

MINUTES

JOINT COMMITTEE ON PAROLE BOARD OVERSIGHT

November 2, 2009
Room 446-N—Statehouse

Members Present

Representative Pat Colloton, Chairperson
Senator David Haley
Senator Julia Lynn attended as substitute for Senator Thomas C. (Tim) Owens
Senator John Vratil
Representative Melody McCray-Miller
Representative Michael O'Neal

Staff Present

Jerry Donaldson, Kansas Legislative Research Department
Athena Andaya, Kansas Legislative Research Department
Sean Ostrow, Office of the Revisor of Statutes
Jason Thompson, Office of the Revisor of Statutes
Pat Matzek, Committee Assistant

Others Attending

Patti Biggs, Kansas Parole Board Member
Robert Sanders, Kansas Parole Board Member
Tom Sawyer, Kansas Parole Board Member
Roger Werholtz, Secretary, Kansas Department of Corrections
Linden Appel, Chief Counsel, Kansas Department of Corrections
Liz Rice, Administrator, Secretary's Office, Kansas Department of Corrections
Teri Canfield, Office of the Attorney General/Kansas Parole Board
Marie McNeal, Kansas Parole Board
Tim Carpenter, Topeka Capital Journal
Rob Mealy, Kearney and Associates

Morning Session

A letter from The Honorable Ernest L. Johnson, Chairman, Kansas Sentencing Commission, in support of the continuation of the Kansas Parole Board, was distributed to members of the Committee (Attachment 1).

Chairperson Colloton wanted to briefly explain the statute that created the Joint Committee on Parole Board Oversight and requested Jason Thompson, Office of the Revisor of Statutes, give an explanation of the procedures for how the Committee should operate.

Joint Committee members are comprised of six members from the Senate Judiciary Committee and the House Committee on Corrections and Juvenile Justice. Mr. Thompson further stated the purpose of the Committee is to review documents, records, and reports from the Parole Board concerning factors and rationale used to determine the granting or denial of parole. Mr. Thompson advised the Committee will be reviewing 30 cases selected by the Secretary of Corrections in the afternoon closed session, as well as summary statements from the parole board involving factors and rationale used to determine the granting or denial of parole in each of those 30 cases. Copies were distributed of Release Procedures KSA 22-3717 (Attachment 2), which is the Parole Board's enabling statute covering procedures during reviews of inmates to determine what notices are to be given, hearings to be conducted, and the authority to adopt regulations.

At the conclusion of Mr. Thompson's procedural explanations, Chairperson Colloton recognized Chairman Sanders to give an overview of the Kansas Parole Board Process. Chairman Sanders requested Commissioner Biggs give the presentation (Attachment 3).

Kansas Parole Board Process Overview

- Vision—The vision of the Kansas Parole Board (KPB) is to contribute to protecting the safety of citizens of Kansas by the exercise of sound, rational decision making, consistent with evidence-based principles.
- Mission—Parole privilege is extended to those offenders who demonstrate suitability by having served incarceration time set forth by the courts and who have demonstrated a reduction in risk to re-offend such that revictimization is minimized and rehabilitation and successful re-entry are maximized.
- Evidence-Based Practice (EBP)—Refers to accumulated body of research results to make decisions where:
 - There is a definable outcome;
 - It is measurable; and
 - It is defined according to practical realities.
- Primary Work Areas
 - Area I—Parole Suitability Hearings

Parole Suitability is when certain conditions are fulfilled and the parole board is "...of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate."

o Area 2—Final Violation Hearings

- After the offender is released to the community, s/he has liberty interest;
- Withdrawal of liberty is guided by due process requirements;
- Preliminary Hearing - Kansas Department of Corrections Parole; and
- Final Hearing - KPB.

o Area 3—Special Hearings - A special hearing is:

- A new Parole Suitability consideration before the previously established next parole eligibility date;
- A special hearing following the same procedures as all parole eligibility hearings; and
- A special hearing cannot be used to advance an initial parole eligibility.

o Area 4—Special Conditions of Post-Incarceration Supervision

All offenders who release to community supervision post-incarceration must comply with "standard" and "special" conditions of that supervision.

- Identified on Certificate of Release, signed by offender at facility release;
- Standard conditions of supervision: N=12; and
- Special conditions of supervision:
 - Imposed by KPB prior to release; and
 - Imposed by Parole Officer during supervision.

o Area 5—Other File Reviews

- Sex offender override panel membership;
- Early discharge from parole supervision;
- Clemency application review and recommendations to the Governor;
- Functional Incapacitation releases; and
- Joint Committee on Parole Board Oversight.

o Area 6—Partnering and Collaboration

- "Effective paroling authorities must . . . know how to collaborate and cooperate with other systems"*

**Transition from Prison to Community Initiative, NIC/Proctor, 1994.*

- "Collaboration requires an understanding and willingness to network, coordinate, and cooperate in structured and unstructured ways."**

*** Comprehensive Framework for Paroling Authorities, NIC/Campbell, 2008.*

The meeting adjourned for lunch.

Afternoon Session

The Committee meeting reconvened at 1:30 p.m.

Senator Vratil moved:

- *The open meeting of the Joint Committee on Parole Board Oversight be recessed for a closed, executive session pursuant to subsection (b)(5) of KSA 2009 Supp. 75-4319 and KSA 2009 Supp. 46-3801 for the purpose of discussing matters relating to actions adversely or favorably affecting a person as a resident of a public institution, specifically inmates of a correctional institution, to examine certain confidential records relating to specific inmates and to protect the privacy interest of each inmate who will be discussed;*
- *The motion will be recorded in the minutes of the Joint Committee on Parole Board Oversight and be maintained as part of the permanent records of the Joint Committee on Parole Board Oversight; and*
- *The Joint Committee on Parole Board Oversight would resume the open meeting in Room 446-N of the Statehouse at 4:00 p.m.*

Representative McCray-Miller seconded the motion. The motion carried.

The Committee reconvened open meeting at 4:55 p.m. for continued discussion, and promptly adjourned.

The next meeting of the Joint Committee on Parole Board Oversight is scheduled for November 10, 2009 at 10:00 a.m., in Room 446-N of the Statehouse.

Prepared by Pat Matzek
Edited by Jerry Donaldson

Approved by Committee on:

April 23, 2010
(Date)

KANSAS

KANSAS SENTENCING COMMISSION

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

MARK PARRINSON, GOVERNOR

October 30, 2009

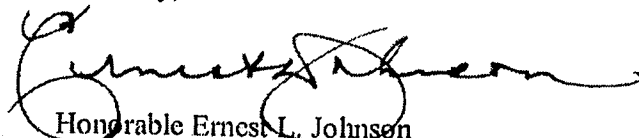
Parole Board Oversight Committee
Honorable Patricia Colloton, Chair
300 SW 10th Ave., Room 142-W
Topeka, KS 66612

Dear Oversight Committee,

This letter is written in support of the continuation of the Kansas Parole Board. When the Kansas Sentencing Guidelines were established in 1993, there was belief that the Parole Board would not be considered necessary after a few years, due to pre-guidelines offenders being released from incarceration. However, offenders continue to be convicted of off-grid felonies, and thus the Parole Board remains necessary to review release plans, and determine whether offenders should be released. With the passage of additional off-grid sentences in 2006, the number of off-grid convictions has significantly increased. Because of this situation, a continued need for the Parole Board exists, as such offenders become eligible for review and eventual release.

The Kansas Sentencing Commission supports the continuation of the Parole Board. Thank you for your consideration of this matter.

Sincerely,



Honorable Ernest L. Johnson
Chairman

§ 65; L. 2000, ch. 182, § 8; L. 2002, ch. 177, § 1; L. 2003, ch. 135, § 6; L. 2008, ch. 175, § 4; July 1.

Revisor's Note:

Section was amended twice in 2008 session, see also 22-3716.

22-3717. Parole or postrelease supervision; eligibility; interviews, notices and hearings; rules and regulations; conditions of parole or postrelease supervision. (a) Except as otherwise provided by this section; K.S.A. 1993 Supp. 21-4628 prior to its repeal; K.S.A. 21-4635 through 21-4638, and amendments thereto; K.S.A. 8-1567, and amendments thereto; K.S.A. 21-4642, and amendments thereto; and K.S.A. 21-4624, and amendments thereto, an inmate, including an inmate sentenced pursuant to K.S.A. 21-4618, and amendments thereto, shall be eligible for parole after serving the entire minimum sentence imposed by the court, less good time credits.

(b) (1) Except as provided by K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for the crime of capital murder, or an inmate sentenced for the crime of murder in the first degree based upon a finding of premeditated murder, committed on or after July 1, 1994, shall be eligible for parole after serving 25 years of confinement, without deduction of any good time credits.

(2) Except as provided by subsection (b)(1) or (b)(4), K.S.A. 1993 Supp. 21-4628 prior to its repeal and K.S.A. 21-4635 through 21-4638, and amendments thereto, an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1993, but prior to July 1, 1999, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits and an inmate sentenced to imprisonment for an off-grid offense committed on or after July 1, 1999, shall be eligible for parole after serving 20 years of confinement without deduction of any good time credits.

(3) Except as provided by K.S.A. 1993 Supp. 21-4628 prior to its repeal, an inmate sentenced for a class A felony committed before July 1, 1993, including an inmate sentenced pursuant to K.S.A. 21-4618, and amendments thereto, shall be eligible for parole after serving 15 years of confinement, without deduction of any good time credits.

(4) An inmate sentenced to imprisonment for a violation of subsection (a) of K.S.A. 21-3402, and

amendments thereto, committed on or after July 1, 1996, but prior to July 1, 1999, shall be eligible for parole after serving 10 years of confinement without deduction of any good time credits.

(5) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, committed on or after July 1, 2006, shall be eligible for parole after serving the mandatory term of imprisonment without deduction of any good time credits.

(c) (1) Except as provided in subsection (e), if an inmate is sentenced to imprisonment for more than one crime and the sentences run consecutively, the inmate shall be eligible for parole after serving the total of:

(A) The aggregate minimum sentences, as determined pursuant to K.S.A. 21-4608 and amendments thereto, less good time credits for those crimes which are not class A felonies; and

(B) an additional 15 years, without deduction of good time credits, for each crime which is a class A felony.

(2) If an inmate is sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, for crimes committed on or after July 1, 2006, the inmate shall be eligible for parole after serving the mandatory term of imprisonment.

(d) (1) Persons sentenced for crimes, other than off-grid crimes, committed on or after July 1, 1993, or persons subject to subparagraph (G), will not be eligible for parole, but will be released to a mandatory period of postrelease supervision upon completion of the prison portion of their sentence as follows:

(A) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 1 through 4 crimes and drug severity levels 1 and 2 crimes must serve 36 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(B) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity levels 5 and 6 crimes and drug severity level 3 crimes must serve 24 months, plus the amount of good time and program credit earned and retained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(C) Except as provided in subparagraphs (D) and (E), persons sentenced for nondrug severity level 7 through 10 crimes and drug severity level 4 crimes must serve 12 months, plus the amount of good time and program credit earned and re-

97 Joint Committee on
Parole Board Oversight
November 2, 2009
Attachment 2

tained pursuant to K.S.A. 21-4722, and amendments thereto, on postrelease supervision.

(D) (i) The sentencing judge shall impose the postrelease supervision period provided in subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C), unless the judge finds substantial and compelling reasons to impose a departure based upon a finding that the current crime of conviction was sexually motivated. In that event, departure may be imposed to extend the postrelease supervision to a period of up to 60 months.

(ii) If the sentencing judge departs from the presumptive postrelease supervision period, the judge shall state on the record at the time of sentencing the substantial and compelling reasons for the departure. Departures in this section are subject to appeal pursuant to K.S.A. 21-4721, and amendments thereto.

(iii) In determining whether substantial and compelling reasons exist, the court shall consider:

(a) Written briefs or oral arguments submitted by either the defendant or the state;

(b) any evidence received during the proceeding;

(c) the presentence report, the victim's impact statement and any psychological evaluation as ordered by the court pursuant to subsection (e) of K.S.A. 21-4714, and amendments thereto; and

(d) any other evidence the court finds trustworthy and reliable.

(iv) The sentencing judge may order that a psychological evaluation be prepared and the recommended programming be completed by the offender. The department of corrections or the parole board shall ensure that court ordered sex offender treatment be carried out.

(v) In carrying out the provisions of subparagraph (d)(1)(D), the court shall refer to K.S.A. 21-4718, and amendments thereto.

(vi) Upon petition, the parole board may provide for early discharge from the postrelease supervision period upon completion of court ordered programs and completion of the presumptive postrelease supervision period, as determined by the crime of conviction, pursuant to subparagraph (d)(1)(A), (d)(1)(B) or (d)(1)(C). Early discharge from postrelease supervision is at the discretion of the parole board.

(vii) Persons convicted of crimes deemed sexually violent or sexually motivated, shall be registered according to the offender registration act, K.S.A. 22-4901 through 22-4910, and amendments thereto.

(viii) Persons convicted of K.S.A. 21-3510 or 21-3511, and amendments thereto, shall be required to participate in a treatment program for sex offenders during the postrelease supervision period.

(E) The period of postrelease supervision provided in subparagraphs (A) and (B) may be reduced by up to 12 months and the period of postrelease supervision provided in subparagraph (C) may be reduced by up to six months based on the offender's compliance with conditions of supervision and overall performance while on postrelease supervision. The reduction in the supervision period shall be on an earned basis pursuant to rules and regulations adopted by the secretary of corrections.

(F) In cases where sentences for crimes from more than one severity level have been imposed, the offender shall serve the longest period of postrelease supervision as provided by this section available for any crime upon which sentence was imposed irrespective of the severity level of the crime. Supervision periods will not aggregate.

(G) Except as provided in subsection (u), persons convicted of a sexually violent crime committed on or after July 1, 2006, and who are released from prison, shall be released to a mandatory period of postrelease supervision for the duration of the person's natural life.

(2) As used in this section, "sexually violent crime" means:

(A) Rape, K.S.A. 21-3502, and amendments thereto;

(B) indecent liberties with a child, K.S.A. 21-3503, and amendments thereto;

(C) aggravated indecent liberties with a child, K.S.A. 21-3504, and amendments thereto;

(D) criminal sodomy, subsection (a)(2) and (a)(3) of K.S.A. 21-3505, and amendments thereto;

(E) aggravated criminal sodomy, K.S.A. 21-3506, and amendments thereto;

(F) indecent solicitation of a child, K.S.A. 21-3510, and amendments thereto;

(G) aggravated indecent solicitation of a child, K.S.A. 21-3511, and amendments thereto;

(H) sexual exploitation of a child, K.S.A. 21-3516, and amendments thereto;

(I) aggravated sexual battery, K.S.A. 21-3518, and amendments thereto;

(J) aggravated incest, K.S.A. 21-3603, and amendments thereto; or

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

"Sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

(e) If an inmate is sentenced to imprisonment for a crime committed while on parole or conditional release, the inmate shall be eligible for parole as provided by subsection (c), except that the Kansas parole board may postpone the inmate's parole eligibility date by assessing a penalty not exceeding the period of time which could have been assessed if the inmate's parole or conditional release had been violated for reasons other than conviction of a crime.

(f) If a person is sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program, for a crime committed prior to July 1, 1993, and the person is not eligible for retroactive application of the sentencing guidelines and amendments thereto pursuant to K.S.A. 21-4724, and amendments thereto, the new sentence shall not be aggregated with the old sentence, but shall begin when the person is paroled or reaches the conditional release date on the old sentence. If the offender was past the offender's conditional release date at the time the new offense was committed, the new sentence shall not be aggregated with the old sentence but shall begin when the person is ordered released by the Kansas parole board or reaches the maximum sentence expiration date on the old sentence, whichever is earlier. The new sentence shall then be served as otherwise provided by law. The period of postrelease supervision shall be based on the new sentence, except that those offenders whose old sentence is a term of imprisonment for life, imposed pursuant to K.S.A. 1993 Supp. 21-4628 prior to its repeal, or an indeterminate sentence with a maximum term of life imprisonment, for which there is no conditional release or maximum sentence expiration date, shall remain on postrelease supervision for life or until discharged from supervision by the Kansas parole board.

(g) Subject to the provisions of this section, the Kansas parole board may release on parole those persons confined in institutions who are eligible for parole when: (1) The board believes that

the inmate should be released for hospitalization, for deportation or to answer the warrant or other process of a court and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate; or (2) the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement, and the board believes that the inmate is able and willing to fulfill the obligations of a law abiding citizen and is of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate. Parole shall not be granted as an award of clemency and shall not be considered a reduction of sentence or a pardon.

(h) The Kansas parole board shall hold a parole hearing at least the month prior to the month an inmate will be eligible for parole under subsections (a), (b) and (c). At least the month preceding the parole hearing, the county or district attorney of the county where the inmate was convicted shall give written notice of the time and place of the public comment sessions for the inmate to any victim of the inmate's crime who is alive and whose address is known to the county or district attorney or, if the victim is deceased, to the victim's family if the family's address is known to the county or district attorney. Except as otherwise provided, failure to notify pursuant to this section shall not be a reason to postpone a parole hearing. In the case of any inmate convicted of an off-grid felony or a class A felony the secretary of corrections shall give written notice of the time and place of the public comment session for such inmate at least one month preceding the public comment session to any victim of such inmate's crime or the victim's family pursuant to K.S.A. 74-7338, and amendments thereto. If notification is not given to such victim or such victim's family in the case of any inmate convicted of an off-grid felony or a class A felony, the board shall postpone a decision on parole of the inmate to a time at least 30 days after notification is given as provided in this section. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this section. If granted parole, the inmate may be released on parole on the date

specified by the board, but not earlier than the date the inmate is eligible for parole under subsections (a), (b) and (c). At each parole hearing and, if parole is not granted, at such intervals thereafter as it determines appropriate, the Kansas parole board shall consider: (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and (2) all pertinent information regarding such inmate, including, but not limited to, the circumstances of the offense of the inmate; the presentence report; the previous social history and criminal record of the inmate; the conduct, employment, and attitude of the inmate in prison; the reports of such physical and mental examinations as have been made, including, but not limited to, risk factors revealed by any risk assessment of the inmate; comments of the victim and the victim's family including in person comments, contemporaneous comments and pre-recorded comments made by any technological means; comments of the public; official comments; any recommendation by the staff of the facility where the inmate is incarcerated; proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration; and capacity of state correctional institutions.

(i) In those cases involving inmates sentenced for a crime committed after July 1, 1993, the parole board will review the inmates proposed release plan. The board may schedule a hearing if they desire. The board may impose any condition they deem necessary to insure public safety, aid in the reintegration of the inmate into the community, or items not completed under the agreement entered into under K.S.A. 75-5210a, and amendments thereto. The board may not advance or delay an inmate's release date. Every inmate while on postrelease supervision shall remain in the legal custody of the secretary of corrections and is subject to the orders of the secretary.

(j) Before ordering the parole of any inmate, the Kansas parole board shall have the inmate appear before [*] either in person or via a video conferencing format and shall interview the inmate unless impractical because of the inmate's physical or mental condition or absence from the institution. Every inmate while on parole shall remain in the legal custody of the secretary of corrections and is subject to the orders of the sec-

retary. Whenever the Kansas parole board formally considers placing an inmate on parole and no agreement has been entered into with the inmate under K.S.A. 75-5210a, and amendments thereto, the board shall notify the inmate in writing of the reasons for not granting parole. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the inmate has not satisfactorily completed the programs specified in the agreement, or any revision of such agreement, the board shall notify the inmate in writing of the specific programs the inmate must satisfactorily complete before parole will be granted. If parole is not granted only because of a failure to satisfactorily complete such programs, the board shall grant parole upon the secretary's certification that the inmate has successfully completed such programs. If an agreement has been entered under K.S.A. 75-5210a, and amendments thereto, and the secretary of corrections has reported to the board in writing that the inmate has satisfactorily completed the programs required by such agreement, or any revision thereof, the board shall not require further program participation. However, if the board determines that other pertinent information regarding the inmate warrants the inmate's not being released on parole, the board shall state in writing the reasons for not granting the parole. If parole is denied for an inmate sentenced for a crime other than a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than one year after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to three years but any such deferral by the board shall require the board to state the basis for its findings. If parole is denied for an inmate sentenced for a class A or class B felony or an off-grid felony, the board shall hold another parole hearing for the inmate not later than three years after the denial unless the parole board finds that it is not reasonable to expect that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for up to 10 years but any such deferral shall require the board to state the basis for its findings.

(k) Parolees and persons on postrelease supervision shall be assigned, upon release, to the appropriate level of supervision pursuant to the criteria established by the secretary of corrections.

(l) The Kansas parole board shall adopt rules and regulations in accordance with K.S.A. 77-415 et seq., and amendments thereto, not inconsistent with the law and as it may deem proper or necessary, with respect to the conduct of parole hearings, postrelease supervision reviews, revocation hearings, orders of restitution, reimbursement of expenditures by the state board of indigents' defense services and other conditions to be imposed upon parolees or releasees. Whenever an order for parole or postrelease supervision is issued it shall recite the conditions thereof.

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

(1) Unless it finds compelling circumstances which would render a plan of payment unworkable, shall order as a condition of parole or postrelease supervision that the parolee or the person on postrelease supervision pay any transportation expenses resulting from returning the parolee or the person on postrelease supervision to this state to answer criminal charges or a warrant for a violation of a condition of probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision;

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

(3) may order that the parolee or person on postrelease supervision perform community or public service work for local governmental agencies, private corporations organized not-for-profit or charitable or social service organizations performing services for the community;

(4) may order the parolee or person on postrelease supervision to pay the administrative fee imposed pursuant to K.S.A. 22-4529, and amendments thereto, unless the board finds compelling circumstances which would render payment unworkable; and

(5) unless it finds compelling circumstances which would render a plan of payment unworkable,

shall order that the parolee or person on postrelease supervision reimburse the state for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the person. In determining the amount and method of payment of such sum, the parole board shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose. Such amount shall not exceed the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less, minus any previous payments for such services.

(n) If the court which sentenced an inmate specified at the time of sentencing the amount and the recipient of any restitution ordered as a condition of parole or postrelease supervision, the Kansas parole board shall order as a condition of parole or postrelease supervision that the inmate pay restitution in the amount and manner provided in the journal entry unless the board finds compelling circumstances which would render a plan of restitution unworkable.

(o) Whenever the Kansas parole board grants the parole of an inmate, the board, within 10 days of the date of the decision to grant parole, shall give written notice of the decision to the county or district attorney of the county where the inmate was sentenced.

(p) When an inmate is to be released on postrelease supervision, the secretary, within 30 days prior to release, shall provide the county or district attorney of the county where the inmate was sentenced written notice of the release date.

(q) Inmates shall be released on postrelease supervision upon the termination of the prison portion of their sentence. Time served while on postrelease supervision will vest.

(r) An inmate who is allocated regular good time credits as provided in K.S.A. 22-3725, and amendments thereto, may receive meritorious good time credits in increments of not more than 90 days per meritorious act. These credits may be awarded by the secretary of corrections when an inmate has acted in a heroic or outstanding manner in coming to the assistance of another person in a life threatening situation, preventing injury or death to a person, preventing the destruction of

property or taking actions which result in a financial savings to the state.

(s) The provisions of subsections (d)(1)(A), (d)(1)(B), (d)(1)(C) and (d)(1)(E) shall be applied retroactively as provided in subsection (t).

(t) For offenders sentenced prior to the effective date of this act who are eligible for modification of their postrelease supervision obligation, the department of corrections shall modify the period of postrelease supervision as provided for by this section for offenders convicted of severity level 9 and 10 crimes on the sentencing guidelines grid for nondrug crimes and severity level 4 crimes on the sentencing guidelines grid for drug crimes on or before September 1, 2000; for offenders convicted of severity level 7 and 8 crimes on the sentencing guidelines grid for nondrug crimes on or before November 1, 2000; and for offenders convicted of severity level 5 and 6 crimes on the sentencing guidelines grid for nondrug crimes and severity level 3 crimes on the sentencing guidelines grid for drug crimes on or before January 1, 2001.

(u) An inmate sentenced to imprisonment pursuant to K.S.A. 21-4643, and amendments thereto, for crimes committed on or after July 1, 2006, shall be placed on parole for life and shall not be discharged from supervision by the Kansas parole board. When the board orders the parole of an inmate pursuant to this subsection, the board shall order as a condition of parole that the inmate be electronically monitored for the duration of the inmate's natural life.

(v) Whenever the Kansas parole board or the court orders a person to be electronically monitored, the board or court shall order the person to reimburse the state for all or part of the cost of such monitoring. In determining the amount and method of payment of such sum, the board or court shall take account of the financial resources of the person and the nature of the burden that the payment of such sum will impose.

History: L. 1970, ch. 129, § 22-3717; L. 1972, ch. 317, § 90; L. 1973, ch. 339, § 88; L. 1974, ch. 403, § 10; L. 1975, ch. 203, § 1; L. 1976, ch. 168, § 2; L. 1978, ch. 120, § 13; L. 1979, ch. 94, § 2; L. 1981, ch. 156, § 1; L. 1982, ch. 137, § 3; L. 1982, ch. 150, § 2; L. 1983, ch. 116, § 1; L. 1984, ch. 131, § 1; L. 1985, ch. 111, § 2; L. 1986, ch. 128, § 3; L. 1986, ch. 123, § 25; L. 1986, ch. 136, § 3; L. 1987, ch. 118, § 1; L. 1988, ch. 115, § 1; L. 1989, ch. 103, § 1; L. 1990, ch. 99, § 13; L. 1990, ch. 113, § 2; L. 1991, ch. 94, § 1; L. 1992,

ch. 239, § 270; L. 1993, ch. 253, § 11; L. 1993, ch. 291, § 281; L. 1994, ch. 21, § 1; L. 1994, ch. 341, § 13; L. 1995, ch. 121, § 4; L. 1996, ch. 158, § 8; L. 1996, ch. 267, § 15; L. 1997, ch. 23, § 5; L. 1997, ch. 181, § 20; L. 1998, ch. 186, § 3; L. 1999, ch. 164, § 20; L. 2000, ch. 182, § 9; L. 2001, ch. 200, § 15; L. 2002, ch. 163, § 5; L. 2004, ch. 102, § 5; L. 2006, ch. 212, § 19; L. 2007, ch. 197, § 4; L. 2008, ch. 116, § 1; July 1.

* Amendment to subsection (j) by L. 1997, ch. 23, § 5 apparently should have stricken the word "before".

CASE ANNOTATIONS

77. Finding that defendant's prior conviction was sexually motivated to sentence defendant as persistent sex offender was unconstitutional. *State v. Allen*, 283 K. 372, 376, 379, 153 P.3d 488 (2007).

78. Cited in discussing sentencing; no credit against post-release supervision for time served in excess of sentence. *State v. Gaudina*, 284 K. 354, 360, 362, 160 P.3d 854 (2007).

79. Conviction of "aggravated indecent solicitation of a child" is a sexually violent crime. *State v. Lowden*, 38 K.A.2d 858, 860, 861, 862, 174 P.3d 895 (2008).

22-3722.

CASE ANNOTATIONS

7. Cited in discussing sentencing; no credit against post-release supervision for time served in excess of sentence. *State v. Gaudina*, 284 K. 354, 360, 362, 160 P.3d 854 (2007).

22-3726.

Law Review and Bar Journal References:

Criminal Procedure Survey, 55 K.L.R. 797 (2007).

Article 43.—UNIFORM MANDATORY DISPOSITION OF DETAINERS ACT

22-4303.

Law Review and Bar Journal References:

Criminal Procedure Survey, 55 K.L.R. 797 (2007).

Article 44.—AGREEMENT ON DETAINERS

22-4401.

CASE ANNOTATIONS

18. Mentioned; inmate seeking certificate of appealability of federal district court's denial of habeas petition; COA denied. *Davis v. McKune*, 241 Fed. Appx. 507, 509 (2007).

Article 45.—AID TO INDIGENT DEFENDANTS

22-4503.

CASE ANNOTATIONS

13. Section cited; defendant has a statutory right to counsel to seek Kansas supreme court review in criminal proceeding.

CHAPTER 132

HOUSE BILL No. 2060
(Amends Chapter 32)

AN ACT concerning crimes, punishment and criminal procedure; amending K.S.A. 8-1568, 21-3419, 21-4315, 21-4316, 21-4319, 21-4603d, 21-4611 and 21-4715 and K.S.A. 2008 Supp. 21-3419a, 21-4704, 21-4705, 21-4714, 75-4319 and 75-5291 and repealing the existing sections; also repealing K.S.A. 21-4603d, as amended by section 32 of 2009 House Bill No. 2236, and K.S.A. 2008 Supp. 21-4704, as amended by section 33 of 2009 House Bill No. 2236, 21-4705, as amended by section 34 of 2009 House Bill No. 2236, and 21-4714, as amended by section 37 of 2009 House Bill No. 2236.

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

New Section 1. (a) There is hereby created the joint committee on parole board oversight within the legislative branch of state government.

(b) The joint committee shall be composed of six members as follows: the chairperson and the ranking minority member of the standing senate committee on judiciary; the chairperson and the ranking minority member of the standing house committee on corrections and juvenile justice; one member appointed by the chairperson of the standing senate committee on judiciary; and one member appointed by the chairperson of the standing house committee on corrections and juvenile justice. The chairperson of the standing house committee on corrections and juvenile justice shall be the chairperson of the joint committee.

(c) Documents, records and reports from the parole board concerning factors and rationale used to determine the granting or denial of parole, as specified in subsection (d), shall be available to members of the joint committee, when carrying out such committee's official functions in accordance with K.S.A. 75-4319, and amendments thereto, in a closed or executive meeting. Documents, records and reports received by the joint committee are confidential and shall not be further disclosed. Such documents, records and reports received shall have information redacted which identifies any person or location, including, but not limited to, a city or county, except this provision shall not apply to the name of the inmate whose records are being reviewed. Such documents, records and reports received shall not be subject to K.S.A. 45-221, and amendments thereto. All copies of such documents, records and reports shall be returned to the parole board prior to the open meeting resuming. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate.

(d) (1) The parole board shall provide documents, records and reports to the joint committee related to the following:

(A) 15 parole board cases, selected by the secretary of corrections, involving inmates with sentencing dates prior to July 1, 1993, where the person was sentenced to prison for a crime committed prior to July 1, 1993, the person was not eligible for retroactive application of the sen-

tencing guidelines pursuant to K.S.A. 21-4724, and amendments thereto, and the person is still incarcerated; and

(B) 15 parole board cases, selected by the secretary of corrections, involving inmates with sentencing dates prior to July 1, 1993, where the person was sentenced to prison for a crime committed on or after July 1, 1993, while on probation, parole, conditional release or in a community corrections program for a crime committed prior to July 1, 1993, the person was not eligible for retroactive application of the sentencing guidelines pursuant to K.S.A. 21-4724, and amendments thereto, and the person is still incarcerated.

(2) The parole board shall also provide to the joint committee a summary statement of the factors and rationale used to determine the granting or denial of parole in each such case and any correspondence received by the parole board relating to such grant or denial.

(3) The secretary of corrections shall select parole board cases representative of a variety of circumstances including, but not limited to: inmates with different custody levels at the time of such inmates' parole hearings; inmates with different types of offenses or conduct that resulted in such inmates' incarceration; and inmates incarcerated in different state correctional facilities.

(e) The provisions of the acts contained in article 12 of chapter 46 of the Kansas Statutes Annotated, and amendments thereto, applicable to special committees shall apply to the joint committee to the extent that the same do not conflict with the specific provisions of this section applicable to the joint committee.

(f) Members of the joint committee shall receive compensation, travel expenses and subsistence expenses as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of the joint committee.

(g) The staff of the office of revisor of statutes, the legislative research department and the division of legislative administrative services shall provide such assistance as may be requested by the joint committee and to the extent authorized by the legislative coordinating council.

(h) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee.

(i) The joint committee shall prepare and submit a final report and recommendations to the legislature on or before January 1, 2010.

(j) The provisions of this section shall expire on January 1, 2010.

Sec. 2. K.S.A. 8-1568 is hereby amended to read as follows: 8-1568. (a) (1) Any driver of a motor vehicle who willfully fails or refuses to bring such driver's vehicle to a stop, or who otherwise flees or attempts to elude for a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by

2-7

4715. (a) The offender's criminal history shall be admitted in open court by the offender or determined by a preponderance of the evidence at the sentencing hearing by the sentencing judge.

(b) Except to the extent disputed in accordance with subsection (c), the summary of the offender's criminal history prepared for the court by the state shall satisfy the state's burden of proof regarding an offender's criminal history.

(c) Upon receipt of the criminal history worksheet prepared for the court, the offender shall immediately notify the district attorney and the court with written notice of any error in the proposed criminal history worksheet. Such notice shall specify the exact nature of the alleged error. The state shall have the burden of producing further evidence to satisfy its burden of proof regarding any disputed part, or parts, of the criminal history and the sentencing judge shall allow the state reasonable time to produce such evidence to establish the disputed portion of the criminal history by a preponderance of the evidence. *If the offender later challenges such offender's criminal history, which has been previously established, the burden of proof shall shift to the offender to prove such offender's criminal history by a preponderance of the evidence.*

Sec. 14. K.S.A. 2008 Supp. 75-4319 is hereby amended to read as follows: 75-4319. (a) Upon formal motion made, seconded and carried, all bodies and agencies subject to the open meetings act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of (1) the justification for closing the meeting, (2) the subjects to be discussed during the closed or executive meeting and (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subjects shall be discussed at any closed or executive meeting, except the following:

- (1) Personnel matters of nonelected personnel;
- (2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;
- (4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts, and individual proprietorships;
- (5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that

any such person shall have the right to a public hearing if requested by the person;

- (6) preliminary discussions relating to the acquisition of real property;
 - (7) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 74-8804 and amendments thereto;
 - (8) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (d)(1) of K.S.A. 38-1507 and amendments thereto or subsection (e) of K.S.A. 38-1508 and amendments thereto;
 - (9) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (j) of K.S.A. 22a-243 and amendments thereto;
 - (10) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (e) of K.S.A. 44-596 and amendments thereto;
 - (11) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (g) of K.S.A. 39-7,119 and amendments thereto;
 - (12) matters required to be discussed in a closed or executive meeting pursuant to a tribal-state gaming compact;
 - (13) matters relating to security measures, if the discussion of such matters at an open meeting would jeopardize such security measures, that protect: (A) Systems, facilities or equipment used in the production, transmission or distribution of energy, water or communications services; (B) transportation and sewer or wastewater treatment systems, facilities or equipment; (C) a public body or agency, public building or facility or the information system of a public body or agency; or (D) private property or persons, if the matter is submitted to the agency for purposes of this paragraph. For purposes of this paragraph, security means measures that protect against criminal acts intended to intimidate or coerce the civilian population, influence government policy by intimidation or coercion or to affect the operation of government by disruption of public services, mass destruction, assassination or kidnapping. Security measures include, but are not limited to, intelligence information, tactical plans, resource deployment and vulnerability assessments;
 - (14) matters permitted to be discussed in a closed or executive meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto; and
 - (15) matters permitted to be discussed in a closed or executive meeting pursuant to K.S.A. 2008 Supp. 75-7427, and amendments thereto; and
 - (16) *matters permitted to be discussed in a closed or executive meeting pursuant to section 1, and amendments thereto.*
- (c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this act.
- (d) (1) Any confidential records or information relating to security measures provided or received under the provisions of subsection (b)(13),

8-7

shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

(2) (A) *Except as otherwise provided by law, any confidential documents, records or reports relating to the parole board provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.*

(B) *Notwithstanding any other provision of law to the contrary, any summary statement provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.*

Sec. 15. K.S.A. 2008 Supp. 75-5291 is hereby amended to read as follows: 75-5291. (a) (1) The secretary of corrections may make grants to counties for the development, implementation, operation and improvement of community correctional services that address the criminogenic needs of felony offenders including, but not limited to, adult intensive supervision, substance abuse and mental health services, employment and residential services, and facilities for the detention or confinement, care or treatment of offenders as provided in this section except that no community corrections funds shall be expended by the secretary for the purpose of establishing or operating a conservation camp as provided by K.S.A. 75-52,127 and amendments thereto.

(2) Except as otherwise provided, placement of offenders in community correctional services programs by the court shall be limited to placement of adult offenders, convicted of a felony offense:

(A) Whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes or in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes. In addition, the court may place in a community correctional services program adult offenders, convicted of a felony offense, whose offense is classified in grid blocks 6-H, 6-I, 7-C, 7-D, 7-E, 7-F, 7-G, 7-H or 7-I of the sentencing guidelines grid for nondrug crimes;

(B) whose severity level and criminal history score designate a presumptive prison sentence on either sentencing guidelines grid but receive a nonprison sentence as a result of departure;

(C) all offenders convicted of an offense which satisfies the definition of offender pursuant to K.S.A. 22-4902, and amendments thereto, and which is classified as a severity level 7 or higher offense and who receive a nonprison sentence, regardless of the manner in which the sentence is imposed;

(D) any offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established as provided in K.S.A. 22-3716, and amendments thereto, prior to revocation resulting in the offender being required to serve any time for the sentence imposed

or which might originally have been imposed in a state facility in the custody of the secretary of corrections;

(E) on and after ~~July 1, 2010~~ *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;

(F) placed in community correctional services programs as a condition of supervision following the successful completion of a conservation camp program; or

(G) who has been sentenced to community corrections supervision pursuant to K.S.A. 21-4729, and amendments thereto.

(3) (A) Notwithstanding any law to the contrary and subject to the availability of funding therefor, adult offenders sentenced to community supervision in Johnson county for felony crimes that occurred on or after July 1, 2002, but before ~~July 1, 2010~~ *January 1, 2011*, shall be placed under court services or community corrections supervision based upon court rules issued by the chief judge of the 10th judicial district. The provisions contained in this subsection shall not apply to offenders transferred by the assigned agency to an agency located outside of Johnson county. The provisions of this paragraph shall expire on ~~July 1, 2010~~ *January 1, 2011*.

~~(B) On or before the first day of the 2009 legislative session, the Kansas sentencing commission shall submit a written report on such offender program to the senate standing committee on judiciary and the house of representatives standing committee on judiciary.~~

(4) Nothing in this act shall prohibit a community correctional services program from providing services to juvenile offenders upon approval by the local community corrections advisory board. Grants from community corrections funds administered by the secretary of corrections shall not be expended for such services.

(5) The court may require an offender for whom a violation of conditions of release or assignment or a nonprison sanction has been established, as provided in K.S.A. 22-3716, and amendments thereto, to serve any time for the sentence imposed or which might originally have been imposed in a state facility in the custody of the secretary of corrections without a prior assignment to a community correctional services program if the court finds and sets forth with particularity the reasons for finding that the safety of the members of the public will be jeopardized or that the welfare of the inmate will not be served by such assignment to a community correctional services program.

(b) (1) In order to establish a mechanism for community correctional services to participate in the department of corrections annual budget planning process, the secretary of corrections shall establish a community

2-9

Kansas Parole Board
"Operating procedures of the Kansas Parole Board"
A Presentation the Joint Committee on Parole Board Oversight

November 2, 2009
Room 446-N—Statehouse

KANSAS PAROLE BOARD
PROCESS OVERVIEW

A Presentation to the
Joint Committee on Parole Board Oversight
November 2, 2009

Kansas Parole Board

Business Practice Basics

- Vision & Mission set the stage upon which work is performed – backdrop for all decisions
- Evidence Based Practice described – with overview of how it is used by KPB
- Business Work Areas

Kansas Parole Board 2

Kansas Parole Board Vision

The Kansas Parole Board contributes to protecting the safety of citizens of Kansas by the exercise of sound, rational decision making consistent with evidence based principles.

Kansas Parole Board 3

Kansas Parole Board Mission

Parole privilege is extended to those offenders who demonstrate suitability by having served incarceration time set forth by the courts and who have demonstrated a reduction in risk to re-offend such that revictimization is minimized and rehabilitation and successful reentry are maximized; Similarly, parole privilege shall be rescinded in cases where an offender demonstrates increasing risk in the community.

Kansas Parole Board 4

Joint Committee on
Parole Board Oversight
November 2, 2009
Attachment 3

Kansas Parole Board
 "Operating procedures of the Kansas Parole Board"
 A Presentation the Joint Committee on Parole Board Oversight

November 2, 2009
 Room 446-N—Statehouse

Evidence Based Practice "EBP"

- What is evidence-based practice?
 - Why is EBP important?
 - What are the principles of EBP
 - How does Parole Board use EBP?
 - How does EBP affect Parole Board decisions?

Kansas Parole Board 5

Evidence Based Practice is...

...using accumulated body of research results to make decisions where:

- there is a definable outcome;
- it is measurable
- it is defined according to practical realities
(Brad Bogue, President of J-Stat as presented in Comprehensive Framework for Paroling Authorities, NIC/Campbell, Feb. 2008)
 - revictimization is minimized,
 - rehabilitation is maximized,
 - successful offender reentry is maximized.
(KPB Mission Statement)

Kansas Parole Board 6

Principles of Evidence Based Practice

Kansas Parole Board 7
 Source: Justice System Assessment & Training

8 Principles of EBP

1. Assess Actuarial Risk
2. Enhance Intrinsic Motivation
3. Target Interventions
 - Risk Principle
 - Need Principle
 - Responsivity Principle
 - Dosage
 - Treatment
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

Kansas Parole Board 8

3-2

Kansas Parole Board
"Operating procedures of the Kansas Parole Board"
A Presentation the Joint Committee on Parole Board Oversight

November 2, 2009
Room 446-N—Statehouse

Why is EBP important?

- Evidence-Based Practice is important because ... "all paroling authorities can enhance the likelihood of successful transition and reentry by setting conditions for offenders that are evidence-based"
(Comprehensive Framework for Paroling Authorities, NIC/Campbell, Feb. 2008, p. 32)
- Paroling authorities and correctional assessments and interventions should complement each other
- Links decision-making with research proven tools and techniques tied to offender success

Kansas Parole Board

9

Examples of EBP in KPB practice

- Assess Actuarial Risk/Need
 - Different types
 - Specificity of instruments
 - Triangulation of measures
- Enhance Intrinsic Motivation – support behavioral change
 - Motivational Interviewing
 - Offender learning style, motivation, culture, gender, etc.
 - Carefully target Special Conditions

Kansas Parole Board

10

Examples of EBP in KPB Practice (continued)

- Target Interventions
 - address criminogenic need
 - dosage appropriate for risk(Understanding the Risk Principle: How and Why Correctional Interventions Can Harm Low-Risk Offenders" Lowenkamp & Latessa, NIC, 2004)
- Skill Train with Directed practice
 - resolving anti-social thinking
 - social learning
 - effective communication strategies

Kansas Parole Board

11

Examples of EBP in KPB Practice (continued)

- Increase Positive Reinforcement
 - Sustains desired changes
 - Create goals for offender – rewards for attainment
- Engage Ongoing Support in Natural Communities
 - Social Supports
- Measure Feedback
 - For offenders - Intervention efficacy
 - For agency – data modeling of decision making & results
 - Measure Relevant Processes / Practices

Kansas Parole Board

12

3-3

Kansas Parole Board
"Operating procedures of the Kansas Parole Board"
A Presentation the Joint Committee on Parole Board Oversight

November 2, 2009
Room 446-N—Statehouse

Primary Work Areas

1. Parole Suitability Hearings
 - Case Review, Preparation
 - Full Board Reviews
 - Public Comment Sessions (input)
2. Final Violation Hearings
3. Special Hearings
4. Special Conditions of Post-Incarceration Supervision
5. Other File Reviews
6. Criminal Justice & Corrections partner

Kansas Parole Board 13

Primary Work Areas

4. Set Special Conditions of Post-Incarceration Supervision
5. Other File Reviews
6. Criminal Justice & Corrections partner

Kansas Parole Board 14

Area 1

Parole Suitability Hearings

Kansas Parole Board

What is Parole Suitability?

■ KSA 22-3717(g) provides ...
When certain conditions are fulfilled and the parole board is "... *of the opinion that there is reasonable probability that the inmate can be released without detriment to the community or to the inmate.*" (sub-chn (1) and (2))

Kansas Parole Board 16

3-4

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 "Operating procedures of the Kansas Parole Board"
 A Presentation the Joint Committee on Parole Board Oversight

November 2, 2009
 Room 446-N—Statehouse

Business Keys

- EBP – Case Management – Risk Reduction is basis of our philosophical model
Reflected in our Mission
- Parole is a privilege ~ not a right
 - See *Gilmore vs Kansas Parole Board* 243 Kan. 173, 756 P. 2d 410 (1988) ... *KS Supreme Court ... parole is a matter of grace, granted as a privilege, not as a matter of fundamental right*
- Incarceration time is imposed by the Court
- Vast Majority of people can change
- Risk is dynamic: it may decrease or increase

Kansas Parole Board 17

K.S.A. 22-3717 (h) Specifies Minimum Elements Considered At Each Hearing

- (1) Whether the inmate has satisfactorily completed the programs required by any agreement entered under K.S.A. 75-5210a, and amendments thereto, or any revision of such agreement; and
- (2) all pertinent information regarding such inmate, including, but not limited to,
 - the circumstances of the offense of the inmate;
 - the presentence report;
 - the previous social history and criminal record of the inmate;
 - the conduct, employment, and attitude of the inmate in prison;
 - the reports of such physical and mental examinations as have been made, including, but not limited to,
 - risk factors revealed by any risk assessment of the inmate;
 - comments of the victim and the victim's family including in person comments, contemporaneous comments and prerecorded comments made by any technological means; comments of the public; official comments;
 - any recommendation by the staff of the facility where the inmate is incarcerated;
 - proportionality of the time the inmate has served to the sentence a person would receive under the Kansas sentencing guidelines for the conduct that resulted in the inmate's incarceration;
 - and capacity of state correctional institutions.

Kansas Parole Board 18

Parole Suitability Factors

K.S.A. 22-3717 Specifies Ten Factors

1. Offense
2. Criminal History
3. Program Participation
4. Disciplinary Reports
5. Reports of Physical & Mental Health
 - social supports, proposed residence

Kansas Parole Board 19

Parole Suitability Factors

K.S.A. 22-3717 Specifies Ten Factors

6. Comments Received – Victim, Victim Family, Offender Family & friends, Public Officials, any concerned citizen
7. Prison Population & Capacity
8. Input from Staff at Facility where Offender is housed
9. Risk & Needs Assessments
10. Proportionality to KSGA

Kansas Parole Board 20

3-5

Kansas Parole Board
 "Operating procedures of the Kansas Parole Board"
 A Presentation the Joint Committee on Parole Board Oversight

November 2, 2009
 Room 446-N—Statehouse

Parole Suitability: Review and Hearing

("guiding practice principles")

- KSA 22-3717 (h) → ten factors → Interview Guide
 - The Interview Guide is used to structure the hearing and to ensure that all factors have been reviewed and considered as required statutorily.
- Offender risk reduction, offender's community reintegration, and community safety are three layers where the Board assesses the existence of a **"...reasonable probability that the inmate can be released without detriment to the community or to the inmate."**
- No formula or equation
- There are no super factors.

Kansas Parole Board 21

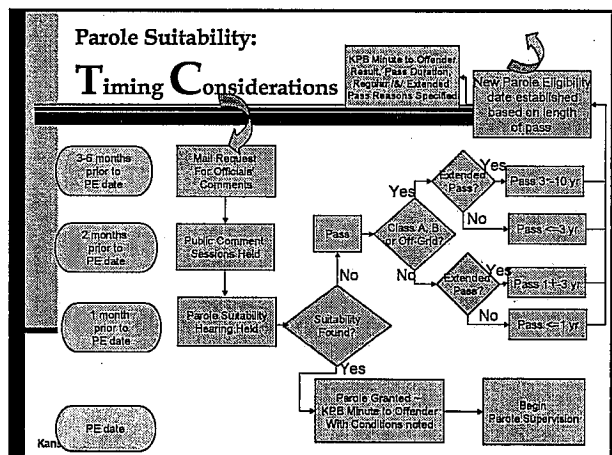
If Found Not Parole Suitable, K.S.A. 22-3717 (j) Provides for Pass Duration

- If parole is denied for an inmate sentenced for a crime **other than a class A or class B felony or an off-grid felony**, the board shall hold another parole hearing for the inmate **not later than one year** after the denial **unless** the parole board finds that it is **not reasonable to expect** that parole would be granted at a hearing if held in the next three years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings for **up to three years** but any such deferral by the board shall require the board to **state the basis for its findings**.
- If parole is denied for an inmate sentenced for a **class A or class B felony or an off-grid felony**, the board shall hold another parole hearing for the inmate **not later than three years** after the denial **unless** the parole board finds that it is **not reasonable to expect** that parole would be granted at a hearing if held in the next 10 years or during the interim period of a deferral. In such case, the parole board may defer subsequent parole hearings **for up to 10 years** but any such deferral shall require the board to **state the basis for its findings**.

Kansas Parole Board 22

Parole Suitability Business Design and Methods

Kansas Parole Board 23



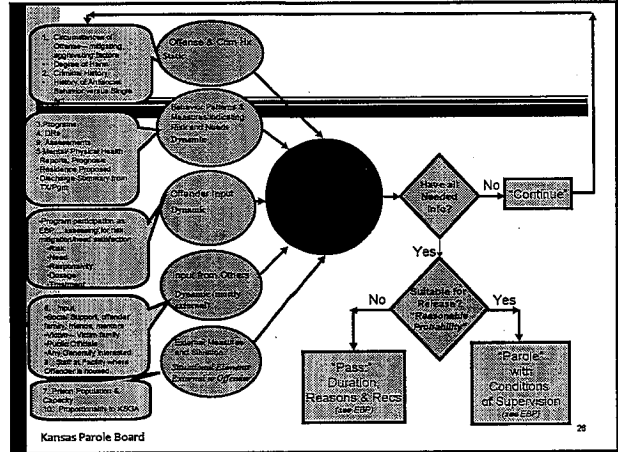
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Kansas Parole Board
 "Operating procedures of the Kansas Parole Board"
 A Presentation the Joint Committee on Parole Board Oversight

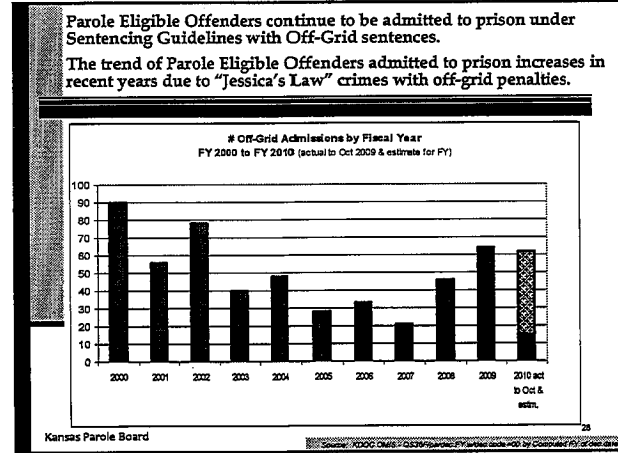
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Decision Making Process

Kansas Parole Board



- ## Current Experience: A Summary
- The in-flow of offenders with prison release subject to a suitability finding by the KPB will not extinguish.
 - Although the number of annual suitability hearings has decreased, so has the number of KPB members yielding consistent workloads.
 - The offenders seen by the KPB presently are dominated by more serious and violent offenders than in the past.
 - The grant rate for parole eligibility averages 48% over the last 10 years and is stable over that time frame at +/- 10%.
- Kansas Parole Board

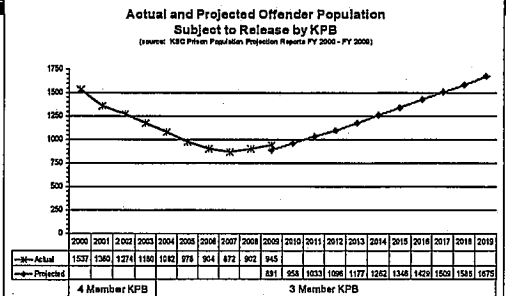


3-7

Kansas Parole Board
 "Operating procedures of the Kansas Parole Board"
 A Presentation the Joint Committee on Parole Board Oversight

November 2, 2009
 Room 446-N—Statehouse

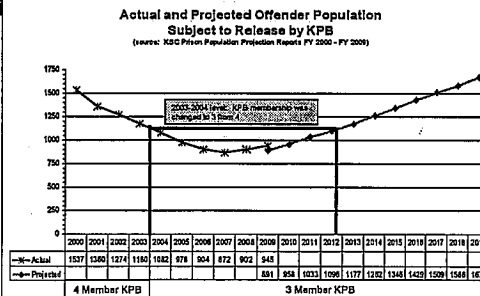
The number of offenders housed in KDOC is increasing again following a decline through FY 2007. This increase is attributable to Off-Grid sentences.



Kansas Parole Board

29

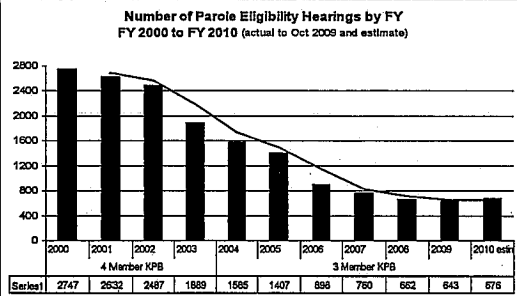
The number of offenders in prison subject to a release by the KPB is projected to reach levels equivalent to those experienced when the KPB membership was reduced to 3 by FY 2012.



Kansas Parole Board

30

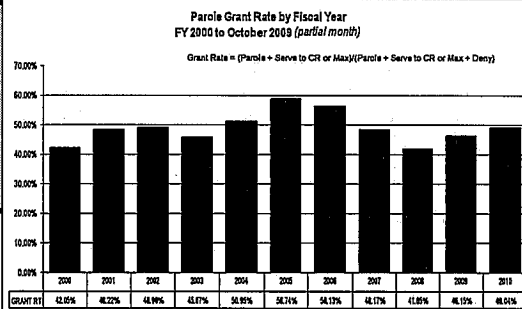
While number of Parole Suitability Hearings have declined, they are leveling off and expected to increase in the future.



Kansas Parole Board

31

Parole Grant Rate averages 48.7% over the last 10 years; during this time, it fluctuates approximately +/- 10%.



Kansas Parole Board

32

3-8

Kansas Parole Board
"Operating procedures of the Kansas Parole Board"
A Presentation the Joint Committee on Parole Board Oversight

November 2, 2009
Room 446-N—Statehouse

Area 2
Final **V**iolation **H**earings

Kansas Parole Board

**Final Violation Hearings:
Offender Rights & Standard of Proof**

- After offender is released to community s/he has liberty interest.
- Withdrawal of liberty is guided by due process requirements
 - *Morrissey v. Brewer*, US Supreme Court (408 U.S. 471 (1972)) sets the standards
- Preliminary Hearing – KDOC Parole
 - Standard of Proof = Probable Cause
- Final Hearing – KPB
 - Standard of Proof = Preponderance of Evidence

Kansas Parole Board 34

Overview of Elements

- Allegations made by Parole Officer/Parole Supervision Staff
- In Final Violation Hearing, each allegation of condition violation
 - Offender enters plea (admit/deny/refuse)
 - KPB makes finding (guilty/not guilty/dismissed)
- Informal portion of hearing: risk management/mitigation
 - Additional info consulted
 - Motivational Interviewing with offender (EBP)
- Revocation Standard:
 - The "...reasonable probability that the inmate can be released without detriment to the community or to the inmate" has eroded thereby placing community and/or inmate in jeopardy.
- Risk / Needs areas – recommendations and/or special conditions

Kansas Parole Board 35

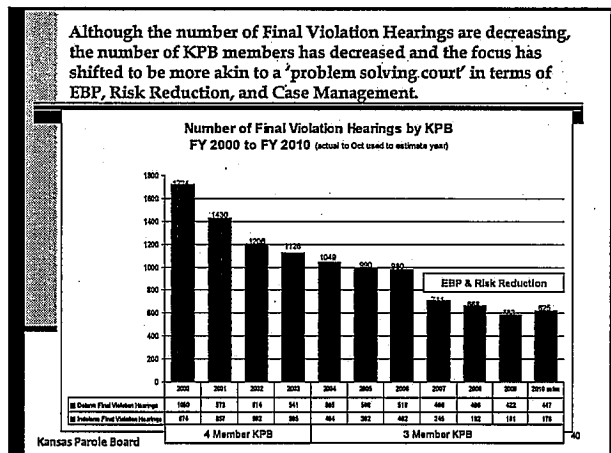
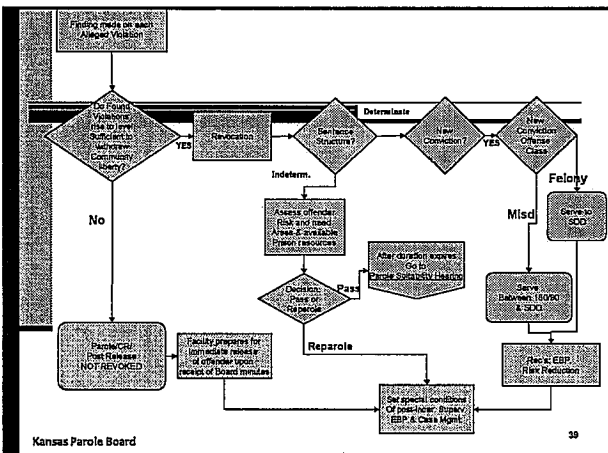
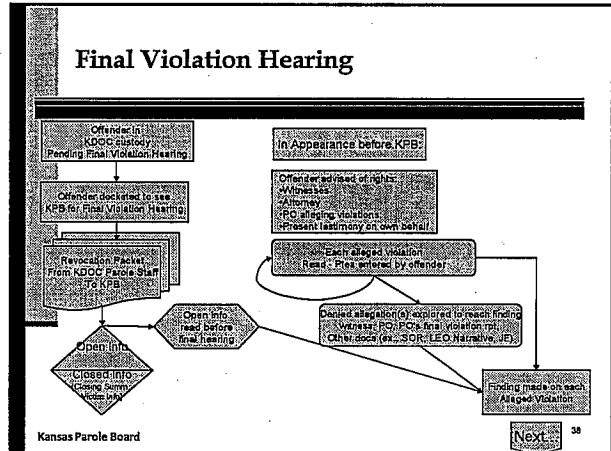
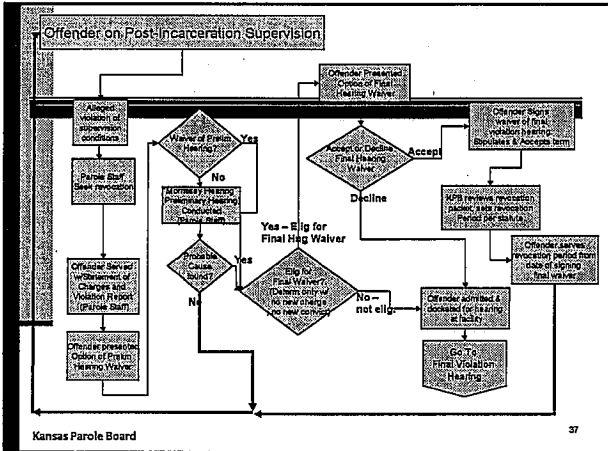
Final **V**iolation **H**earing
Business **D**esign and **M**ethods

Kansas Parole Board 36

3-9

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 A Presentation the Joint Committee on Parole Board Oversight

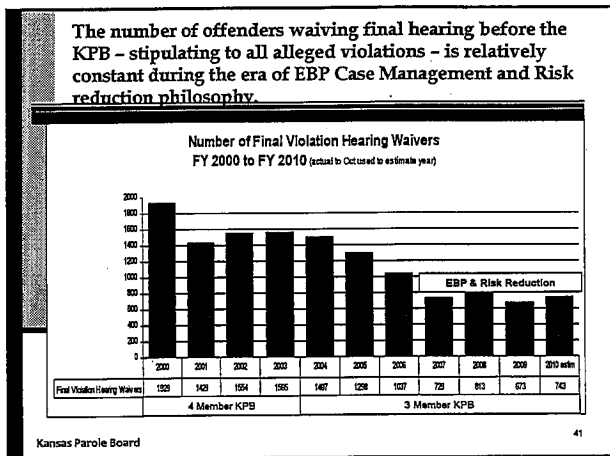
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3-10

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Area 3 Special Hearings

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What is a Special Hearing?

- A special hearing is
 - A New Parole Suitability consideration before the previously established next parole eligibility date.
 - A special hearing follows the same procedures as all parole eligibility hearings.
 - A Special Hearing cannot be used to advance an initial parole eligibility
 - Initial PE established by statute given sentence imposed by Court

43

When Are Special Hearings Conducted?

- Upon submission of new relevant information by offender
- By offender request when recommendations cannot be fulfilled
- Upon increase in dynamic risk after a positive parole decision has been reached
 - Ex: Disciplinary Reports related to risk
- To provide for procedural remedy as directed by Court

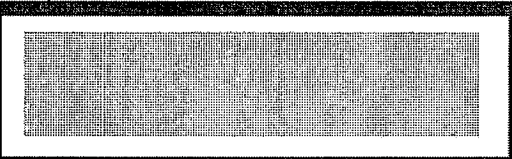
44

3-11

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Area 4
**Special Conditions of
Post-Incarceration Supervision**



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**Conditions of Post-Incarceration
Supervision**

- All offenders who release to community supervision post-incarceration must comply with "standard" and "special" conditions of that supervision
 - Identified on Certificate of Release, signed by Offender at Facility Release

Standard conditions of supervision

- N=12

Special conditions of supervision

- Imposed by KPB prior to release
- Imposed by PO during supervision
 - Focused on minimizing risk, maximizing success in reentry/reintegration

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**Principles of
Setting Special Conditions of Supervision**

- Conditions based on dynamic risk and need factors of the individual
(2008 NIC/ Campbell, Nancy; "Comprehensive Framework for Paroling Authorities in an Era of Evidence Based Practice")
- Conditions are Individualized
- Do not "Over Condition" – prescription for failure

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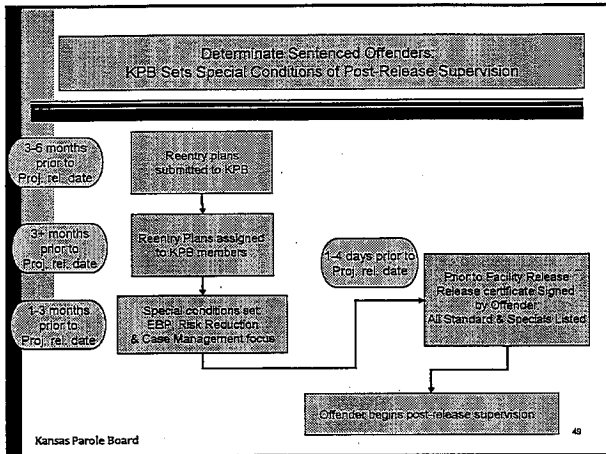
**Special Conditions of Post-
Incarceration Supervision
Business Design and Methods**

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3-12

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Area 5
Other File Reviews

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Examples of Other File Reviews

- Sex Offender Override Panel Membership
- Early Discharge from Parole Supervision
- Clemency Application Review & Recommendations to Governor
- Functional Incapacitation Releases
- Joint Committee on Parole Board Oversight

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Area 6
Partnering and Collaboration

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3-13

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Why are Partnering and Collaboration Important?

- Effective paroling authorities must... know how to collaborate and cooperate with other systems.
"Transition from Prison to Community Initiative," NIC/Proctor, 1994
- "Collaboration requires an understanding and willingness to network, coordinate, and cooperate in structured and unstructured ways"
"Comprehensive Framework for Paroling Authorities," NIC/Campbell, 2008

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53

Partnering and Collaboration Opportunities

- Statutory Memberships
- Professional Organization Memberships
- Kansas Criminal Justice Activities
- National Committees and Work Group Activities

- Technical Assistance Award - NIC

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54

Statutory Memberships

1. Kansas State Council for the Interstate Adult Offender Supervision Compact (K.S.A. 22-4111)
2. Sentencing Commission (K.S.A. 74-9101)
 - Proportionality Subcommittee of Sentencing Commission
 - Community Supervision Subcommittee
 - LSI-R © Statewide Implementation Subcommittee of the Sentencing Commission

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55

Professional Organizations

- Emphasis on offender risk reduction, reentry strategies, and risk assessment
1. Association of Paroling Authorities International ("API")
 2. American Parole and Probation Association ("APPA")
 3. American Correctional Association ("ACA")
 4. Kansas Correctional Association ("KCA")

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56

3-14

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Kansas Criminal Justice

1. Community Accountability Panels
2. Conditions of Community Risk Reduction
3. Kansas Reentry Policy Council
4. Kansas Reentry Policy Steering Committee
5. Parole Management Team
6. Sex Offender Override Committee
7. Victim Advisory Council

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57

National Engagements

1. National Institute of Justice
 - Community Corrections Technology Work Group
2. National Institute of Corrections
 - New Parole Board member training development
3. Association of Paroling Authorities International
 - Business Design for Organizational Growth
4. Center for Effective Public Policy
 - Advisory Group Member & Reviewer
 - Series of 5 papers improving the efficacy in field paroling authority field

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58

NIC Technical Assistance Awarded to KPB

- Technical Assistance Grant from the National Institute of Corrections.
three strategic area focused:
 - (1) Practice of Evidence-based principles;
 - (2) Potential Tools for quantifying the decision-making process;
 - (3) Organizational Culture and Structure assessment.

"Comprehensive Framework for Paroling Authorities in and Era of Evidence-Based Practice" (Feb., 2008; Nancy M. Campbell, National Institute of Corrections).

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59

3-15