
- ○ Case Note

cots.interstatecompact.org/ICOTS/reports

Skill Development for Parole Staff

- KDOC parole services division provides ongoing training to all staff ;
  - Basic job knowledge
  - Annual enhance existing skills
  - Specialty training to teach new skills for more effective case management
- On an annual basis, at least 40 hours of additional training is provided. This training helps staff maintain basic job knowledge and learn provide new knowledge and skills. Some of the courses that have been provided in recent years are:
  - Motivational interviewing
  - Case planning
  - Cultural assessment
  - Supervision of mentally ill offenders
  - Management of sexual offenders
  - Cognitive-Behavioral change

Services Provided for Offenders at Parole Offices

Resource Workshop
Workshop provides community resources for newly released offenders.

Offender Workforce Development
Workshop provides employment readiness information

Women's Support Group
Discussion of life issues relative to relationships, families and self growth

Men's Group
Discussion of life issues for men surrounding release

Batterer's Intervention

Stop Violence Group

Freedom Education Center

Revocation Reduction from FY2006 Baseline			
	20% Reduction Goal		
Agency	FY 07	FY08	FY09
25th Judicial District	Not Met	Not Met	Not Met
28th Judicial District	Not Met	Met	Met
Sedgwick County	Not Met	Met	Not Met
Shawnee County	Not Met	Not Met	Met
Unified Government	Not Met	Met	Met

Number of Community Corrections Offender Files Closed by Reason for Closure Fiscal Years: 2006 - 2009

Agency	Successful				Unsuccessful				Revoked			
	FY06	FY07	FY08	FY09	FY06	FY07	FY08	FY09	FY06	FY07	FY08	FY09
25th Judicial District	81	67	110	95	7	16	5	5	46	42	47	41
28th Judicial District	94	133	127	114	6	9	7	10	90	81	59	41
Sedgwick County	387	386	448	434	22	17	23	23	569	501	404	480
Shawnee County	159	173	190	237	16	13	8	6	89	109	85	62
Unified Government	83	126	151	212	120	98	68	68	251	250	194	127

Percentage of Community Corrections Offender Files Closed by Reason for Closure Fiscal Years: 2006 - 2009

Agency	Successful				Unsuccessful				Revoked			
	FY06	FY07	FY08	FY09	FY06	FY07	FY08	FY09	FY06	FY07	FY08	FY09
25th Judicial District	58.3%	51.5%	66.7%	65.1%	5.0%	12.3%	3.0%	3.4%	33.1%	32.3%	28.5%	28.1%
28th Judicial District	45.6%	58.8%	65.5%	62.0%	6.5%	4.0%	3.6%	5.4%	43.7%	35.8%	30.4%	29.9%
Sedgwick County	38.0%	41.0%	49.9%	44.9%	2.2%	1.8%	2.6%	2.4%	55.9%	53.2%	44.9%	49.7%
Shawnee County	58.7%	56.2%	65.1%	77.5%	5.9%	4.2%	2.7%	2.0%	32.9%	35.4%	29.1%	20.3%
Unified Government	17.8%	25.6%	35.7%	50.1%	25.8%	19.9%	16.1%	16.1%	54.0%	50.8%	45.9%	30.0%

Joint Committee on Corrections and Juvenile Justice

Thank you for the opportunity to present some information to your committee on our program outcomes. My name is Annie Grevas and I am the director of Community Corrections in the 28th Judicial District, serving Saline and Ottawa Counties.

Our agency began new methods of client supervision in late FY 2006. Since that time this agency has seen some very positive results in increased successful completions and reduced revocations.

As you can tell by the table you received from the Department of Corrections, numbers and percentages have drastically changed since FY 2006. For our district during FY2006 we had a successful completion rate of 94 cases, a revocation rate of 90 cases and 6 unsuccessful cases. So for FY06 this agency successfully completed 45.6% of the caseload but revoked 43.7% of that same caseload.

In the latter part of FY2006 this agency began looking at evidence based practices to better supervise an increasing client population. Staff received several days of training and EBP became the new buzz around the office. After a three day strategic planning session that included staff, Board members, and community stakeholders many new practices were gradually put into place, changing the way we did business with the client population.

Over the next six to nine months, into FY2007, this agency continued the following:

- Frequent staff training
- Modification of agency policy/procedures to align with evidence based practice
- Training for Board, community stakeholders, and District Court Judges
- Adopted quality assurance practices both in-house and within provider agencies
- Trained staff facilitators of client cognitive behavior based groups
- Developed four in-house cognitive behavior client groups, (morning, afternoon, evening hours)

- Annual strategic planning
- Change talk to staff in all staff meetings, group trainings, team based training, etc
- Employee evaluations and file audits designed to address the importance of Motivational Interviewing and the usage of those techniques with all client contacts
- Financial assistance for transportation, medical services, housing, etc.

In FY2009 this agency successfully completed 114 cases or 62% of the caseload, revoked 41 cases or 29.9% of the caseload and had 10 unsuccessful cases, a substantial change from FY2006.

As the table points out the 28th Judicial District met and exceeded the required 20% reduction goal two out of three years, that being FY2008 and FY2009. In FY 2009 this agency had a 50% reduction.

Many factors contributed to the success of this agency, including all those factors listed previously within this information. But changing those old traditional behaviors and beliefs of the staff responsible for supervising clients was the largest challenge and at the same time our greatest strength.

SHAWNEE COUNTY AND 2ND DISTRICT COMMUNITY CORRECTIONS

Presentation to Joint Committee on Corrections and Juvenile Justice - October 29, 2009

Overview of Data:

1. Our Success Rate increased from 58.7% in FY06 to 77.5% in FY09.

2. Our Unsuccessful Closures decreased from 5.9% in FY06 to 2% in FY09.

3. Our Revocation Rate decreased from 32.9% in FY06 to 20.3% in FY09.

4. FY09 was the first year we met the 20% Revocation Reduction.

Reasons for Success:

1. KDOC has provided direction and vision – we know what is expected. The goal to reduce revocations by 20% is very clear and they have provided technical assistance, training and coaching to support the expectation.

2. Use of the LSIR (Levels of Service Inventory – Revised) - having a valid assessment tool is the necessary beginning to implementing evidence based practices.

3. Focus - We have our agency values, vision and mission statement and the Eight Evidence Based Principles posted in our lobby and conference rooms. (Provide copy)

4. Experienced, trained staff - Out of 12 ISP Officers, the newest member has been on staff 5 years and she came to us with court services and parole experience.

5. Training - ACMS (Advanced Communication and Motivational Strategies), Case Management, Evidence Based Principles, Cognitive Behavioral Techniques and Supervising Sex Offenders – all of our ISP Officers have received training and in some cases booster training.

6. Shawnee County has a variety of local resources - Detox Unit, Immediate Crisis Care at Valeo, Batterer's Group through the Family Peace Initiative at YWCA, partnering with parole (Thinking 4 Change, Women's Group, Employment Workshops and Seminars, Job Club) and our own Anger Management and Cognitive Skills Improvement Groups. Shawnee County has an environment that accepts treatment options.

7. Assessments - We are able to fund assessments for indigent offenders: sex offender and mental health. Assessments are completed quickly at the beginning of probation to access resources. A RADAC employee is in our office weekly to administer drug and alcohol assessments to offenders.

8. Individual officer accountability – we keep the officers informed of their individual revocation rates and other performance measures.

Challenges:

1. High caseloads (about 42 last year for each officer).

2. Judges and A.D.A.s get frustrated seeing offenders with multiple appearances before the court on the same case.

Shawnee County Community Corrections

Our Agency Values:

Humanity/Self Worth
Public Safety
Cooperation
Optimism
Integrity
Stability
Loyalty
Community
Belief in Capacity to Change
Fairness
Respect
Honesty
Perseverance

Our Vision:

Working in partnership to promote client success and enhance community safety.

Our Mission:

To enhance public safety and promote client success through the use of evidence-based supervision.

Eight Evidence-Based Principles for Effective Interventions

1. Assess Actuarial Risk/Needs.
2. Enhance Intrinsic Motivation.
3. Target Interventions.
   a. *Risk Principle*: Prioritize supervision and treatment resources for higher risk offenders.
   b. *Need Principle*: Target interventions to criminogenic needs.
   c. *Responsivity Principle*: Be responsive to temperament, learning style, motivation, culture, and gender when assigning programs.
   d. *Dosage*: Structure 40-70% of high-risk offenders' time for 3-9 months.
   e. *Treatment:* Integrate treatment into the full sentence/sanction requirements.
4. Skill Train with Directed Practice (use Cognitive Behavioral treatment methods).
5. Increase Positive Reinforcement.
6. Engage Ongoing Support in Natural Communities.
7. Measure Relevant Processes/Practices.
8. Provide Measurement Feedback.

Department Of Community Corrections

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Kansas City, Kansas 66101

Phone: (913) 573-4180
Fax: (913) 573-4181

Testimony before the State of Kansas Joint Committee on Corrections and Juvenile Justice Oversight

October 29, 2009

I appreciate this opportunity to speak before your committee today on the subject of the implementation of evidence based practices (EBP) in our local criminal justice system in Wyandotte County.

When our management team developed the plan for the proposed 20% reduction in revocations we conducted a complete ground to top review of the business processes that existed then examined how those practices could be realigned with (EBP) and measured through exact metrics. Some of the core changes implemented included;

- The creation of a re-engagement officer to track warrant cases and those offenders that are in imminent danger of being on warrant or absconder status. By targeting those individuals and bringing them back into the compliance we increase the success rate for those offenders. To date more than 100 offenders have been re-engaged and removed from inactive status.
- The development of an Occupational Workforce Development unit within the intensive supervision division. 77 clients have completed the program by gaining full time employment or participating in a full time educational program since its inception. There has been a 7% decrease in the risk domain for employment skills on successfully discharged offenders since FY06.
- The creation of a unit to provide for a uniform orientation process and risk assessment for all offenders entering the program. This allows us to target offender's high risk areas and assign cases and prioritize interventions based on those findings.
- The implementation of a Probation Violation Review Panel to funnel all offenders at risk for being revoked into a multidisciplinary review group. Through (EBP) and motivational techniques they redirect the offender and individual officers into productive avenues to address the risk factors for that individual offender prior to requesting formal revocation.
- The development of a cognitive based education program for medium and high risk offenders.
- The creation of a single low risk caseload officer in order to maximize available resources. By siphoning off these low risk offenders to one caseload the remaining officers are freed up to spend more productive time with the medium and high risk offenders. Based on research, these offenders do not require a lot of supervision and in fact may fail if over supervised. This caseload currently consists of 100 offenders.

The summary of our outcomes from FY06 through FY09 are as follows;

- 32.3% increase in our successful completion rate.
- 9.7% decrease in unsuccessful completion rate.
- 24% reduction in our overall revocation rate.
- Our agency met the 20% reduction goal in FY08 and FY09. The first year of implementation in FY07 was a half year and therefore not a practical gauge of progress.

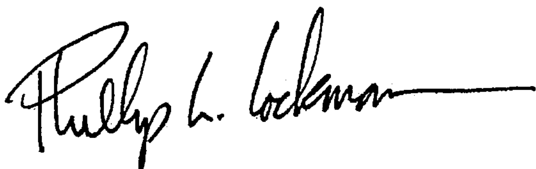
It should be noted that at this same time there was an almost 100% increase in our average active caseload size from 400 to 800 offenders. We also received a 9% reduction in our grant amount for our fiscal year 2010 budget. The overall reduction in KDOC's parole services and community corrections budgets in FY10 are incongruent with the continuation of the progress that has thus far been experienced by the respective field services units.

I strongly urge that,

- Funds should be reinstated to parole services and community corrections agencies so that the gains thus far made in reducing the prison population and decreasing the risk to public safety will not be lost.

- The Office of Judicial Administration should be encouraged and adequately funded by the legislature to implement a uniform standardized risk instrument prior to sentencing across the state. The existing delays and lack of interest shown so far are continuing to funnel low risk offenders to community corrections and high risk offenders to court services supervision. Having full implementation of (EBP) in all the various criminal justice system components will further the state wide goals of risk reduction and the desired curtailment in the increasing size of the prison system population.

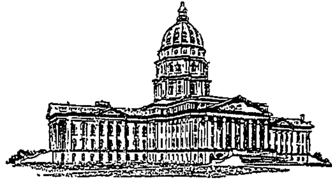
- Drug, Mental Health and Problem Solving Courts should be proposed and funded in geographic areas where they are absent and expanded in areas where they currently exist.



Phillip L. Lockman, Director
Unified Government of Wyandotte County and KCK
Department of Community Corrections

STATE OF KANSAS

BILL FEUERBORN
REPRESENTATIVE 5TH DISTRICT
ANDERSON, FRANKLIN, MIAMI COUNTIES



TOPEKA

HOUSE OF REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING DEMOCRAT APPROPRIATIONS
MEMBER AGRICULTURE
EDUCATION BUDGET
JOINT COMMITTEE ON STATE BUILDING CONSTRUCTION
LEGISLATIVE BUDGET COMMITTEE
CAPITOL RESTORATION
HEALTH POLICY OVERSIGHT

Chairman Colloton and Committee Members:

Thank you for allowing us to discuss the possibility of an early release for terminally ill inmates. I was contacted by Mr. Carrol Droddy last year to try to get a release for his daughter.

I have found that our current law requires a length of time to proceed through the process. I believe in some cases we should have a quicker process.

Our purpose is to get this committee to discuss and hopefully introduce a bill that can be worked in the coming session. I have included a letter from Secretary Werholtz and information that the Legislative Research Department has put together for me.

Inmates convicted of a violent crime or a sex crime would NOT be eligible for the release or parole. Again, thank you for allowing me to speak and I look forward to your questions at the appropriate time.

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STATE CAPITOL, ROOM 322-S
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1-8C
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KANSAS
DEPARTMENT OF CORRECTIONS

Mark Parkinson, Governor
Roger Werholtz, Secretary

www.doc.ks.gov

October 21, 2009

Rep. Bill Feuerborn
Statehouse, Room 132-N
Topeka, Ks 66612

billfeuerborn@earthlink.net

Re: Functional Incapacitation Releases/Imminent Death

Dear Rep. Feuerborn,

You have raised the issue of the potential release of persons sentenced to the custody of the Department of Corrections for service of a prison sentence who are facing imminent death. It is my understanding that the situation that you are considering involves persons that are in a community hospital or correctional facility infirmary with a prognosis of dying within a matter of days. As you know, since those patients are in the custody of the Department, corrections officers maintain custodial supervision of the patient and family visitation is governed by the operations of the correctional facility or if in a community hospital, nonetheless subject to the presence of an officer.

The Department has identified several factors that I believe should be taken into consideration in deliberating a release statute for inmates facing imminent death.

A. Length of time to process release applications.
B. Provision for release supervision in lieu of custodial type supervision.
C. Issues of responsibility for continued medical care costs.
D. Whether there should be requirements for having served a minimum amount of time and custody level.
E. Whether there should be limitations regarding type of conviction offenses.

As you know, Kansas has adopted a Functional Incapacitation Release statute (K.S.A. 22-3728). This statue has the following features:

A. Applicable to inmates deemed to be functionally incapacitated and who do not represent a future risk to public safety. Kansas Parole Board regulation defines functionally incapacitated as "a condition caused by injury, disease, or illness, including dementia, that is determined to a reasonable degree of medical certainty, to permanently render the inmate physically or mentally incapacitated to the extent that the inmate lacks effective capacity to cause physical harm". K.A.R. 45-700-1.
B. Requires at least 30 days notice to prosecutors, court, and crime victim or publication in the county of conviction prior to the offender being granted a release.

C. Application is to be made by the secretary.

D. KPB is to determine the release supervision conditions and the release maybe revoked by the Board due to the incapacity diminishing, the person presents a threat or risk to public safety, or violates a condition of release.

This statute does not have any limitation regarding the length of time the offender has already served on the sentence, custody level, or type of offense. The statute however does require a notice period of at least 30 days before the release can be effected.

In identifying the attributes of the current functional incapacitation release statute and issues that you may wish to take into consideration in your deliberations regarding statutory release authority, the Department is not endorsing or proposing any particular position.

I understand that you are interested in a custodial release authority that is similar to the "Functional Incapacitation" statute but addresses imminent death. Those considerations would entail provisions for imminent death which could be amended into K.S.A. 22-3728 and providing:

A. Application by the secretary.

B. Certification by a Kansas licensed physician that the patient has a prognosis of death within 30 days.

C. Approval of the release of the offender to parole or postrelease supervision by one member of the Kansas Parole Board notwithstanding any other parole or postrelease eligibility statutory provision. A hearing by the Parole Board would not be required.

D. Notice to the sheriff, prosecutor, court and victim that the offender has been released to community supervision would be given. Publication in the newspaper would not be required.

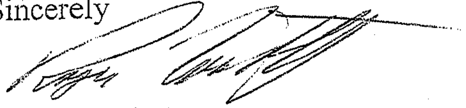
E. The offender would be subject to the release supervision conditions imposed by the Parole Board member. The offender's release could be revoked by the Parole Board if death is determined by a licensed physician to be no longer imminent, if the person fails to abide by any conditions of release, or the Board concludes that the person presents a threat or risk to public safety.

F. Agreement on the part of another competent party to assume responsibility for all costs of care including but not limited to medical care.

G. Approval by the Parole Board member of the proposed living arrangement.

I hope that this information is of benefit to you in your consideration of this issue. Again, the Department is not expressing support or an endorsement of proposed legislation in this area, but the Department is available to you to identify any issues that it believes may be applicable.

Sincerely



Roger Werholtz
Secretary of Corrections

RW/TGM/

Selected states with an early release procedure based upon an exceptional circumstance such as a medical condition:

Alabama: Under the regulations devised to carry out the Alabama Medical Furlough Act, a geriatric inmate is 55 or older, "suffers from a chronic life-threatening infirmity," a life-threatening illness, or from "a chronic debilitating disease related to aging" and poses no danger to himself or society. The regulations define a terminally ill inmate as someone "deemed to have an incurable disease that would, within reasonable medical judgment, produce death within 12 months." The regulations also define an incapacitated inmate as someone suffering from "a permanent, irreversible physical or mental condition" that prevents him from being involved in a crime or from committing violence, and needing help to meet his daily living and health care needs. To access the language of the law, go to: http://www.legislature.state.al.us/searchableinstruments/2008SS/Bills/SB15.htm.

Colorado: An inmate may be eligible for a special needs parole if the state Board of Parole determines, based on the special needs offender's condition and a medical evaluation, that he or she does not constitute a threat to public safety and is not likely to commit an offense; and the Board of Parole prepares a special needs parole plan that ensures appropriate supervision and placement of the special needs offender. To access the language of the law, go to: http://www.michie.com/Colorado/lpext.dll/cocode/2/2b625/2bd4e/2bd50/2be95/2c01c/2c069?f=templates&fn=document-frame.htm&2.0#JD_17-225-4035.

Louisiana: The Parole Board may consider an inmate for medical release if he or she is recommended by the Department of Public Safety and Corrections, if the inmate is not convicted of first or second degree murder, and is either permanently incapacitated or terminally ill. The parole term of an inmate released on medical parole shall be for the remainder of the inmate's sentence, without diminution of sentence for good behavior. If it is discovered through the supervision of the medical parolee that his condition has improved such that he would not then be eligible for medical parole, the Board may order that the person be returned to the custody of the Department of Public Safety and Corrections to await a hearing to determine whether his or her parole shall be revoked. Any person whose medical parole is revoked due to an improvement in his or her condition shall resume serving the balance of his or her sentence with credit given for the duration of the medical parole. Medical parole may also be revoked for violation of any condition of the parole as established by the Board of Parole. To access the language of the law, go to: http://www.legis.state.la.us/lss/lss.asp?doc=79226.

Maryland: Establishes medical parole as a form of release from incarceration for inmates who, as a result of a medical or mental health condition, disease, or syndrome, pose no danger to public safety, and establishes procedures for requesting medical parole. It requires the Maryland Parole Commission to consider specified information before granting medical parole and provides for the return to custody of a medical parolee under specified circumstances. Additionally, the law provides for victim notification and participation in medical parole proceedings. To access the language of the law, go to: http://mlis.state.md.us/2008rs/chapters_noln/Ch_299_hb0883T.pdf.

Missouri: The Missouri Board of Probation and Parole has the statutory duty to determine whether a person confined in prison will be paroled or conditionally released. Consideration for medical parole is possible when an offender is afflicted with a disease that is terminal (death anticipated within six months); or an offender is in need of long-term nursing care, or confinement will necessarily greatly endanger or shorten the offender's life. The Board will not consider medical parole for offenders serving a sentence of death, offenders serving a sentence for a crime that is not parolable, or offenders serving a sentence that has a minimum prison term that has not been satisfied. All requests for medical parole are forwarded to the institution's Primary Care Physician who will submit a recommendation to the Parole Board when the offender meets the medical parole criteria. The Board will then review the case without a personal hearing, make a decision, and forward the decision in writing to the offender. An offender may be granted a medical parole for the specific purpose of special care or treatment. Upon recovery, or at any time, the offender may be subject to return to the Missouri Department of Corrections or any other disposition as the Board of Probation and Parole may deem appropriate. To access the language of the regulation, go to: http://www.doc.mo.gov/division/prob/pdf/Blue%20Book.pdf.

North Carolina: In June, 2008, North Carolina Governor Mike Easley signed SB 1480, creating an early release program for "no-risk" inmates who are over 65 years of age and completely incapacitated by a chronic illness or disease. "No risk" means the inmate is not convicted of a violent or sex crime. Because these inmates could not care for themselves upon release, the law requires that they have a comprehensive "medical release plan" detailing who will provide what type of medical treatment, where it will be provided and how it will be funded. To access the language of the law, go to: http://www.ncga.state.nc.us/Sessions/2007/Bills/Senate/PDF/S1480v5.pdf.

Oklahoma: An inmate is eligible for medical parole if her or she suffers from a medical condition and the inmate's is not sentenced to life without parole. The request for determination of medical parole is initiated by the request of DOC and it is placed on the Pardon and Parole Board's docket for a determination. To access the language of §57-332.18, go to the Word attachment above, labeled ~$os57-1.rtf.

Wyoming: The Board may grant medical parole if it finds, based on a review of all available information, one or more of the conditions listed below exists within a reasonable degree of certainty; that the inmate is not likely to abscond or violate the law if released; that living arrangements are in place in the community and sufficient resources are available to meet the inmate's living and medical needs and expenses; and that the inmate does not have a medical condition that would endanger public health, safety or welfare if the inmate were released, or that the inmate's proposed living arrangements would protect the public health, safety or welfare from any threat of harm the inmate's medical condition may pose. The conditions that the Board must find that at least one exists in order for an inmate to be eligible for medical parole are as follows:

- The inmate has a serious incapacitating medical need, which requires treatment that cannot reasonably be provided while confined in prison;

- The inmate is incapacitated by age to the extent that deteriorating physical or mental health substantially diminishes the ability of the inmate to provide self-care in prison;

- The inmate is permanently physically incapacitated as the result of an irreversible injury, disease or illness which makes significant physical activity impossible, renders the inmate dependent on permanent medical intervention for survival or confines the inmate to a bed, wheelchair, or other assistive device where his mobility is significantly limited; or

- The inmate suffers from a terminal illness caused by injury or disease which is predicted to result in death within twelve (12) months of the application for parole.

To access the language of the law, go to: http://legisweb.state.wy.us/2008/Bills/SF0088.pdf.

(17)

My name is Carrol Droddy. My wife and I reside at 4069 Montana Road Ottawa, Kansas.

Chair Colloton:

Members of the committee, I would like to thank you for the opportunity to speak. My wife and I lost our daughter Lexie to cancer on March 26th of this year. Until March 24th she had been incarcerated in the Adult Detention Center of Johnson County. For the last three to four weeks of her life she could hardly stand or move around. She was a threat to no one yet all attempts to get her released to our custody were in vain. Her only desire was to be home with her children at this critical time. The commander of the detention center would have very much liked to have had her released. It was a great expense to his facility to keep her there, yet the law was very plain. Finally, it was discovered that she could be released on an appeal bond and time served on another charge. She was released on March 24th of this year. She was so close to death that we are not sure that she knew she was home. She had four children here waiting to see her; however we were not sure she knew them. The purpose of our being here is to hopefully prevent some other parent from going through what we did. It serves no purpose to hold a dying person in jail when they cannot even stand alone. If it had not been for some timely advice from Representative Feuerborn we may have not gotten her home at all.

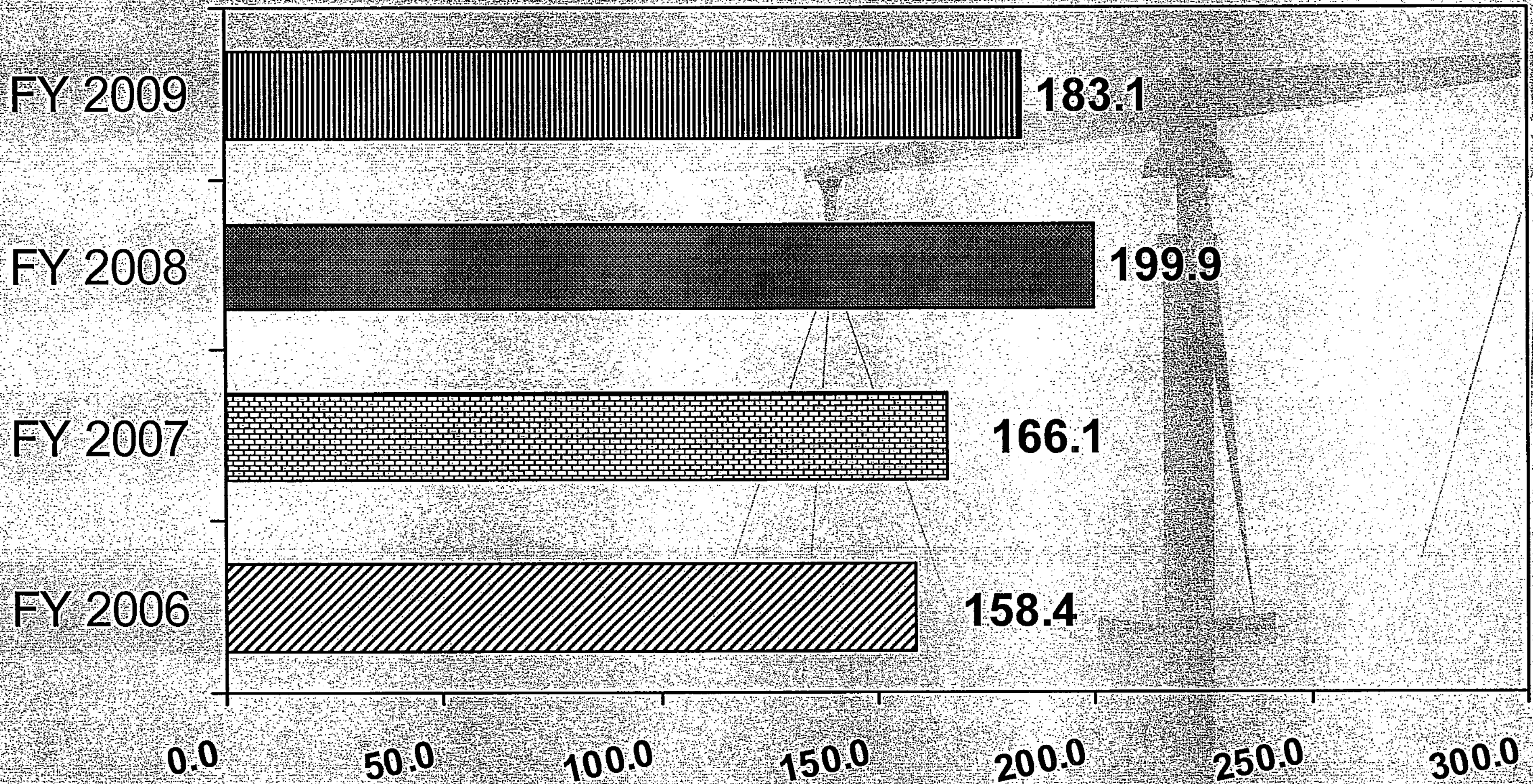
In closing we wish to thank you for hearing our concerns. We feel certain that when all the facts are in something can be done to prevent this from happening again. Thanks again for hearing us.

Carrol & Imogene Droddy

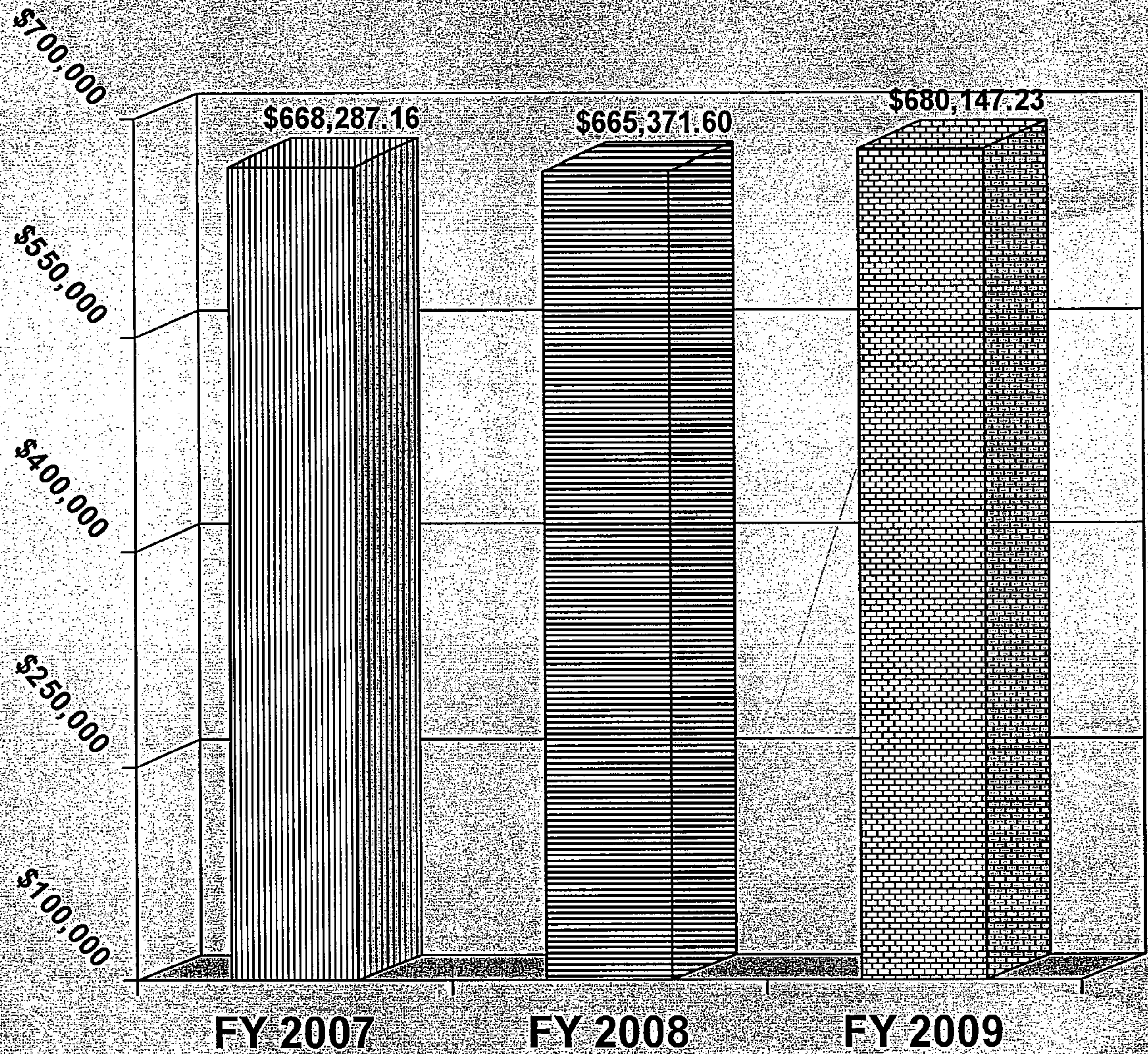
18

C&JJ Oversight
Attachment 18
10-28 & 29-09

Average Daily Population
25th Judicial District Community Corrections

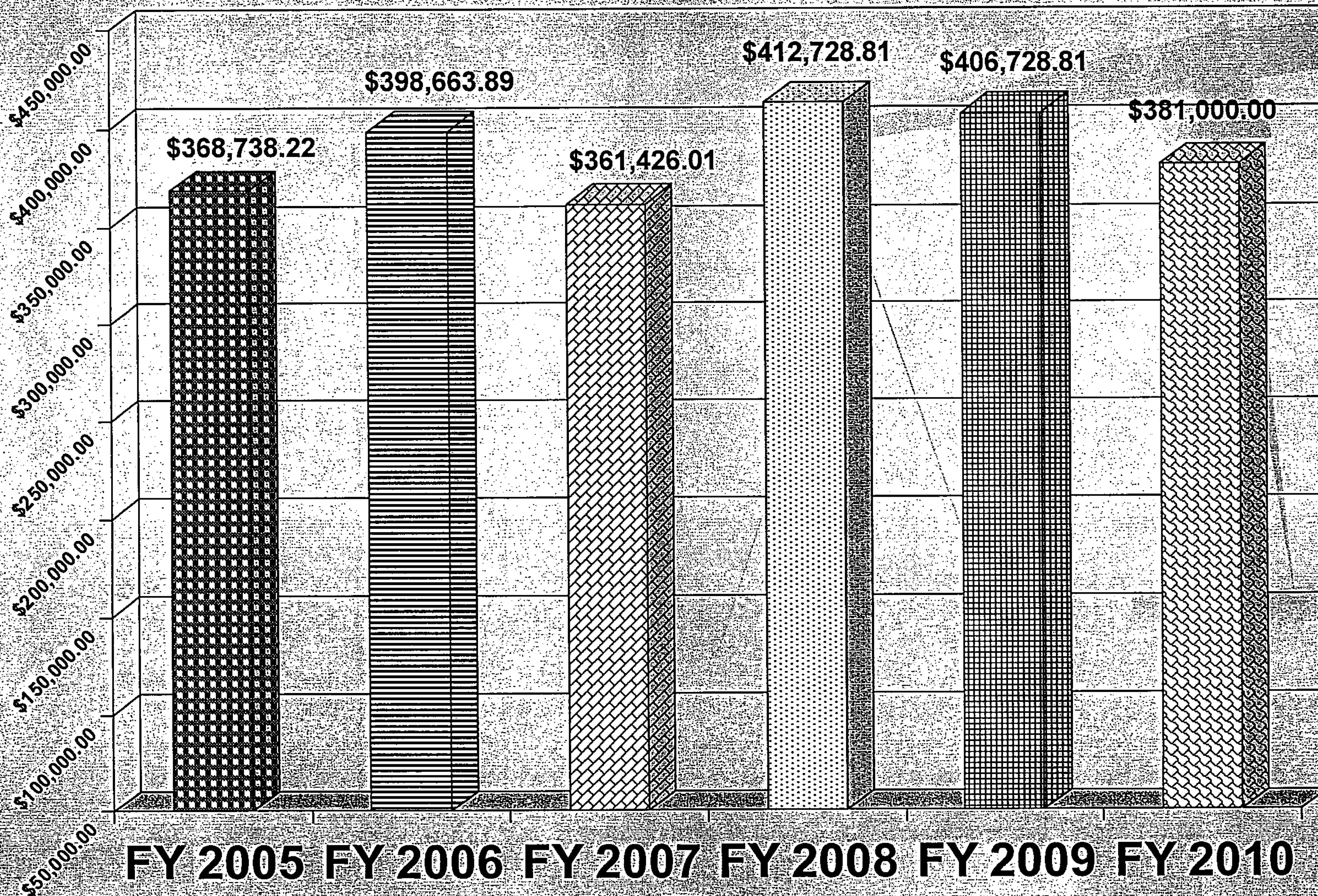


Total Funds Available
25th Judicial District Community Corrections



KDOC Community Corrections Act Grants

25th Judicial District Community Corrections



October 29, 2009

Testimony Before the Joint Committee
On Corrections and Juvenile Justice Oversight

Sedgwick County Community Corrections
Risk Reduction Initiative

Presented By: Jay Holmes, Administrator
Sedgwick County Department of Corrections

Members of the Committee,

I am here today to inform you about community corrections in Sedgwick County and specifically about our progress and challenges implementing the risk reduction initiative funded through Senate Bill 14. I am pleased to tell you we have fully implemented evidence-based practices and our clients are experiencing far greater success in making the necessary changes to avoid having to be sent to prison and in successfully completing probation. Specifically, our clients achieved a 29% reduction in revocations in FY 2008 and 16% reduction in FY 2009 from the baseline year of 2006. Successful completions increased by 17% and 12%, respectively. During this two year period our average daily population of clients increased 13%, from 1446 to 1634.

The major challenges we have experienced include:

- 13% growth in clients without resources to hire and train staff to maintain low caseloads for effective delivery of the new services,
- Growth in unemployment of clients with increase in positive drug tests,
- High risk clients experiencing revocation to prison averaged 435 days on probation and more chances which used a great deal of staff resources,
- 29% of assigned clients are either presumptive prison or border box sentences.

Through our analysis using the LSI-R scores, the top variables important in describing the process that separates successful cases from unsuccessful cases are:

- Education / employment,
- Attitude and orientation,
- Companions,
- Criminal history.

I have attached detailed breakdowns to further illustrate our progress with this initiative.

Goal #1: To reduce recidivism of adult felony offenders assigned to Community Corrections in Judicial District 18.

Objectives:

- To increase successful completions of probation sentences by 20% (from 387 to 464), as measured by program completion records.
- To reduce the probation revocation rate by 20% (from 56% to 45%), as measured by program revocation records. (Reduce from 569 to 455.)
- 75% of clients will not be charged with a new crime 1-6 and 7-12 months after successful completion of probation, as measured by district court records. The baseline will be established in SFY09 (6 months) and SFY10 (12 months).

Performance Measures*	FY 2006 Base	FY 2007 Actual	FY 2008 Actual	FY 2009 Actual	2010 Projected	2011 Estimated
Successful completions of probation / % change + / -	387	386	467 / +17%	434 +12.1%	464	464
Total Probation revocations / %	569 / 55.9	501 / 53.2	397 / 43.6	480 / 49.7	455	455
Revocations Technical Violations / %	455 / 44.7	387 / 41.1	287 / 31.5	348 / 36.0	325	325
Revocations New Felony / %	76 / 7.5	73 / 7.7	74 / 8.1	84 /8.70	85	85
Revocations New Misd. / %	38 / 3.7	41 / 4.4	36 / 4.0	48 / 5.0	45	45
Clients charged with new crimes at 6 months / %	n/a	n/a	22 / 8.9	43 / 9.3	n/a	n/a
Clients charged with new crimes at 12 months / %	n/a	n/a	n/a	28 / 11.3	n/a	n/a

*Data reflects state fiscal year (July thru June)

Goal #2: To link clients in the Risk Reduction Group to appropriate services to address targeted crime producing behaviors.

Objectives:

- 80% of clients assigned to the high risk group will improve functioning through risk reduction, as measured by the LSI-R reassessment. Baseline data will be established in SFY09.

Performance Measures	FY 2006 Actual	FY 2007 Actual	FY 2008 Actual	FY 2009 Actual	2010 Projected	2011 Estimated
Percent of clients with LSI-R improvements.	n/a	n/a	n/a	69%	75%	80%

KDOC Food Service Contract Fact Sheet
Presented to the Joint Committee on Corrections & Juvenile Justice Oversight
Presented by: Roger Haden, Deputy Secretary for Programs, Research, & Staff Development
October 29, 2009

General contract information:

KDOC entered into a contract with Aramark Correctional Services, Inc. in 1997 for food services for inmates. The contract extends through 2012.

- Payment is based on daily population - $1.483 per inmate per meal per day
- For July, 2009, KDOC paid for 787,206 meals at a cost of $1,128,550
- The food service budget for FY 2010 is $13,674,732
- Projected expenditures for food service for FY 2011 is $14,002,613 (includes enhanced funding request of $236,131)
- Aramark cooks food for all KDOC-operated facilities with the exception of the Larned Correctional Mental Health Facility, which receives food from the Larned State Hospital.
- Aramark also operates food service vocational programs at four KDOC facilities. These programs are at no extra cost to the state.

KDOC kitchens:

- KDOC operates 15 kitchens in 8 facilities
- As of July, 2008, Aramark employed 114 staff for the performance of the KDOC contract. KDOC monitors performance via contract monitors at each facility and at Central Office in Topeka.
- Inmate workers supervised by Aramark staff assist with food production, sanitation, and inventory. 15 inmates are employed as "industry workers" and receive minimum wage.

Daily operations:

- Meal times range from 4:30am-7:00am for breakfast, 10:00-12:00 for lunch, and 4:00-6:00 for dinner. Each facility sets their own meal schedule based on factors such as inmate work assignments, program schedules, and population count.

- Meal requirements: by contract, inmates are provided no less than 2,900 calories per day for males, 2,200 for females. Daily fat content may not exceed 38% (not

more than 10% saturated fat), and the menu must include 12-15 grams fiber per day. For a balanced diet, the menu must include 2-3 servings of protein; 4 servings of fruits and vegetables; a minimum of 16 oz. milk; and 4 servings of breads and cereals per day. The menu must be appealing and account for seasonal needs, i.e. soups in winter and cool foods in summer.

- Special diets: The vast majority of Kansas inmates eat from the regular menu; however, accommodations are made for medical needs, religious needs and vegetarian preference. KDOC offers 13 types of medical diets which must be ordered by a physician.

- Some facilities operate their own gardens with inmate labor and supplement the regular menu with fresh produce during the harvest season.

KDOC Health Care Services Fact Sheet

General contract information:

Effective July 1, 2005, the Kansas Department of Corrections (KDOC) entered into a new 3 year contract with Correct Care Solutions, Inc, (CCS) for the delivery of medical, dental, and mental health care services to inmates. The bid term of the current contract allows for up to 3 additional two-year renewals with an expiration date of June 30, 2014.

- Payment is based on a fixed-price, per capita pricing model based on population capacities by correctional facility. The contract includes provisions to adjust the monthly payments of the contract based on performance penalties and certain levels of population increases or decreases.
- FY 2010 Projected Expenditures: $45,534,106
- FY 2011 Requested Expenditures: $48,081,623 (includes enhanced funding request of $3.7 Million)
- CCS is responsible for all inmate health care costs, including medical, mental health, dental, optometry, pharmaceutical, etc
- Contractor accepts full liability and provides full indemnification to state
- Required accreditation by National Commission on Correctional Health Care (NCCHC) (All sites are currently accredited)
- No deductibles
- No caps on services or contractor expenditures
- No co-pays from Department (Inmates pay $2.00 co-pay for initial sick call visits that help offset healthcare spending)

Health Care Services:

- As of July 1, 2009, CCS employed a total of 365.7 FTE staff for the performance of the KDOC contract, including 257.30 medical and dental staff, 96.6 health staff, and 11.8 staff for administrative and clinical oversight.
- KDOC monitors performance via a contract with University Kansas Physicians Incorporated (UKPI) which provides a Director of Health Care, one RN consulting monitor, 1.6 MH PhD's Consultant Monitors and .6 physician consulting monitor.
- Medical Services include:
  - Health screening and assessment,
  - Off-site services as needed (hospitalization, emergency care, specialty consults, etc.,)
  - Sick call, Infirmary care and Medication management,
  - Chronic care, special needs clinics, hospice care
  - Infection control and Ancillary services (x-ray, laboratory, optometry, etc.,)
  - Utilization Review to ensure timely access to care,
  - Electronic Medical Records (EMR) implementation and maintenance
- Dental services include:
  - Dental screenings, examinations and emergency dental care
  - Dental treatment consistent with maintaining inmate's health status
- Mental Health Services include:
  - Psychological and Psychiatric assessment and diagnosis
  - Medication management
  - Individual and group counseling services

- Case management and crisis intervention
- Activity therapy
- Release planning for mentally ill offenders
- Forensic evaluation services
- Intake psychological assessment and evaluation services

Health Care Indicators (FY 2009):

- Total Encounters Sick Call — 174,596
- Total Encounters Dental Services — 32,821
- Total on-Site Services — 61,190
  - Physicals, x-rays, injuries
  - Consultant visits, PT visits
  - Optometry visits, etc.
- Total Off-Site Services: — 6,763
  - Office visits, off-site x-rays
  - Hospitalizations, chemotherapy
  - Emergency room, radiation
  - Outpatient surgery, etc
- Total Infirmary Days: — 14,200
- Average Chronic Care Inmates — 3,539
- Total Chronic Care Clinics — 16,990
- Average Inmates with Medical Classification II-IV — 4,128 (48%)
  - 1 or more chronic conditions which may
  - Affect work or housing assignments or
  - Require chronic care follow-up and/or
  - Infirmary care or extended infirmary housing
- Total Mental Health Encounters — 112,586
  - Psychiatric evaluations, group therapy
  - Individual therapy, follow-up encounters
  - Activity therapy group and individual
- Average Prescribed Psychotropic Medication — 1,558 (18%)
- Total Suicide Threats or Gestures — 175
- Total Suicide Attempts — 13
- Total Suicides — 0

The Fiscal Year 2010 budget to provide medical and mental health care for Kansas inmates is approximately $45.5 million, or an annual per capita cost of $5,329. By comparison, the State of Kansas employer contribution for single member health coverage for state employees this year is $5,029, and the employee's annual contribution ranges from $103.44 to $324.72 depending upon the employee's income. The coverage provided to the state for inmates is more comprehensive, has no deductibles or co-pays and fully indemnifies the state from any litigation filed by an inmate regarding medical or mental health care. While the overall contracted health care costs for Kansas inmates has increased by 3.9% since 2005, HMO and Medicaid costs have risen at a double digit annual percentage rate, and the health care costs for all employers (PPO plans) increased on average at a 6.5% annual rate over the past four years.

Contact Information:
Viola Riggin, Director Health Care Services, 900 SW Jackson St., 4th floor
Topeka, KS 66612, 785-296-0045, ViolaR@doc.ks.gov

FY 2011 Enhanced Budget Package: Restoration of Funding for Offender Treatment, Education and Supportive Services.

The reductions in treatment, education, and support services necessary to meet funding restrictions in the last quarter of FY 2009 and FY 2010 resulted in the elimination of many program service areas and significantly reduced any remaining programs or services. These reductions significantly restrict the resources available to corrections case managers to effectively carry out their supervision and risk reduction duties. In both the correctional facilities and in the community, case managers are increasingly unable to assist the offenders on their case-load get access to the treatment, education and support services to address the offender's high risk/need issues. These reductions in resources impact both facility and community operations as well, creating idleness issues in the facilities with more inmates and fewer activities available and placing significantly increased demand on limited staff time to address high risk, high need cases. It is fair to predict that the lack of resources will result in increasing revocations as options for release preparation and transition decrease.

More importantly, an inverse relationship exists between the availability of intervention and support resources and the risk to staff and public safety. As resource options which can support successful release preparation, transition, and re-entry decrease, the risk to public safety will increase. Many offenders will be returning to their communities with significant unmet needs for substance abuse and mental health treatment, with significant educational and vocational deficits and will often lack housing and other support services. Within the correctional facilities, as well, as the options for meaningful treatment and education opportunities decrease, along with a decrease in the staff available for offender supervision, the threat to the order and safety of the facility will likewise increase. The result is to have more inmates in locations which have far less activities available to them and fewer staff to supervise them.

Total FY 2011 Request*	Total FY 2010 Funding	Restoration Amount
$ 11,894,887	$ 4,209,048	$ 7,685,839

*This amount is equal to the FY 2009 base budget of $11,559,887 plus base budget addition of $335,000 for DUI treatment services. Federal funds are excluded.

Major Resource areas to be restored include:

Community Transitional Housing, especially for offenders with significant mental and physical health issues. Without this resource many high risk offenders with the most significant mental and physical health needs must be released without appropriate housing plans which strains staff resources, places increased burden on limited community resources (e.g. homeless shelters, mental health centers, etc.) and increases the offender's risk for failure.

FY 2011 Request:	FY 2010 Funding	Enhancement Request
$1,856,625	$0	$1,856,625

Substance Abuse Treatment Services. All but one program for male inmates and one for female inmates have been eliminated in the correctional facilities. Assessment services at intake and all funding for community post-release treatment services were eliminated. Access to community based treatment depends on the eligibility of the offenders to access other funding sources which are also decreasing.

FY 2011 Request:	FY 2010 Funding	Enhancement Request
Facility: $ 1,086,223	$ 160,000	$ 926,223
Community: $1,093,920	$ 0	$1,093,920

Sex Offender Treatment Services. One program location was terminated and the other two male and one female location were significantly reduced. Community treatment capacity remained at current (i.e. FY 2009) levels.

FY 2011 Request:	FY 2010 Funding	Enhancement Request
$ 2,582,064	$ 1,780,000	$ 802,064

Academic and Vocational Education Programs. More than 13 programs and 27 staff positions were eliminated. In addition all remaining staff positions have been reduced from full-time to part-time, some to .4 or .6 FTE, most to .8 or .9 FTE. Capacity was reduced by app. 218 program slots.

FY 2011 Request:	FY 2010 Funding	Enhancement Request
$ 3,659,171	$ 1,764,768	$ 1,894,403

Miscellaneous Programs and Specific Services. These include such programs and services and Batterers' Intervention, housing services, grant writing services, religious advisors, dietitian consulting, and risk reduction services including LSI-R licensing.

FY 2011 Request:	FY 2010 Funding	Enhancement Request
$ 316,884	$ 77,280	$ 239,604

DUI Treatment Funding (SB 67). State General Funding was eliminated for this program effectively reducing the funding to the portion KDOC receives from fines and forfeitures levied by the district courts.

FY 2011 Request:	FY 2010 Funding	Enhancement Request
$ 1,300,000	$ 427,000	$ 873,000**

**Note: This enhancement request funds the DUI treatment funding at the currently projected amount to meet actual demand for these treatment services

FY 2010 BUDGET ADJUSTMENTS - DEPARTMENT OF CORRECTIONS

ed
10/12/09

Item	Adjustment to Base Budget	Total Adjustments	
Base budget increases to finance FY 2010 budget	2,636,560	2,636,560	
State General Fund transfers to the eight correctional facilities	2,852,693	5,489,253	
Food service and health care contract savings - reduced inmate population	(553,407)	4,935,846	
Restructure debt service payments	(835,000)	4,100,846	
Partially suspend payments for fringe benefit employer contributions	(471,387)	3,629,459	
Delete unallocated amount for offender programs	(904,000)	2,725,459	
Suspend operations of the Osawatomie Correctional Facility	(902,699)	1,822,760	
Suspend operations of the Toronto Correctional Facility	(907,393)	915,367	
Suspend operations of the Stockton Correctional Facility	(1,647,927)	(732,560)	
Eliminate funding for 4th time DUI offenders (proposal to offset this reduction with fines/forfeitures not approved by Legislature)	(538,000)	(1,270,560)	
Replace financing for offender programs with additional commissions from inmate telephone contract	(750,000)	(2,020,560)	
Assess shrinkage rate of 5 percent against reentry program positions	(166,000)	(2,186,560)	
Increase central office shrinkage rate to 5 percent	(305,000)	(2,491,560)	
Close Correctional Conservation Camps	(3,371,324)	(5,862,884)	
Close day reporting centers and retain partial funding to continue essential services	(869,520)	(6,732,404)	
Replace financing of the health care contract with transfer from the Correctional Industries Fund	(1,202,904)	(7,935,308)	
Reduce funding for community corrections grants, excluding adult residential centers, by 3 percent	(525,000)	(8,460,308)	
Health care contract savings from intentionally holding positions vacant and delaying equipment purchases	(600,000)	(9,060,308)	
Delete funding for replacement of major computer systems (OMIS/TOADS)	(450,000)	(9,510,308)	
Reduce funding for offender programs	(3,284,075)	(12,794,383)	
Reduce funding for facilities operations	(1,327,789)	(14,122,172)	
Increase funding for offender programs	646,250	(13,475,922)	
Reduce funding for offender programs	(2,003,722)	(15,479,644)	
Eliminate funding for longevity bonuses	(1,469,177)	(16,948,821)	**Mega Bill Reduction**

C&JJ Oversight
Attachment 21
10-28 & 29-09

FY 2010 BUDGET ADJUSTMENTS - DEPARTMENT OF CORRECTIONS

Revis
10/12.

Item	Adjustment to Base Budget	Total Adjustments	
Reduce funding for offender programs	(1,206,000)	(18,154,821)	
Shift funding for 13 special enforcement officer positions to Byrne Grant	(705,700)	(18,860,521)	
Shift funding for 10 parole officer positions to Byrne Grant	(439,550)	(19,300,071)	
Suspend operations of the North Unit of the El Dorado Correctional Facility	(1,033,975)	(20,334,046)	
Reduce funding for community corrections grants ($1.5 million shifted to Byrne Grant)	(2,025,000)	(22,359,046)	
Reduce funding for health care management contract (KUPI)	(75,000)	(22,434,046)	
Additional central office shrinkage	(468,002)	(22,902,048)	**Omnibus Bill Reduction**
Operating expenditures - correctional facilities	(1,100,000)	(24,002,048)	
Operating expenditures - DOC central office	(500,000)	(24,502,048)	**Governor's Allotment**
Add funding for undermarket salary adjustments	987,149	(23,514,899)	**Other**

Note: The list of budget adjustments does not include the shift of $40.5 million of facility operations expenditures from the State General Fund to federal stimulus moneys.

FY 2010/2011 BUDGET REQUESTS - DEPARTMENT OF CORRECTIONS

10/12/09

Fiscal Year 2010

	Amount
Revised systemwide State General Fund budget of $215,310,190 represents a net increase of $217,751 above amounts appropriated by the 2009 Legislature. This net increase is comprised of:	
-- Governor's allotment reduction of $1.6 million.	(1,600,000)
-- Utilize prior year budget savings of $1.1 million to offset the allotment assessed against the budgets for the correctional facilities.	1,100,000
-- Utilize prior year budget savings of $894,752 to reduce the shrinkages rate at the El Dorado Correctional Facility from 6.7% to 4.0% and Norton Correctional Facility from 8.5% to 5.0%.	894,751
-- Utilize food service contract savings of $91,750 for the shrinkage rate reduction at NCF.	-
-- Return (lapse) $177,000 of health care contract savings to the SGF.	(177,000)
Total	**$ 217,751**

-- $484,000 of the $500,000 allotment assessed against the DOC central office budget will be offset by the utilization of unexpended moneys returned to the state by Labette County upon closure of the conservation camps.

-- Prior year budget savings (shifts) available for expenditure in FY 2010 total $2,408,636. After utilizing $1,994,751 to offset a portion of the allotment reduction and for shrinkage rate reductions, the balance remaining is $413,884. This amount would be returned (lapsed) to the State General Fund.

Fiscal Year 2011

Systemwide State General Fund budget of $216,240,471 (before enhanced funding requests) includes a base budget decrease of $1.6 million reflecting continuation of the Governor's allotment reduction into FY 2011. This decrease was offset by (1) the utilization of $750,000 in additional federal stimulus moneys to fund positions at the Hutchinson Correctional Facility and (2) facility operating budget reductions.

Note: The SGF budget of $216,240,471 is $210,463 below the expenditure allocation established by the Division of the Budget. The DOB will be asked to utilize this amount to reduce the amount of new moneys requested to fully fund the food service contract.

Fiscal Year 2011 - Enhanced Funding Requests - $27,873,390 (Not Listed in Priority Order)	Amount
Reduction in shrinkage rates -- Would decrease rates so that budgeted shrinkage amounts would reflect the estimated savings that would naturally occur as positions are vacated and filled during the fiscal year. ECF - 5.5%/3.6%; EDCF - 6.7%/4.0%; HCF - 7.5%/4.85%; LCF - 8.0%/6.0%; NCF - 10.8%/5.0%; TCF - 9.0%/6.5%; WCF - 6.2%/2.6%; DOC - 8.2%/2.6% (3.0% for major budget programs).	4,683,249
Increased funding for health care contracts -- $1,202,904 to replace funding from the Correctional Industries Fund due to insufficient balances. -- $1,333,124 to restore service reductions made to comply with FY 2010 budget cuts. -- $1,137,393 to provide a base increase to offset additional costs for salaries, benefits, and supplies. -- $130,000 for the health care management contract with the University of Kansas Physicians, Inc. to fill a vacant contract monitor position and to provide a base increase for increased costs.	3,803,421

Fiscal Year 2011 - Enhanced Funding Requests (Continued)

Increased funding for food service contract — 236,131
-- Would provide full funding based upon estimated inmate population.

Acquisition of replacement vehicles — 3,168,300
-- Would allow for the replacement of 174 high-mileage vehicles.

Acquisition of replacement radios — 742,945
-- Would allow for the purchase of replacement radio equipment to comply with a mandate from the Federal Communications Commission that all non-federal public safety licensees using 25 KHz radios systems migrate to narrowband (12.5 KHz) channels by January 1, 2013. Failure to comply with this deadline could result in cancellation of licenses and possible loss of communications capabilities.

Inmate transportation bus — 190,000
-- Would allow for the replacement of an inmate transport bus with a current odometer reading of 457,000 miles.

Restore funding for offender programs — 7,685,839
-- Would increase funding to the FY 2009 base budget level; also would provide additional funding for DUI treatment services.

Restore funding for community corrections — 1,050,000
-- Would restore six percent reduction made to grant amount for intensive supervision and risk reduction.

Operating expenditures — 871,331
-- Would provide additional funding for utilities, consumable supplies, and other operating cost items.

Capital outlay — 941,545
-- Would provide funding for the purchase of equipment items.

Replacement of major computer applications — 3,000,000
-- Would provide initial funding for a project with an estimated multi-year cost of between $6 to $12 million to replace offender management (OMIS) and offender supervision (TOADS) computer applications.

Reestablish operations of the Stockton Correctional Facility — 531,859
-- Would provide funding to reestablish operations for the last quarter of the fiscal year.

Planning for new mental health units and new clinic — 504,000
-- Would provide funding to plan for the construction of mental health units at the Lansing and Topeka correctional facilities to provide appropriate housing for offenders with significant mental health treatment needs combined with extreme behavior management issues.
-- Also would provide funding to plan for the construction of a new clinic at TCF because the current clinic (1) does not provide for the isolation of patients and (2) presents security issues with respect to the proper supervision of patients.

Provide funding for authorized positions at Topeka Correctional Facility — 464,770
-- Would allow the facility to fill 11 currently authorized but unfunded security positions, thereby completing the staffing for J Cellhouse (medium custody housing unit).

Fiscal Year 2011 - Enhanced Funding Requests (Continued)

Retirement enhancement
- Would transfer selected corrections staff to the Kansas Police and Firemen's Retirement System (KP&F) or establish a separate retirement group with benefits equal to available under KP&F.
- When this enhancement was proposed two years ago, KPERS estimated that the additional employer contributions would total $5.3 million, assuming that all of the eligible 2,715 employees would elect to transfer to KP&F or the new group.
- A new fiscal note, with an updated and more recent cost estimate would need to be prepared.
- The additional employer contributions would not begin until FY 2012.

Total **$ 27,873,390**

Fiscal Year 2011 – Reduction Target - $10,578,455 (SGF); $11,115,726 (All Funds)

Should it become necessary to comply with the Division of the Budget reduction target of $10.6 million, it is proposed that parole supervision virtually be eliminated, except for the highest risk offenders. After a reduction of $10,578,455 in the parole services budget, only $428,863 of State General Fund moneys would remain. This amount would be utilized to retain as many parole officer positions as possible to supplement the 22 positions that are financed with federal funds. In addition, supervision fees (the amount of fees collected would be significantly reduced) would be dedicated towards

There are currently 533 high-risk offenders under parole supervision. In addition, there are many offenders who fall into the moderate level of supervision but who score near the high-risk category. As many of these moderate and near-high risk offenders that could be accommodated with the remaining funding would be supervised.

The DOC has previously indicated that any significant budget cut beyond the $23.5 million reduction mandated by the Governor and the 2009 Legislature would result in the closure of a major correctional facility, i.e. Winfield, or a substantial reduction in or the total abolition of parole supervision, depending upon the magnitude of the funding cut.

The parole supervision option has been chosen, because this can occur without any statutory change. Any closure of a correctional facility would need to be accompanied by legislation providing for the early release of inmates.

KDOC would still be statutorily required to reimburse local jails for costs incurred from housing parole violators. These payments would reduce the amount of resources that could be utilized for retaining parole officer positions.

State of Kansas

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Kansas Judicial Center
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Topeka, Kansas 66612-1507 (785) 296-2256

Kansas Court Services Officer Funding, Staffing, Duties, and Caseloads

Presentation to the Joint Committee on Corrections and Juvenile Justice Oversight
October 29, 2009

Currently, there are 351 FTE Court Services positions, all of which are funded from the State General Fund. These positions are supported by state dollars for personnel costs only. All other operating expenses are provided by counties. The following table notes the salaries and wages (including fringe benefits) costs for FY 2007, FY 2008, and FY 2009:

	FY 2007	FY 2008	FY 2009
SGF Salaries and Wages (Including Fringe Benefits) Cost:	$18,416,308	$19,676,521	$20,369,895

Statewide, each judicial district has a court services division. While a court services officer may not be located in each of the 105 counties, services are provided to each county by a court services officer located somewhere within each judicial district.

Mission and Statutory Duties

The mission statement for Kansas Court Services provides:

"Under the authority of the Kansas Judicial Branch and the laws of the State of Kansas, the purpose of Court Services is to carry out the orders of the court in a timely, professional, and ethical manner consistent with community interests. This is enacted by completing the responsibilities of court reports and supervision, which holds offenders accountable for their behavior, promotes public safety, and improves the ability of offenders to live more productively and responsibly in the community."

Court services' vision is to continue to provide quality services to the courts and aid in public safety. A unique facet of the Judicial Branch is the administrative structure which allows each judicial district to tailor its personnel, programs, and services to specific community needs.

As noted in more detail below, court services officers (CSOs) have responsibility for criminal, juvenile offender, child in need of care, and domestic court cases.

The primary role of court services is to assist the district courts by performing investigations and supervision. Kansas statutes provide a general definition of the responsibilities of court services officers. However, within the limits of fiscal resources, chief judges in individual judicial districts are able to emphasize certain roles of court services officers from district to district in order to best serve each individual judicial district.

Duties performed by court services officers are governed by statute, administrative rule, and court policy. In general, court services officers perform the following duties:

a. Conduct presentence investigations (PSIs) and predispositional investigations (PDIs) and prepare reports as required by law. Presentence investigations and predispositional investigations require extensive research into the background of the individual. A comprehensive criminal history investigation must be conducted and certified records must be obtained from other jurisdictions.

b. Supervise and counsel persons on probation regarding how to comply with the conditions of probation imposed by the district court. Supervision involves regular contact with the individual and with family members, teachers, employers, treatment providers, and others. Court services officers also conduct regular drug testing and monitor the payment of restitution and fees.

c. Notify the court when a violation of a condition of probation occurs. Bring to the court's attention any modification in the conditions of probation considered advisable.

d. Cooperate with public and private agencies and other persons concerned with the treatment or welfare of persons on probation and assist probationers in obtaining services from those agencies and persons.

e. Keep accurate records of cases investigated and all cases assigned by the court for supervision and make these records available to the court upon request.

f. Inform probationers that they are required to register with the Kansas Bureau of Investigation (KBI) pursuant to K.S.A. 22-4905(b)(1) and (2) of the Kansas Offender Registration Act. Inform probationers that they must submit DNA as required by K.S.A. 21-2511(c).

g. Perform as a misdemeanant parole officer when ordered by the court.

h. Provide investigation and supervision services for the court on persons being considered for pre-trial or bond release. Supervision of persons on pre-trial release is intensive; generally individuals are required to report several times per week and may be on electronic monitoring.

i. Plan and supervise reintegration of children in need of care that are not placed with the Department of Social and Rehabilitation Services (SRS). Court services officers work with families, schools, and therapists to ensure that the best interests of the child are met, and that compliance with the federal Adoption and Safe Families Act is maintained.

j. Assist courts, prosecuting attorneys, and other law enforcement officials in making decisions regarding diversion of charged persons to appropriate alternatives to court trial. Provide supervision to persons granted diversion if directed by the court.

k. Investigate and report on custodial arrangements for children in divorce cases.

l. Mediate child custody cases if directed by the court.

The following is a more detailed description of the duties of court services officers and the statutes that set out those duties.

Duties Pertaining to Adult Supervision:

1. Felony and Misdemeanor Presentence Investigation Reports

K.S.A. 21-4604(a) provides:

"Whenever a defendant is convicted of a misdemeanor, the court before which the conviction is had may request a presentence investigation by a court services officer. Whenever a defendant is convicted of a felony, the court shall require that a presentence investigation be conducted by a court services officer or in accordance with K.S.A. 21-4603, and amendments thereto, unless the court finds that adequate and current information is available in a previous presentence investigation report or from other sources."

Therefore, court services officers are responsible for the preparation of all felony presentence investigation reports, and of misdemeanor reports when requested, unless a judge specifically rules adequate and current information is already available and sufficient.

Reports and Investigations Prepared by Court Services Officers:

Reports and Investigations Adult			
FY	Felony	Misdemeanor	Total
2007	16,095	4,430	20,525
2008	16,474	4,353	20,827
2009	16,378	4,287	20,665

2. Supervision of Felony Probation

K.S.A. 21-4610 provides the conditions of probation or suspended sentence. It states, in relevant part:

> "(a) . . . nothing in this section shall be construed to limit the authority of the court to impose or modify any general or specific conditions of probation, suspension of sentence or assignment to a community correction services program, except that the court shall condition any order granting probation, suspension of sentence or assignment to a community correctional services program on the defendant's obedience of the laws of the United States, the state of Kansas and any other jurisdiction to the laws of which the defendant may be subject."

Under K.S.A. 21-4610, an offender may be supervised by a court services officer or by a community corrections officer. Further, K.S.A. 21-4610(c) and (d) define a probationer's obligation to the court. The court, when ordering probation, assumes responsibility for supervision and verification that the order of probation has been satisfied. The court, through court services officers, may establish any special programs which, when added to the conditions of probation, satisfy the special needs of the probationer's risk/needs assessment and public safety.

3. Supervision of Misdemeanor Probation

Court services officers shall, when ordered by the court, monitor conditions of misdemeanor probation. It should be noted that plea bargaining results in many reductions of felony offenses to misdemeanors. Thus, serious offenders may be convicted of misdemeanor offenses. Misdemeanant offenders should be afforded supervision in accordance with the seriousness of the crime, the risk/needs assessment, and public safety.

The court may order supervision to be carried out by a community corrections program in misdemeanor cases. This is usually the case when community corrections officers are already supervising an offender in a felony case.

4. Supervision of Traffic Offenders

Chapter 8 of the Kansas Statutes Annotated defines serious traffic offenses in which the court may grant probation. A CSO shall supervise traffic offenders upon order of the court.

5. Supervision of Fish and Game Violators

Pursuant to K.S.A. 21-3728 and K.S.A. 2008 Supp. 32-1005, the majority of offenses in these categories are handled with fines and other actions. However, K.S.A. 2008 Supp. 32-1005(d) defines commercialization of wildlife having an aggregate value of $1,000 as a level 10, nonperson felony and having an aggregate value of less than $1,000 as a class A nonperson misdemeanor. Due to the seriousness of these offenses, at the discretion of the court, court services officers may be responsible for the supervision of selected offenders.

Total Adults Supervised on Probation:

Adult			
FY	Felony	Misdemeanor	Total
2007	8,175	26,841	35,016
2008	8,192	27,460	35,652
2009	8,177	29,300	37,477

6. Bond Supervision

The provisions of K.S.A. 22-2814 to 22-2817 outline a variety of services in this area. K.S.A. 22-2814 specifically mandates this service be carried out by a court services officer or court staff. K.S.A. 22-2816 spells out the responsibility of the court services officer in completing this duty, which can be instrumental in relieving jail overcrowding.

Total Adults Supervised on Pre-Trial Release:

Pre-Trial Supervision	
FY	Adult
2007	14,284
2008	16,117
2009	14,419

7. Progress or Status Reports

This category includes progress reports ordered by a judge at standard intervals or upon request. This includes progress reports prepared for offenders transferred between judicial districts and out of state. These reports are not mandated but are often prepared as a courtesy.

8. Supervision of Adults Granted Diversion from Prosecution

Diversion of adult offenders may be handled in one of two fashions, pursuant to the policies and guidelines established by prosecutors (K.S.A. 22-2908; K.S.A. 2009 Supp. 22-2909, as amended by *2009 Session Laws of Kansas*, Chapter 32, Section 42; K.S.A. 22-2910; and K.S.A. 22-2911, or by court rules (K.S.A. 22-2912)).

Diversion supervision, as a CSO function, is not currently practiced statewide. In some districts the county attorney may not have sufficient staff to supervise diversion offenders. In those districts, the court may order supervision be carried out by court services officers.

Total Adults Supervised on Diversion:

Diversion	
FY	Adult
2007	963
2008	1,141
2009	1,221

9. Supervised Conditional Release from State Hospital

K.S.A. 22-3428(4) provides for the temporary supervision by a court services officer of persons conditionally released from a State Hospital.

10. Supervised Conditional Release of Sexually Violent Predators

K.S.A. 59-29a19 provides for the temporary supervision by a court services officer of persons who are found to be sexually violent predators and are conditionally released from a transitional release program at a State Hospital.

11. Arresting Offenders

K.S.A. 22-2202(13) includes court services officers in its definition of law enforcement officer. However, the court services officers' arresting authority appears to extend only to probationers. K.S.A. 2008 Supp. 22-3716 as amended by 2009 *Session Laws of Kansas*, Chapter 143, Section 11, provides:

> "Any court services officer or community correctional services officer may arrest the defendant without a warrant or may deputize any other officer with power of arrest to do so by giving the officer a written statement setting forth that the defendant has, in the judgment of the court services officer or community correctional services officer, violated the conditions of the defendant's release or a nonprison sanction."

Duties Pertaining to Juvenile Supervision:

1. Juvenile Presentence Investigations and Reports

K.S.A. 2008 Supp. 38-2360(a)(4) provides that, at any time after a juvenile has been adjudicated to be a juvenile offender, the court shall order one or more of the tools described in the statute, including: "Any other presentence investigation and report from a court services officer which includes: (A) The circumstances of the offense; (B) the attitude of the complainant, victim or the victim's family (C) the record of juvenile offenses; (D) the social history of the juvenile; and (E) the present condition of the juvenile." The intent of the statute is to provide the court with relevant information from which to make an appropriate disposition.

Total Juvenile Reports and Investigations:

Reports and Investigations	
FY	Juvenile Offender
2007	4,418
2008	5,973
2009	5,112

2. Juvenile Offender Probation Supervision

K.S.A. 2008 Supp. 38-2361(a)(1) provides that, once an offender has been granted probation, court services officers are responsible for monitoring the conditions of probation. The court, through court services, may establish any special programs which are added to the conditions of probation to satisfy the special needs of the probationer, the risk/needs assessment, and public safety.

Total Juveniles Supervised on Probation:

FY	Juvenile Offender
2007	8,188
2008	8,442
2009	8,154

3. Offender Pre-Trial Release and Supervision Programs

K.S.A. 2008 Supp. 38-2330 and K.S.A. 2008 Supp. 38-2343 establish authority for a juvenile's release prior to trial. Court services officers supervise these juveniles in some judicial districts.

Total Juveniles Supervised on Pre-Trial Release:

Pre-Trial Supervision	
FY	Juvenile
2007	957
2008	725
2009	691

4. Arresting Juvenile Offenders or Detaining Children in Need of Care

Court services officers are authorized to take juvenile offenders (K.S.A. 2008 Supp. 38-2331) and children in need of care (K.S.A. 2008 Supp. 38-2230) into custody when there is a warrant or order issued in this state or in another jurisdiction. The taking of a child in need of care into custody typically occurs when there is probable cause to believe that the juvenile offender has violated a term of probation or when a child in need of care has run away from juvenile offender placement.

5. Supervision of Juvenile Offenders Who have Been Diverted

K.S.A. 2008 Supp. 38-2346 states: "Each county or district attorney may adopt a policy and establish guidelines for an immediate intervention program by which a juvenile may avoid prosecution."

Total Juveniles Supervised on Diversion:

Diversion	
FY	Juvenile
2007	10,111
2008	10,286
2009	9,664

Summary of Individuals Supervised by Court Services 2007 – 2009:

Fiscal Year	Adult			Juvenile			Combined
	Felony	Misdemeanor	Total Adult	CINC	JO	Total Juvenile	Total
2007	8,175	26,841	35,016	4,341	8,188	12,529	47,545
2008	8,192	27,460	35,652	4,469	8,442	12,911	48,563
2009	8,177	29,300	37,477	4,232	8,154	12,386	49,863

Duties Pertaining to Domestic Supervision:

1. Child Custody, Residency, Visitation, or Parenting Time

Under K.S.A. 60-1615, "In any proceeding in which legal custody, residency, visitation rights or parenting time are contested, the court may order an investigation and report concerning the appropriate legal custody, residency, visitation rights and parenting time to be granted to the parties. The investigation and report may be made by court services officers or any consenting person or agency employed by the court for that purpose."

Child Custody Reports Prepared for the Court:

FY	Domestic Reports
2007	577
2008	913
2009	940

2. Mediation of Domestic Disputes

K.S.A. 23-601 and 23-602 allow the court to appoint a neutral mediator to assist the parties "in reaching a mutually acceptable agreement as to issues of child custody, residency, visitation, parenting time, division of property and other issues." Court services officers who have been trained and certified may be appointed in these cases.

Cases Mediated by Court Services Officers:

FY	Domestic Mediations
2007	4,616
2008	*2,961
2009	2,274

*This reduction resulted from a change in the way data was reported and does not represent a change in workload.

3. Case Management of Domestic Disputes

K.S.A. 23-1001 allows the court to appoint a neutral case manager to assist the parties "by providing a procedure, other than mediation, which facilitates negotiation of a plan for child custody, residency or visitation or parenting time. In the event that the parties are unable to reach an agreement, the case manager shall make recommendations to the court." Court services officers who have been trained and certified may be appointed in these cases.

Cases Provided Case Management Services:

FY	Domestic Case Management
2007	4,505
2008	*1,491
2009	2,497

*This reduction in case management resulted from a change in the way data was reported and does not represent a change in workload.

4. Protection from Abuse (PFA) and Protection from Stalking (PFS) Orders

K.S.A 60-3104 through 60-3112, the Protection from Abuse Act, and K.S.A. 60-31a04 through 60-31a06, the Protection from Stalking Act, grant protection to victims of abuse and stalking. (Please note that amendments to K.S.A. 60-3104, 60-31a04, and 60-31a06 appear in the 2008 supplement.) In many jurisdictions the court relies on court services officers to meet with victims seeking protection to gather information necessary for emergency and temporary orders. Court services officers may also refer victims to other community resources that could be of assistance.

Victims Assisted by Court Services Officers:

FY	PFA/PFS
2007	3,713
2008	4,283
2009	5,244

Summary of Domestic Cases with Court Services Officer Participation:

	Domestic				
FY	Case Management	Mediation	Total	Reports	PFA/PFS
2007	4,505	4,616	9,121	577	3,713
2008	*1,491	*2,961	4,452	913	4,283
2009	2,497	2,274	4,771	940	5,244

*This reduction in case management resulted from a change in the way data was reported and does not represent a change in workload.

Court services officers supervise adults and juveniles on house arrest. Offenders on house arrest may also be on diversion, pre-trial release, or serving the "in custody" portion of a DUI sentence.

	House Arrest		
	Adult	Juvenile	Total
2007	484	253	737
2008	640	565	1,205
2009	586	428	1,014

Court services officers work with offenders to pay restitution, fines, and fees. The table below represents the total amount of restitution collected by the district courts from persons under supervision by court services officers.

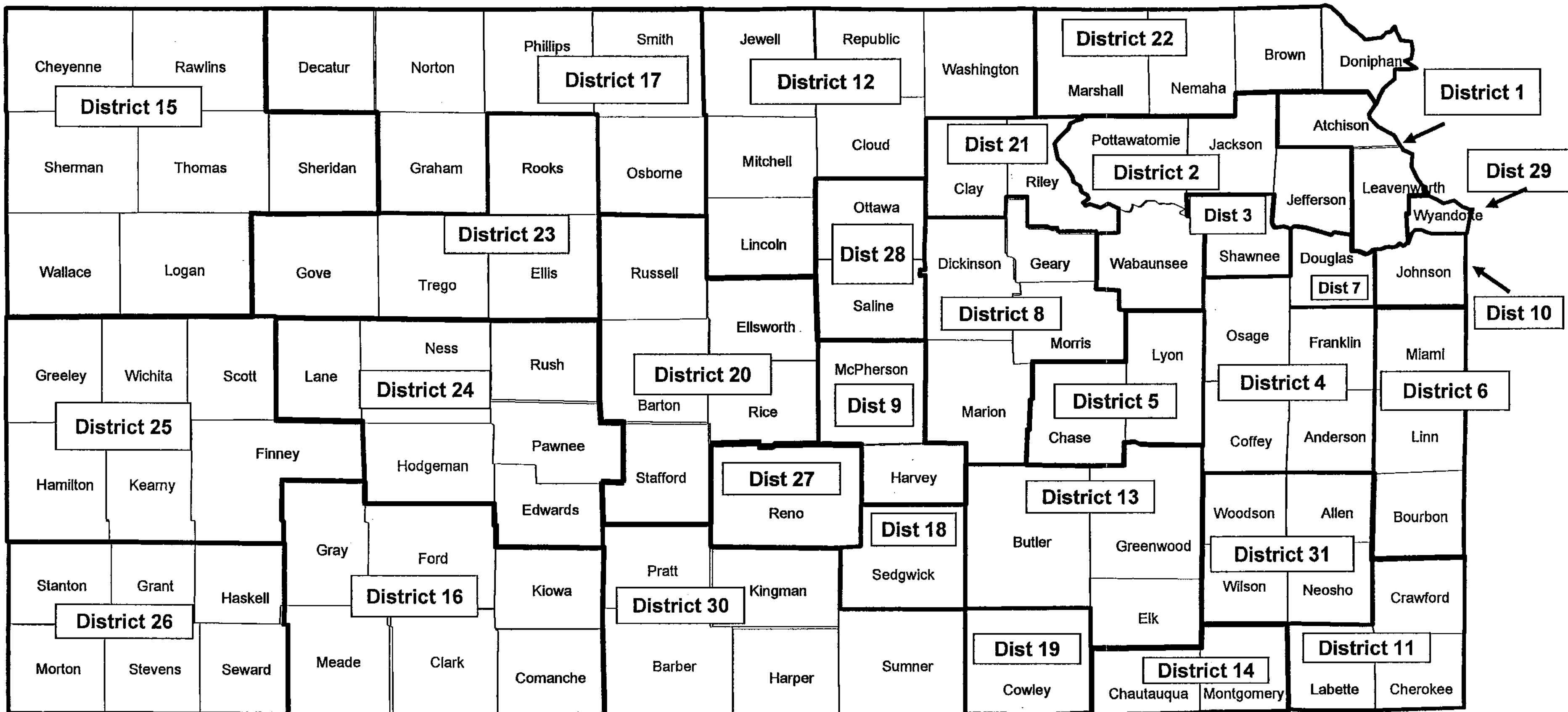
	Restitution		
FY	Adult	Juvenile	Total
2007	$3,051,665.96	$332,406.18	$3,384,072.14
2008	$3,149,083.80	$359,522.15	$3,508,605.95
2009	$3,996,462.87	$366,187.18	$4,362,650.05

*2007 and 2008 figures do not reflect amounts collected in four judicial districts.

Court services officers supervise offenders completing community service work. Community service work is assigned either as an alternative to the imposition of a fine or fees, as a consequence for the conviction of a crime, or for a violation of condition of probation.

	Community Service Work Hours		
FY	Adult	Juvenile	Total Hours
2007	27,246	45,367	72,613
2008	23,881	50,019	73,900
2009	26,953	42,550	69,503

Kansas Judicial Districts



Joint Committee on Corrections and Juvenile Justice Oversight

Thursday, October 29, 2009

The Role of Court Services Officers in the 30th Judicial District

Donna Hoener-Queal, Chief Court Services Officer
30th Judicial District
Barber County Courthouse
(620) 886-3021

My name is Donna Hoener-Queal and I am the Chief Court Services Officer for the 30th Judicial District, which encompasses Barber, Harper, Kingman, Pratt, and Sumner Counties. Our current staff, including myself, consists of eight Court Services Officers and one secretary. We are responsible for the probation supervision of approximately 725 adult, juvenile, misdemeanor, or felony offenders on any given day, as well as bond supervision to those awaiting court proceedings. We also provide domestic mediations and custody investigations for the court, as well as presentence investigations for all felons and some misdemeanors and juvenile offenders. Our duties also involve the supervision of non SRS involved Child in Need of Care cases.

Court Services in rural Kansas differs from the urban offices of Court Services. I have been fortunate to work in both, so I am able to easily compare the two and have learned that neither is without problems, but both have rewards. One reward of working in a large office is always having a co-worker to discuss problem cases with who is knowledgeable about the resources available in the area, the judge assigned to the case, and the attorneys involved. The largest reward in a small or one-person office is that you are given the opportunity to work with an individual from the beginning. It is not uncommon to supervise someone on bond supervision, write the presentence investigation, and then supervise them on probation. In doing this, we are able to see the positive changes that can be made by individuals. We may often have the offender's children, spouses, siblings, or parents on probation as well, and because of that can attempt to make changes with the whole family unit, instead of just one offender.

The average rural CSO answers his or her own phone, and does all the typing, filing, shredding, copying, faxing, and other office functions. The rural CSO must know how to wear many different hats and how to change those hats in a matter of seconds. They must have excellent organizational skills. They may go weeks without seeing another CSO to talk to and bounce ideas off of. Because they are often the only CSO in the county, they are selected to serve on all the committees, teams, and boards that work with our offenders. It is not unusual for a rural CSO who is responsible for one county to be involved in regular meetings with mental health providers, substance abuse providers, three school districts, four law enforcement agencies, and multi-disciplinary teams.

The 30th Judicial District has a CSO in each county. As a manager, it would be easier to house everyone in a central location and send them out each day to one of the counties; however, it is our belief that the CSO should be available to the offenders, law enforcement, judges,

schools, and treatment facilities, when needed. A CSO can gain a wealth of information from just being around, not to mention the trust that is built with other agencies, offenders, and community members.

In our district, like in many rural areas, we have towns in each of the counties that are of similar size to the county seat. Because of this, many of our offenders live in those communities, which are up to thirty miles from the CSO office. Many of our offenders do not have valid drivers' licenses and those that do often do not have reliable transportation. In order for those we supervise to be in compliance with their court ordered conditions, it is important that we get behind the windshield of our own cars and drive to meet the offender in their own community. The value of doing this creates and maintains relationships with local law enforcement, schools, and the general community. The only drawback to doing this is when we are out of the office meeting others, we miss the offenders that "drop by" unscheduled, the missed phone calls our voice mail picked up, and the judge who may have needed a CSO in his/her courtroom "right now." Being in a one-person rural office, there is no one to pick up the slack.

Many of the misdemeanor offenders under our supervision faced original felony charges prior to entering a plea to a reduced charge. It is not uncommon for an aggravated battery case to be pled down to a misdemeanor battery during plea negotiations. A misconception throughout the state has been that Court Services supervises the low level offenders, bad checks, driving violations, and minor alcohol and drug offenses. In actuality, many of the offenders under court services supervision have pled to a lesser crime due to problems in locating witnesses or having less than cooperative victims. Many of our offenders have spent time in prison, are registered offenders, have significant drug and alcohol histories, mental health issues, or are on current parole status or on felony supervision with Community Corrections. Court Services does not adopt the attitude that, because the offender's level of conviction is lower, their supervision should be as well. Court Services has a large caseload of felony offenders who do not meet the criteria for Community Corrections supervision. Many of these offenders, because of their prior records, mental health issues, substance abuse history, unemployment, and lack of family support score in a high risk category, which requires these offenders to be supervised at a maximum level and requires the CSO to meet with them on a weekly basis. The implementation of the LSI-R for Court Services and doing away with the "targeted" population for Community Corrections would result in the offenders being properly placed with the appropriate agency.

All offender presentence investigations, including felony, misdemeanor and juvenile, are completed by court services officers. The CSO is responsible for collecting prior records, which may include numerous phone calls and faxes to out-of-state and in-state courts, collecting victim information, locating appropriate treatment resources for the offender, setting up electronic monitoring to be in place at the time of sentencing, verifying information on the offender, interviewing offenders, and in the case of juveniles, also interviewing parents.

As stated previously, we also supervise Child in Need of Care (CINC) cases. The cases we are involved in are not cases in which SRS also has involvement. These are primarily cases where SRS had originally been involved because of abuse or neglect, but were removed from the case after a relative placement was found. The work involved in these cases is exactly the same as is required from SRS and the private contractors. The CSO makes regular home visits to meet

with the families, writes reintegration plans, progress reports, guides the families to the appropriate resources, and makes it their goal to reunite the family as quickly as possible.

Court Services also provides domestic services to the courts. In the 30th Judicial District, we have two CSO's that are certified mediators. Because of mediation, we have been able to cut the number of domestic trials to the court. The CSO mediators must travel several times per case to the other counties to conduct the mediations and provide a valuable service to the courts as well as to families by being able to do this, due to the lack of private mediators in rural Kansas. Court services officers are also called upon to conduct child custody investigations for the courts, which is a time consuming but necessary process and involves additional training for court services officers.

In a rural area, the lack of available resources for the offenders can at times present a unique set of problems. Each of our five counties is served by a mental health provider and a substance abuse provider. In two of the counties, the services provided are limited to between one and three days per week, which can make waiting lists long and does not allow the flexibility to schedule appointments with offenders on their days off work. Although these resources provide an excellent service to the courts and the community, we do experience those offenders who are not compatible with a particular counselor, or who are discharged unsuccessfully from treatment. Those offenders still must comply with their conditions of probation requiring them to attend treatment, so referrals are made to other resources, many up to 70 miles away. For an offender who is minimally employed, this can be a difficult task for both the offender and the CSO to accomplish. Court services officers cannot relieve an offender from a condition of probation because of inconvenience.

In closing, I hope this brief overview of what court services officers do in rural Kansas has been helpful. I thank you for providing me with the opportunity to describe one of the most fascinating and rewarding professions in our state.

JOHNSON COUNTY COURT SERVICES

STATE OF KANSAS • TENTH JUDICIAL DISTRICT

18505 W. 119th Street • Olathe, Kansas • 66061-5140 • (913) 715-7400 • (913) 715-7420

Testimony to
Joint Committee on Corrections and Juvenile Justice Oversight
October 29, 2009

Kathleen Rieth, Chief Court Services Officer

Overview of Court Services Operations and Programs

Role of Court Services in an Urban District

By way of introduction, I am Kathleen Rieth; I have worked for the 10th Judicial District (Johnson County) Court since 1977 as one of the first two staff hired to do custody evaluations. I left Court Services for a short amount of time but returned in 1983, working in the juvenile unit. Prior to promotion to my current position I also worked part time hours in the adult unit as a bond supervision officer for approximately four years. Consequently, I have firsthand knowledge of the multitude of roles that a CSO plays in this office.

ADULT: The adult unit of Court Services provides the following services:

- Bond Supervision (monitoring defendants for misdemeanor and felony offenses while the cases are pending and can last up until sentencing)
- Pre-Sentence Investigation (nine staff including a supervisor perform the task of thoroughly investigating defendants' prior records and the status of the current case for sentencing hearings)
- Probation Supervision (two units handle misdemeanor and felony cases, specialized caseloads include: sex offenders, drug charges including prescription fraud, mental health clients, fraud cases, domestic violence, etc.)

DOMESTIC: The domestic unit of this office provides a variety of services to couples who are separated or divorcing to help resolve custodial issues. The following services are provided:

- Mediation (staff work with divorcing or separated couples in an attempt to help them resolve custodial and visitation issues for their minor children)
- Custody Evaluations (staff meet with families, conduct home visits, contact references, and compile detailed reports to the family court judges to make recommendations about custody and visitation issues)

- Educational Classes (Higher Ground: a six session program for high conflict families to help them work together in a better fashion in the best interests of their minor children, and Solid Ground: a two session program for parents early in the court process to provide guidelines on how to interact effectively in the best interests of children)
- Supervised Visitation (a 12-week program that provides structured visits for a parent who has court ordered supervised contact with the child in a safe environment; the program includes an educational component for both parents)
- Supervised Exchange (a program to help parents make exchanges of children in a safe, non-confrontational, and child friendly environment)

JUVENILE: The juvenile unit of Court Services provides the following services:

- Juvenile Intake and Assessment Center (JIAC) assessments (for youth arrested by law enforcement but who are given a Notice to Appear and make contact with JIAC for an assessment)
- Case Management (a voluntary program for youth who are assessed at JIAC and prior to final disposition/resolution of their case to assist youth in early referral and access to services as an early intervention)
- Youth Court (for lower-level first time juveniles offenders who are sent before a panel of their peers rather than having cases referred to the district court, with a special program for youth referred for Truancy—School Kids Impacting Peers, or SKIP)
- Diversion (for juveniles who are first time offenders, which can include both felony and misdemeanor cases, in which they have conditions to complete and are monitored for compliance of these conditions; charges are dismissed upon successful completion of the diversion contracts; a special drug court program is also available for youths with serious substance abuse issues as is a new Minor in Possession pre-diversion for low risk juveniles)
- Pre-Sentence Investigations (staff meet with the youth and parents and gather background information, including prior legal history, in order to submit detailed reports to the court and provide recommendations regarding sentencing)
- Probation Supervision (staff are school based and meet with the youth on a regular basis per risk level to ensure compliance with probation; specialized caseloads exist for sex offense and arson cases)
- Truancy Supervision (staff supervise juveniles who have been found to be Children in Need of Care due to truancy issues to ensure compliance with court ordered attendance at school)

Court Services in Johnson County has been a pilot site in both the adult and juvenile units for Evidence Based tools such as the LSI-R (Level of Service Inventory-Revised, an adult risk needs assessment tool) and the YLS-CMI (Youth Level of Service-Case Management Inventory, a youth assessment tool). On the adult side, the LSI-R is completed prior to sentencing for felony cases and determines whether the client is supervised by Court Services or the local Community Corrections office. It is also completed post-sentencing with misdemeanor cases. On the juvenile side, the YLS-CMI is completed post-sentencing in most cases. Should a youth be referred back to court for a revocation, the YLS-CMI score could be utilized to advocate for a

higher level of supervision. In both the adult and juvenile units, case plans are developed for those scoring above the low range to help the client work on issues that place him or her at greater risk to re-offend.

Caseloads at Court Services in the 10th Judicial District are high; adult probation caseloads range from about 150 to 175 clients per officer. Bond supervision officers have about 110 clients per officer. Juvenile diversion staff members have about 105 to 115 cases per officer and juvenile probation staff members have about 60 cases per officer. With such high caseloads, it is extremely important to use risk levels to set priorities for frequency of contact with clients. The staff work longer and harder today than ever before to try to help clients make meaningful changes in their lives. The staff members maintain contact with treatment providers, monitor drug screen results for those on random drug screening, and make contact with law enforcement agencies across the metropolitan area when concerns regarding clients' conduct are identified. The juvenile staff are in constant contact with the school staff where the youth they supervise attend. By the time an officer refers a case back to court for revocation other than for a new law violation, all other resources have been exhausted. Staff try many in-house sanctions or assist clients with referrals to resources before referring people to court. Due to high caseloads, probation staff do not make home visits as part of the standard supervision practice.

Johnson County is a resource rich community. We have provider monitors who enforce the chief judge's requirements for providers who are on the court approved lists. Many agencies and individuals wish to be on the court approved list, but it is extremely important to ensure that our clients are protected by having reputable and competent care givers. These providers offer ADSAP (Alcohol and Drug Safety Action Program) evaluations, other drug and alcohol assessments, substance abuse education and treatment, anger control assessments, anger control groups, sex offender assessments, sex offender treatment, and other services. The providers meet every other month at the Court Services office to help develop the criteria for the court approved provider lists and to discuss problems, recent trends, etc. It is extremely time consuming to manage these programs. For example, the juvenile drug/alcohol provider manual is about 85 pages long; the annual training to be on the court approved provider list just took place on October 16, 2009, and lasted half a day. Consequently, ensuring compliance with the requirements for all these services can be cumbersome.

Although we do have a large number of treatment providers who offer a variety of programming, not every client is able to make use of these programs for a variety of reasons. Many people who have limited financial means do not qualify for Medicaid. Yet even with reduced rates, a number of these clients cannot afford treatment or lack transportation to obtain treatment. Clients who have substance abuse issues also pay for random drug screening, which is another cost that they at times have difficulty paying. However, for many clients, drug screening plays an important role in helping them to quit using illegal substances.

At Court Services we deal with a variety of types of cases. It should not be construed that, because we are the first tier of the correctional system for juvenile and adult matters, we only deal with minor cases. The bond supervision staff have dealt with clients who were ultimately sentenced to the correctional facilities in Kansas. The probation staff at times have clients who may have misdemeanor convictions for charges that were much more serious but for a variety of reasons were pled to less serious charges. We use tools such as House Arrest, SCRAM (the

continuous alcohol monitoring), and random drug screening to ensure compliance with court ordered conditions and assist clients in making proactive changes in their lives.

Even some of the misdemeanor clients we work with can pose serious problems. Staff have been threatened at times. On multiple occasions some of our domestic violence clients under our supervision commit new law violations of a serious nature, including: CSO Matthews' client who raped and killed the victim in his case, CSO Bartlett's client who killed his victim and cut open her stomach, CSO Gibson's client who killed his girlfriend and her child, CSO Easley's bond client who killed two Edwardsville EMT's and chopped their heads off, and CSO Daniel's client who killed his tenant. The juvenile who was convicted of killing his case manager, Terri Zenner, was on juvenile supervision at the time of her murder. A number of us, including myself, have had clients commit suicide while under our supervision.

The staff members who provide mediation to the Family Court Judges also deal with high conflict in their conference rooms. At times our security guard intervenes with angry clients. The Olathe Police Department has been called to respond to situations in which one or both of the parties to these civil cases lost control.

This office does not have a specialized CINC (Child in Need of Care) unit, such as many of the larger Court Services offices have. However, if the court directs that a CSO be assigned to a CINC case, the CSO II in the juvenile probation unit would so assign a case. I was the assigned CSO for a child from the age of 6 years old until her late teens as directed by the juvenile judge, when SRS was unable to provide the supervision due to a technical issue.

At this office we strongly believe in providing services to our clients. Not only does the domestic unit provide special educational programming, but the adult probation unit offers a cognitively based educational class; the juvenile unit offers many groups, including a cognitive program, a girl's circle group, and an accountability/responsibility/choices class. We have close collaborative relationships with our partnering agencies, such as the local corrections office and the Juvenile Justice Authority. All the staff at Court Services will have received two days of training on Motivational Interviewing in 2009. We also try to balance helping our clients to improve their lives with being mindful of community safety. For example, on Halloween night, CSO Fleming will once again be hosting a required meeting for all her clients with sex offenses from 6:00 to 9:00 p.m., in which they will be updated on legislative issues; additionally, two of the court approved sex offender treatment providers will be showing a film and leading an educational discussion with these clients. The overall goal of this meeting is to ensure that children in the community are safer on Halloween night, as well as to protect the clients from any allegations during this time period.

We have a highly educated and very experienced staff in this office. All staff have bachelor's degrees in a related field. Many have graduate degrees including master's degrees in psychology, counseling, public administration and social work; we also have two staff with Juris Doctorate degrees. All of the staff members are involved in parallel committees, advisory boards, or community groups and committees. Some of these groups have developed as a result of initiation by a staff member here, such as the metropolitan PSI (presentence investigation) team, in which PSI writers from across both sides of the state line meet periodically to collaborate with one another in the shared goal of providing the most accurate and up to date information for sentencing hearings.

As you can see, we play a variety of roles at Court Services. In order to provide the many services which our judges have come to expect and which hopefully lighten their loads, we've had to develop creative ways to add services. While the majority of staff here are state employees of the Office of Judicial Administration, a number of staff are in positions funded by grants or fees. As a result, we have requirements to provide statistical and financial reports for these programs. We have learned to work smarter and harder over the years, in a county that grows by 10,000 people each year and with limited staff resources.

I am probably not doing adequate justice to the many services provided by the wonderful staff at my office. You will find our office open from 7:00 a.m. to late evening most weekdays to accommodate our clients' schedules and to provide numerous programs. These dedicated public servants take their roles very seriously and consider it an honor and a privilege to work for the State of Kansas and specifically for the judges in the 10th Judicial District. They are delighted when a client comes back to them and thanks them for helping them turn their lives around, such as CSO Easley's client who thanked her for remaining tough and forcing him to quit drinking, or my former bond client who hugged me when she came in to see her probation officer as she has been substance free for well over a year. I think that is the piece of this job that keeps all of us hooked on what we do, helping people to make positive changes so they can reclaim their lives as well as helping to keep the community safer.

Respectfully,

Kathleen Rieth
Court Services Administrative Officer
10th Judicial District/Johnson County KS

State of Kansas

Office of Judicial Administration

Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507 (785) 296-2256

Joint Committee on Corrections and Juvenile Justice Oversight

Thursday, October 29, 2009

Chris Mechler, Office of Judicial Administration

Discussion on Increasing the Probation Fee to Pay for Risk Assessments of Offenders

Statewide, mandatory use of the LSI-R (the Level of Service Inventory-Revised) has been an issue in Kansas for several years. The LSI-R has been chosen by the Kansas Sentencing Commission as the standardized risk assessment tool or instrument to be used for sentencing purposes to determine if an offender is "high risk or needs, or both." K.S.A. 2008 Supp. 75-5291, as amended by 2009 *Session Laws of Kansas,* Ch. 132, Sec. 15, specifies that "placement of offenders in community correctional services programs by the court shall be limited to placement of adult offenders convicted of a felony offense . . . on and after January 1, 2011, for offenders who are expected to be subject to supervision in Kansas, who are determined to be 'high risk or needs, or both' by the use of a statewide, mandatory, standardized risk assessment tool or instrument which shall be specified by the Kansas sentencing commission."

The LSI-R has been determined to be an effective risk assessment tool, and the Kansas Judicial Branch and its court services officers would like to use it. However, funding has been the roadblock in this process for several years. While the Department of Corrections used state funds and some grant funding to provide the necessary training and other costs for community corrections personnel, the Judicial Branch has never been provided with funding for LSI-R implementation costs. Because use of the LSI-R as the statewide mandated assessment instrument has been mandated by law for several years, the Judicial Branch has included a request for State General Fund financing of this project for several years. However, the Judicial Branch's approved budget each year does not allow for implementation. The Judicial Branch has also applied for federal Byrne grant funding on three occasions, but grant funding was not awarded by the state Criminal Justice Coordinating Council.

The Kansas Sentencing Commission has proposed an increase in probation fees to fund the LSI-R for the Judicial Branch. The recommendation would increase the current $25 misdemeanor probation fee to $125, and would increase the current felony probation fee from $50 to $250. The current probation fee amounts are set in K.S.A. 21-4610a, a copy of which is attached. The Supreme Court is open to considering the use of probation fees to fund the LSI-R, as mandated by the Legislature. The Judicial Branch's FY 2011 maintenance budget includes a total of $229,338 from the State General Fund for first-year LSI-R training and implementation costs.

Regardless of the funding mechanism chosen for the LSI-R, the effect of the Judicial Branch's current budget underfunding must be considered. Because of budget underfunding, the Judicial Branch began a hiring freeze at the beginning of FY 2009, and that freeze is still in effect today. Some positions have been held open for over one year. What the hiring freeze means is that, each time an employee quits or retires, no one is hired to replace them.

The Judicial Branch has also had to eliminate all funding for temporary positions. The majority of temporary positions are used in the offices of the clerks of the district court, where they provide relief staffing for some of the smaller offices that are staffed by only 1.5 or 2.0 full-time employees. The temporary employees are used when the workload is heavy, such as during a jury trial, or when the full-time staff take vacation or sick leave, or are gone for educational and administrative purposes. In other districts, temporary help are used to supplement the work of full-time employees, including secretarial assistance for court services officers.

Despite the toll these and other adverse budget actions are taking on Judicial Branch employees and the time they have available to fulfill their statutory and other work functions, a more serious factor needs to be considered. If the Judicial Branch does not receive supplemental funding early in the 2010 legislative session, it will be forced to begin a series of as many as 27 furlough days for all nonjudicial employees. On those days, Judicial Branch employees will not be paid, and court offices will be closed statewide. The negative effects of any furlough days taken in FY 2010 will continue into FY 2011, as employees struggle to catch up with work that understaffing and furlough days have not allowed them to complete in FY 2010.

If these or other budget reductions are carried forward into FY 2011, LSI-R implementation will be extremely difficult, at best. We are hopeful that favorable action will be taken on the Judicial Branch budget, and we are proceeding with planning for the LSI-R implementation.

As noted previously, the FY 2011 cost of LSI-R implementation is $229,338. This would cover the first-year cost of training and certifying approximately 270 court services officers between July 1, 2010, and December 2010. Estimated costs for the major items of expenditure are travel for court services officers ($70,150), contractual training services ($75,000), the acquisition of proprietary training materials and LSI-R assessments ($34,688), hosted website services ($27,000), licenses to the web-based software ($18,000), training materials ($2,500), and communications costs ($2,000).

Current plans call for training to begin as soon as possible after July 1, 2010. Initial training would be completed by December 31, 2011. Court services officers would be required to complete three days of on-site training. Each training class is limited to 25 people, creating a need for 11 or 12 classes. Classes will be held throughout the state to reduce travel and per diem costs and to reduce the number of days court services officers will be out of the office. Once the training classes are completed, court services officers would return to work, conduct approximately ten practice interviews with clients, and then would submit a video recording of an actual LSI-R client interview. The interview video would be scored by a trainer, who would

officially certify the court services officer as having mastered the skills necessary to administer the LSI-R, if appropriate.

Once certified in LSI-R use, court services officers would enter data on a web-based version of the LSI-R. This web site would be hosted by a vendor licensed by Multi-Health Systems, Inc. (MHS), the proprietary owner of the LSI-R. The Office of Judicial Administration plans to contract with a vendor to host the online LSI-R. This hosting service is expected to provide court services officers with 24 hours per day, seven days a week access so that they can enter data on individual offenders and can view summary data for management purposes.

Two requests for proposal (RFP's) will be issued as soon as funding has been obtained. The first RFP would be to recruit and select a qualified trainer. The second RFP would be to recruit and select a qualified vendor to host the web servers to be used by the court services officers. The date the RFPs are released will be dependent on available funding.

I would be happy to keep this committee informed of any developments regarding the LSI-R. Please do not hesitate to ask me if you have any questions about this issue.

HOUSE BILL NO. ____

By

AN ACT concerning criminal procedure; relating to the probation services fee and the community correctional services fee; amending K.S.A. 21-4610a and repealing the existing section.

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

Section 1. K.S.A. 21-4610a is hereby amended to read as follows: 21-4610a. (a) Each person placed under the probation supervision of a court services officer or other officer or employee of the judicial branch by a judge of the district court under K.S.A. 21-4610, and amendments thereto, and each person assigned to a community correctional services program shall pay a probation or community correctional services fee. If the person was convicted of a misdemeanor, the amount of the probation services fee is ~~$25~~ $50 and if the person was convicted of a felony, the amount of the probation or community correctional services fee is ~~$50~~ $100, except that in any case the amount of the probation or community correctional services fee specified by this section may be reduced or waived by the judge if the person is unable to pay that amount.

(b) The probation or community correctional services fee imposed by this section shall be charged and collected by the district court. The clerk of the district court shall remit all revenues received under this section from probation or community correctional services fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall

deposit the entire amount in the state treasury to the credit of the state general fund.

(c) This section shall not apply to persons placed on probation or released on parole to reside in Kansas under the uniform act for out-of-state parolee supervision.

Sec. 2. K.S.A. 21-4610a is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Kansas Legislature

75-4215

Chapter 75.--STATE DEPARTMENTS; PUBLIC OFFICERS AND EMPLOYEES
Article 42.--STATE MONEYS

75-4215. Remittance of state moneys; fee agency accounts; reports; post audit. (a) All moneys collected by any state agency shall be remitted daily to the state treasurer unless otherwise authorized by the board to remit less frequently.

(b) If a state agency is authorized by the board to maintain a fee agency account pursuant to K.S.A. 75-4214, and amendments thereto, any moneys collected by the state agency shall be deposited daily in the fee agency account. Fee agency account balances shall be remitted daily or less often if authorized by the board, to the state treasurer by such agency drawing on such fee agency account all moneys therein except for any balances required for direct refunds of tuition, fees or charges from such fee agency account authorized under K.S.A. 76-738, and amendments thereto. When requested, such agency shall file with the board a detailed and verified report with each deposit showing the sources from which such moneys were received. The board shall have the authority to limit specific types of moneys that can be deposited in a fee agency account.

(c) Fee agency accounts and moneys to be deposited therein shall be subject to post audit under article 11 of chapter 46 of Kansas Statutes Annotated.

History: L. 1967, ch. 447, § 20; L. 1975, ch. 453, § 9; L. 1977, ch. 300, § 2; L. 1986, ch. 333, § 2; L. 1994, ch. 105, § 6; L. 2001, ch. 5, § 3; July 1.

2009 9rs1090

PROPOSED BILL NO. ____

By

AN ACT concerning the department of corrections; relating to the transfer of certain offenders; amending K.S.A. 2008 Supp. 75-5220 and repealing the existing section.

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

Section 1. K.S.A. 2008 Supp. 75-5220 is hereby amended to read as follows: 75-5220. (a) Except as provided in ~~subsection (d)~~ subsections (d), (e) and (f), within three business days of receipt of the notice provided for in K.S.A. 75-5218, and amendments thereto, the secretary of corrections shall notify the sheriff having such offender in custody to convey such offender immediately to the department of corrections reception and diagnostic unit or if space is not available at such facility, then to some other state correctional institution until space at the facility is available, except that, in the case of first offenders who are conveyed to a state correctional institution other than the reception and diagnostic unit, such offenders shall be segregated from the inmates of such correctional institution who are not being held in custody at such institution pending transfer to the reception and diagnostic unit when space is available therein. The expenses of any such conveyance shall be charged against and paid out of the general fund of the county whose sheriff conveys the offender to the institution as provided in this subsection.

(b) Any female offender sentenced according to the provisions of K.S.A. 75-5229, and amendments thereto, shall be conveyed by the sheriff having such offender in custody directly

to a correctional institution designated by the secretary of corrections, subject to the provisions of K.S.A. 75-52,134, and amendments thereto. The expenses of such conveyance to the designated institution shall be charged against and paid out of the general fund of the county whose sheriff conveys such female offender to such institution.

(c) Each offender conveyed to a state correctional institution pursuant to this section shall be accompanied by the record of the offender's trial and conviction as prepared by the clerk of the district court in accordance with K.S.A. 75-5218, and amendments thereto.

(d) If the offender in the custody of the secretary is a juvenile, as described in K.S.A. 2008 Supp. 38-2366, and amendments thereto, such juvenile shall not be transferred to the state reception and diagnostic center until such time as such juvenile is to be transferred from a juvenile correctional facility to a department of corrections institution or facility.

(e) Any offender sentenced to a facility designated by the secretary of corrections to participate in an intensive substance abuse treatment program shall not be transferred to the state reception and diagnostic center but directly to such facility, unless otherwise directed by the secretary. The secretary may transfer the housing and confinement of any offender sentenced to a facility to participate in an intensive substance abuse treatment program to any institution or facility pursuant to K.S.A. 75-5206, and amendments thereto.

<u>(f) If the offender has 10 or less days remaining to be</u>

served on the prison portion of the sentence at the time the notice provided for in K.S.A. 75-5218, and amendments thereto, is received by the secretary of corrections, the offender shall remain in the custody of the sheriff until the completion of the prison portion of the sentence. The secretary shall inform the sheriff of the date of the expiration of the prison portion of the offender's sentence if 10 or less days remain to be served.

Sec. 2. K.S.A. 2008 Supp. 75-5220 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Juvenile Justice Authority

October 29, 2009
YLS/CMI – Court Services
Community Based Standards (CbS) – YRCII
Residential Provider System

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What is the YLS/CMI?

- Youthful Level of Service Case Management Inventory
  - Empirically derived risk/needs assessment instrument for juvenile offenders
  - Examines 42 items across 8 domains (risk/need factors)
    - Criminal history
    - Family
    - Education
    - Peers
    - Substance abuse
    - Leisure/recreation
    - Personality
    - Attitudes

YLS/CMI and Evidence Based Practices

- Risk principle (tells us who to target)
  - Low risk (0 – 8 points)
  - Moderate risk (9 – 22 points)
  - High risk (23 – 34 points)
  - Very high risk (35 – 42 points)
- Need principle (tells us what to target)
  - Each domain is weighted to give a need level (low, moderate, high)
- Responsivity principle (tells us how to target)

Why the YLS/CMI?

- Provides basis for making decisions
  - Reduces biases
  - Standardization across the state
- Helps identify targets for change to determine case plan
  - Examines known risk factors
  - Streamlines programming for youth
- Helps track changes in the youth
- Economical
  - Identify which youth should be targeted and what they need to reduce risk
- Leads to public safety

History of the YLS/CMI Within Kansas Juvenile Justice System

- Youth disposed to JJA (JISP or CM) receive the YLS/CMI within 30 days
  - 9509 total assessments since 1/2007
  - 6056 initial assessments since 1/2007
- 4 Districts have implemented the YLS/CMI within Court Services
  - 7th (Citizen Review Board)
  - 10th (Johnson County Court Services)
  - 18th (Sedgwick County Court Services)
  - 22nd (22nd JD Court Services)

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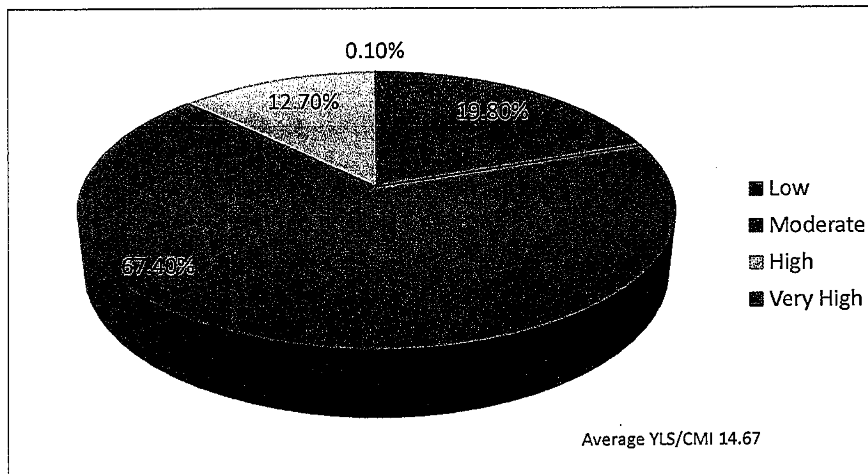
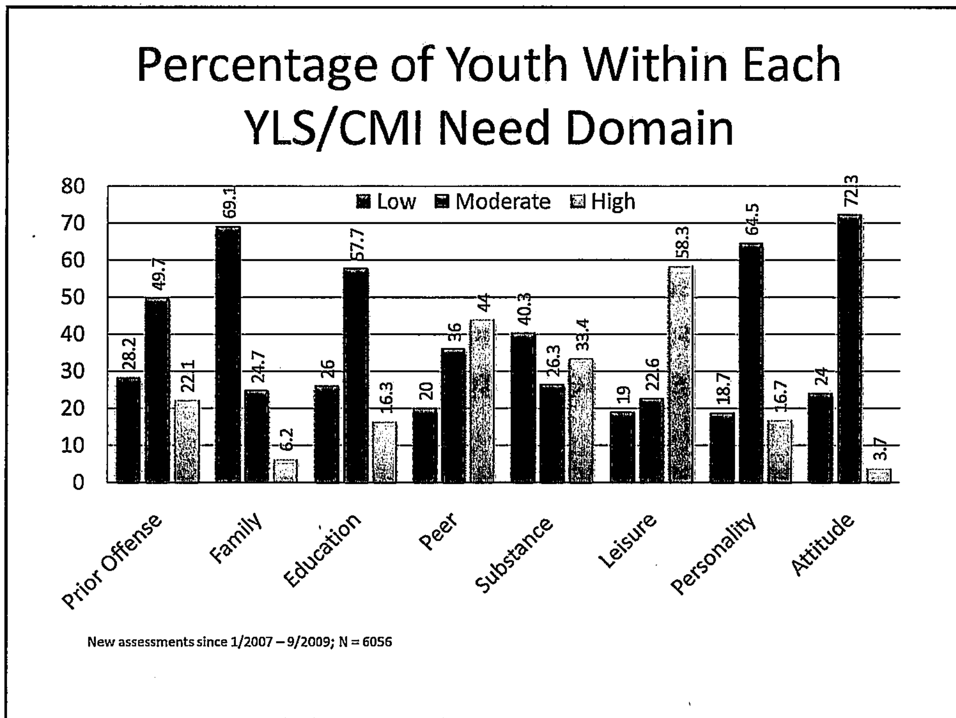
Percentage of Youth Within Each YLS/CMI Risk Level



Based on all new assessments; N = 6056

6



Court Services

- 7th JD (Douglas County)
  - Citizen Review Board implemented YLS/CMI
  - Began April 2009
  - Uses a quick screen to determine which youth need full assessment
    - Few youth receive the full assessment
- 10th JD (Johnson County)
  - Implemented May 2008
  - Began using the screening version but now use the full assessment on all youth
  - Have one intake person who completes the YLS/CMI on all youth
  - Have completed 642 assessments

Court Services

- 18th JD (Sedgwick County Court Services)
  - September 2008
  - Developed a scenario based screening document to determine which youth receive the YLS/CMI
- 22nd JD (22nd JD Court Services)
  - Spring/Summer 2009 implementation
  - Youth who receive a PDI/PSI

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How is the YLS/CMI Used Within Court Services?

- Information from the YLS/CMI incorporated into PDI/PSI* to assist judges in determining
  - Which youth is more likely to reoffend
  - Which youth require more structure/supervision
  - What criminogenic needs should be address to reduce risk and increase public safety
- Helps provide standardization

* KSA 38-2360 requires the court to order tools on offenders.

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Training & Certification Process

- Participate in a 2 ½ day training protocol consisting of theoretical background and skill development
- Certification process
  - Pass knowledge exam
  - Pass scoring vignette
  - Pass live scoring

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Timeline for Implementation

PHASE ONE	PHASE TWO	PHASE THREE
Months 1 – 4	Months 5 - 10	Months 10 and beyond
• Identification of JJA/OJA key members for YLS/CMI Project •Identification of OJA YLS/CMI Coordinator •Development of the assessment/supervision standards in conjunction with JJA •YLS/CMI OJA/JJA database development & sharing of assessments protocol • Obtain buy-in & support (meetings with Chief CSOs & Judges) •Creation of training schedule	•Initial training for CSOs •Make-up training for CSOs •Quality assurance training for Chief CSO	•Ongoing quality assurance/technical assistance •Norming and validation study for Court Services youth •Refresher training for CSOs •Schedule of initial training for new staff

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State Cost for Implementation

Item	Cost Per	Number of Items	Total
YLSCMI Assessments	1.39*	12,200 (8200 initial + 4000 reassessments)	$16,958.00
Materials	4.00	350 CSOs YLS/CMI manuals	$1400.00
Trainer 1 Cost (Hotel)	80.00	38 nights	$3040.00
Trainer 2 Cost (Hotel)	80.00	38 nights	$3040.00
Trainer 1 Per Diem	36.00	38 days	$1368.00
Trainer 2 Per Diem	36.00	38 days	$1368.00
Mileage	0.55	3500 miles	$1925.00
Total			$29,099.00

* Per MHS contract costs increase 5% each year

Benefits of the Implementation Plan

- Continuity
  - Evidence based assessment practices across entire Kansas Juvenile Justice System
  - Ability to obtain information on risk/need levels if youth moves across JD lines
- Standardization
  - Decisions based on *empirical evidence* of risk levels and needs
- Economical
  - Ensuring that youth are appropriately placed the first time to reduce progression throughout the system
- Cost-Effective
  - Using existing resources and partnerships between JJA/OJA

Community Based Standards (CbS)

- Council of Juvenile Corrections Administrators (CJCA) developed CbS to help community residential programs establish and sustain systems for continuous improvement and accountability. CbS models CJCA's award-winning Performance-based Standards (PbS) program, which provides a blueprint of best practices for secure facilities based on national standards and regular collection and review of outcomes tracking performance

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CbS Process

- Semi annual survey
  - Family Climate
  - Staff Climate
  - Youth Climate
  - Youth Record Review
- Management Reports
- Facility Improvement Plan
  - ✓ Develop
  - ✓ Implement
  - ✓ Monitor - Adjust
  - ✓ Evaluate
- Continuous Quality Improvement

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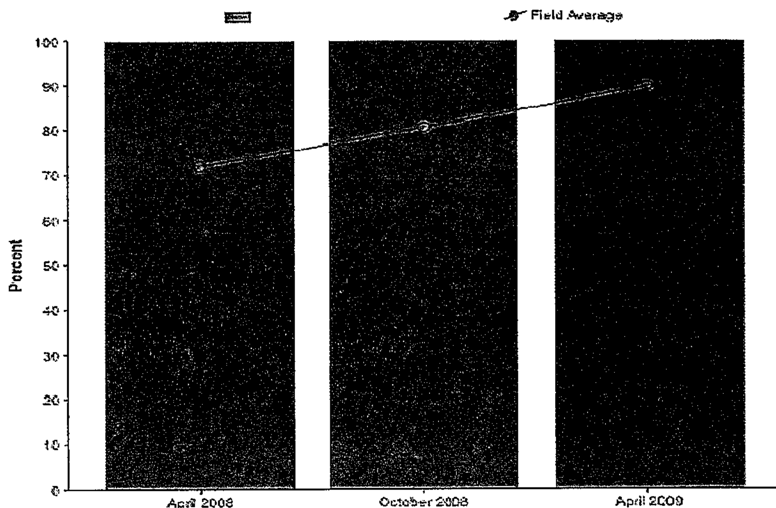
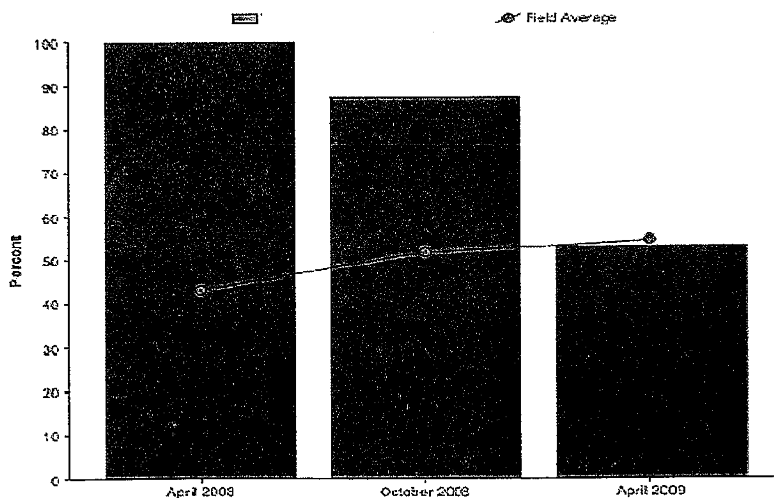

Mental Health 01
Percent of youths released during the data collection period with suicide screenings completed at intake.
Field Average
100
90
80
70
60
50
40
30
20
10
0
Percent
April 2008
October 2008
April 2009
17


Safety 15
Percent of youth reporting staff are fair about discipline issues.
Field Average
100
90
80
70
60
50
40
30
20
10
0
Percent
April 2008
October 2008
April 2009
18

Proposed YRCII Contract Requirement/CbS Participation

- 26 YRCII providers – JJA contract requirement for participation April, 2010
- $5,000 per provider
- Program Consultant - $57,000
  - CbS State Coordinator
  - Agency lead with residential providers
  - Quality assurance and continuous improvement
  - Technical assistance to support providers

  Total enhancement $187,000

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Group Homes (YRCII) Need for Change

- Juvenile Justice Reform
  - Reserve juvenile correctional facilities for the most serious, violent and chronic offenders
  - Narrowing of admission criteria by law
- Juvenile correctional facility census declines
- Greater numbers of youth with greater risks and needs in residential placements
- New challenges require new thinking

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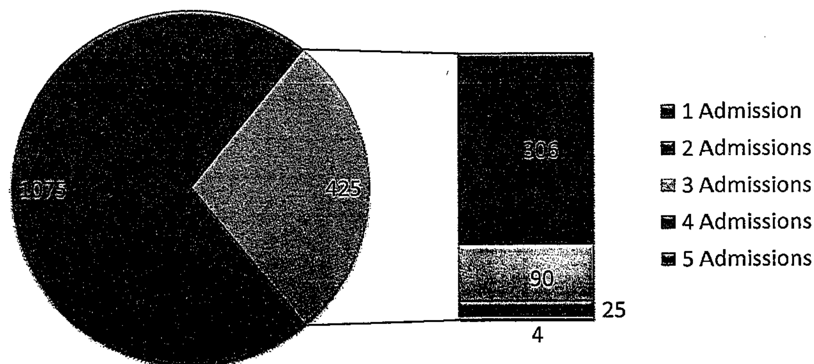
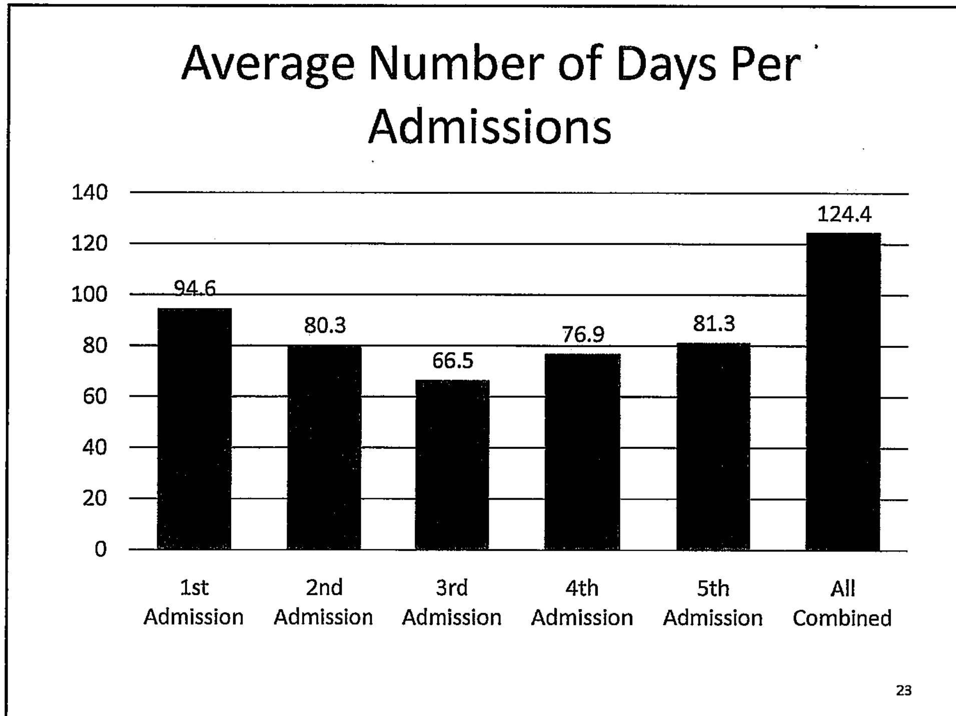
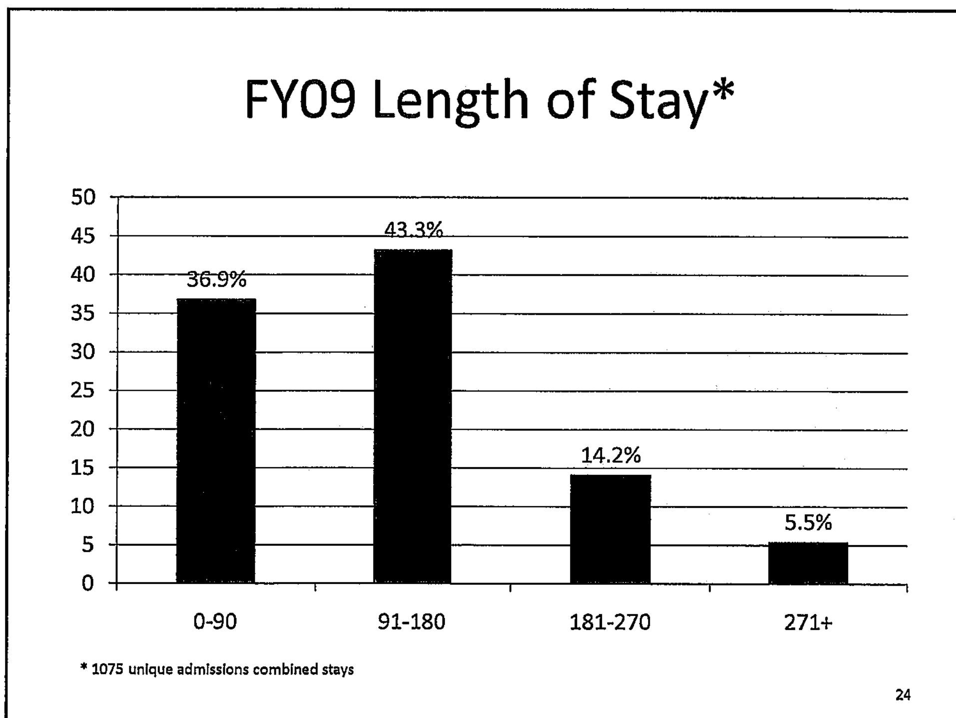
Residential System Study and Reorganization

- Evaluate offender population needs
  - YLS/CMI data – proportions based on risk and needs of youth in YRCII's
  - Determine levels/service and program components
  - Capacity needs
  - Engage providers in dialogue
- Cost study – rate determination by level
- Implementation – July 1, 2010

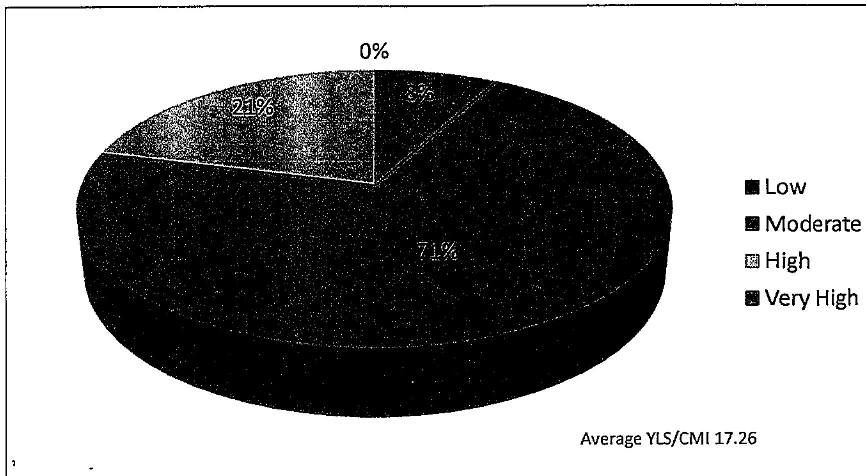
FY09 YRC II Admissions




Average Number of Days Per Admissions
140
120
100
80
60
40
20
0
94.6
80.3
66.5
76.9
81.3
124.4
1st Admission
2nd Admission
3rd Admission
4th Admission
5th Admission
All Combined
23


FY09 Length of Stay*
50
45
40
35
30
25
20
15
10
5
0
36.9%
43.3%
14.2%
5.5%
0-90
91-180
181-270
271+
* 1075 unique admissions combined stays
24

Level of Risk Within YRC II



Based on all youth in YRC 9/30/2009; N = 403

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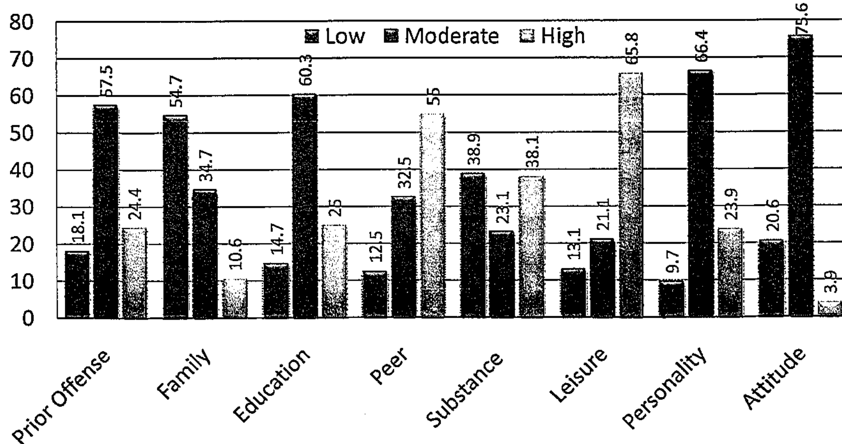
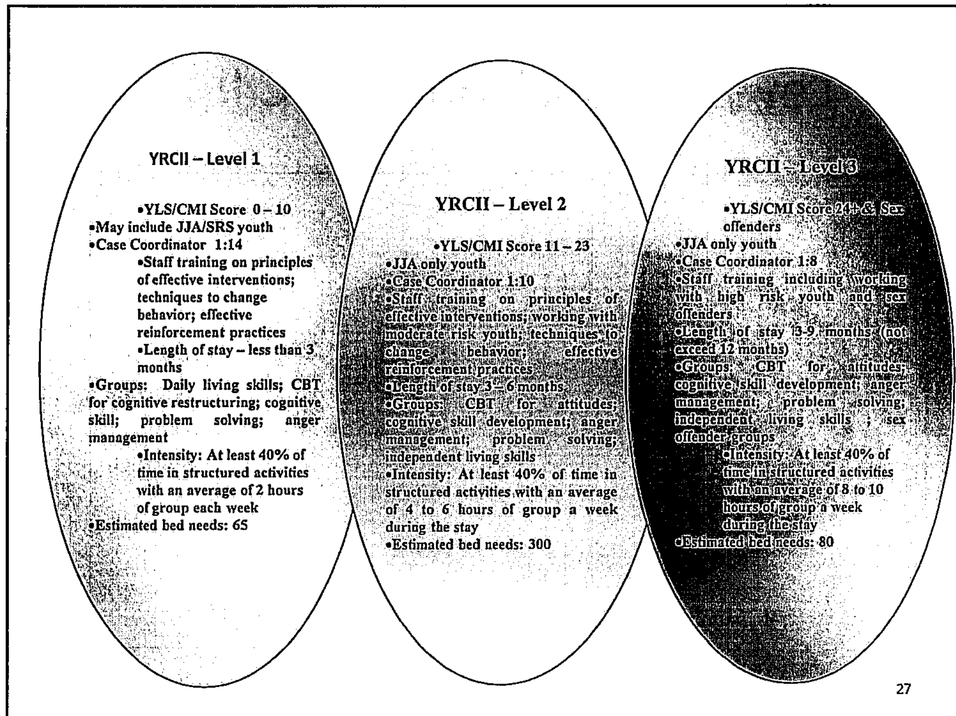
YRC II Population Criminogenic Needs



Youth in a YRC II on 9/30/2009 (N = 403)
% distribution at risk level

26



Proposed Changes

- Moving away from "one size fits all" model
  - Best practices to separate low/moderate/high risk
  - Prevent contamination of low risk
- Require evidence based practices
  - Cognitive Based Treatment (CBT) groups to address needs
  - Staff training on "what works"
- Length of stay stabilization
  - LOS tied to risk to allow time for behavioral change and stability
- Intensity varies by risk level
  - Ensure that higher risk youth receive more interventions to adequately change the risk of recidivism

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Benefits

- Benefits for youth
  - Prevent contamination of low risk youth
  - Require groups to match the criminogenic needs of the youth
  - Reduce the instability of placements via adequate initial length
  - Reduce the risk levels via appropriate intensity
- Benefits for staff
  - Streamline operations
- Benefits for society
  - Economical
  - Provide for public safety by reducing the risk of the youth

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