

**MINUTES**

**JOINT COMMITTEE ON CORRECTIONS AND  
JUVENILE JUSTICE OVERSIGHT**

August 11-12, 2003  
Room 123-S—Statehouse

**Members Present**

Representative Ward Loyd, Chairperson  
Senator Pete Brungardt (August 11)  
Senator David Haley  
Senator Kay O'Connor  
Senator Jean Schodorf  
Representative Doug Gatewood  
Representative Bill Light  
Representative Dean Newton  
Representative Janice Pauls  
Representative Dale Swenson

**Members Absent**

Senator Greta Goodwin  
Senator Nancey Harrington  
Senator Lana Oleen  
Representative Thomas Klein

**Staff Present**

Jerry Ann Donaldson, Kansas Legislative Research Department  
Martha Dorsey, Kansas Legislative Research Department  
Jill Wolters, Kansas Revisors of Statutes Office  
Art Griggs, Kansas Revisors of Statutes Office

**Conferees**

**August 11**

Roger Werholtz, Secretary, Kansas Department of Corrections  
Senator David Adkins  
John Lamb, Director, Northern Parole Region, Kansas Department of Corrections  
Viola Riggan, Senior Contract Management Consultant, Kansas  
Department of Corrections

Roger Haden, Deputy Secretary, Programs Support and Research Services,  
Kansas Department of Corrections

**August 12**

Currie Myers, Sheriff, Johnson County  
Kyle Smith, Kansas Bureau of Investigation  
Christy Cain, Coordinator, Kansas Methamphetamine Prevention Project  
Steve Bundy, Sheriff, Rice County  
Tess Bennett, Counselor, Smoky Hill Foundation  
T.J. Ciaffone, Chief, Kansas Department of Health and Environment,  
Methamphetamine Unit  
Lori Alvarado, Team Leader for Prevention, Kansas Department of  
Social and Rehabilitation Services  
Nancy Bukar, Consumer Healthcare Products Association  
Eric Douglas, Walgreens

**August 11, 2003  
Morning Session**

**Topic No. 1 – Adult Inmate Population**  
**Topic No. 2 – SB 123 Update**  
**Topic No. 10 – Review of Criminal Sentencing**

Roger Werholtz, Secretary, Kansas Department of Corrections (KDOC), provided the Committee with several handouts regarding the discussion topic.

The first handout addressed housing offenders in out-of-state Medium Security prisons and the cost of doing so to Kansas. The daily cost, per inmate, per day, ranged from \$38.50 to \$54.66 in 2003 and could go as high as \$62.70 by fiscal year 2007 (Attachment 1).

The Kansas Sentencing Commission projected in 2001 that KDOC would reach capacity within the next ten years. However, since the enactment of SB 123 new projections show that KDOC will reach capacity in fiscal year 2006 or fiscal year 2007 (Attachment 2). Secretary Werholtz suggested options for the Committee to consider with regard to prison population:

- Do nothing at the risk of litigation and overcrowding.
- Implement an early release mechanism.
- Lease out-of-state private prison beds.
- Lease jail beds from Kansas counties.
- Allow private construction and operation of prisons in Kansas.
- Allow private construction and public operation of prisons in Kansas.

Secretary Werholtz provided the Committee with a bedspace count, by facility and gender (Attachment 3). It showed that as of December 31, 2002, there was a total of 8,482

male inmates and 632 females, for a total of 9,114. The count did not include 250 special use beds, which are used in the infirmary and for certain types of segregation.

A handout from Secretary Werholtz showed the per capita operating cost to KDOC, based on the Governor's budget recommendations, revealed an increase in total expenditures of \$3,187,597 between fiscal years 2003 and 2004 ([Attachment 4](#)).

The Secretary commented that in September 2002, the Kansas Sentencing Commission projected that the inmate population would increase by the end of fiscal year 2003, then decrease slightly during fiscal year 2004, and then steadily increase to 10,572 by the end of fiscal year 2012. However, current projections show 96 to 826 more inmates for fiscal year 2003 than was projected in 2002. This is probably due to the passage of SB 123 ([Attachment 5](#)). An immediate handout showed the actual and projected numbers for fiscal year 2003 ([Attachment 6](#)).

The final two handouts consisted of an overview of the Referral & Supervision process ([Attachment 7](#)) and how KDOC goes about selecting and certifying treatment providers, the costs of each program, and the authorized expenditures for SB 123 ([Attachment 8](#)). In response to a question from a Committee member, Secretary Werholtz explained that most community correction agencies have sliding scales which require offenders to pay something towards their treatment.

The Legislature approved hiring three people to train those who will provide treatment services, and the new staff have been working for a period of about three months. There are several training programs throughout the state. Any mental health service provider, who is approved by SRS, can attend the program and be certified to do substance abuse treatment.

### **Afternoon Session**

#### **Topic No. 2 – Records of Children in Need of Care and Juvenile Offenders**

Senator David Adkins requested the Committee introduce legislation to open state child protection records in instances in which a child who was previously adjudicated a child in need of care dies or nearly dies. While the courts can review the records, there is currently legislation that prohibits the public disclosure of information as to whether the state appropriately met its obligations to the child.

While Federal law provides states with few options, he was certain that the enactment of the proposed bill would not put Kansas out of compliance with federal funding. It was Senator Adkins's understanding that Congressman Dennis Moore has introduced legislation at the federal level, which would broaden the exceptions to permit states to allow disclosure when felony child abuse occurs ([Attachment 9](#)).

Senator Adkins informed members that there are other states which have loosened their disclosure when it comes to child abuse and death. In Missouri, the Department of Family Services still has control of which records are released and which ones are not, and

Minnesota has a very complicated procedure. There is no state that has the language proposed today. He suggested that this type of statute would change regularly due to the circumstances of the last incident.

Steve Christian, National Conference of State Legislatures, did not appear before the Committee, but provided written testimony regarding the federal restrictions on disclosure of child abuse information ([Attachment 10](#)).

Denise Everhart, Commissioner, Kansas Juvenile Justice Authority, did not appear before the Committee, but provided written testimony suggesting that since the implementation of the Juvenile Justice Reform Act, juvenile offender records are open, with a few exceptions ([Attachment 11](#)).

Written testimony in support of opening records for child in need of care cases was provided by the Kansas Action for Children ([Attachment 12](#)) and Kansas Press Association, Inc. ([Attachment 13](#)).

### **Topic – Adult Absconders**

John Lamb, Director, Northern Parole Region, Kansas Department of Corrections, informed the Committee that the Kansas Department of Corrections created a Special Enforcement Unit in 1993 for the sole purpose of apprehending fugitives. An absconder is someone who is on parole supervision, who does not report to work, their parole officer, nor are they at their place of residence. There have been 5,554 absconders arrested in the past ten years. As of August 1, 2003, there are 431 active arrest warrants for offenders who have absconded while on parole supervision in Kansas or in another state. The average time between when a warrant is issued and the date it was cleared is 38 days ([Attachment 14](#)).

### **Topic – Kansas Department of Corrections Medical Contract**

Roger Haden, Deputy Secretary, Programs Support and Research Services, Kansas Department of Corrections, explained that the current medical contract with Prison Health Services (PHS) expires in two years, but they have received a buyout offer telling KDOC that they are losing significant amounts of money, around \$4.5 million this year, and they would like to cancel the contract. Emergency arrangements have been made to have bidders assuming the remainder of the current contract. KDOC is trying to evaluate whether to let the current provider out of their contract or not. PHS is the largest contractor for prison services in the United States. They operate in 28 states and currently are making \$4-\$4.5 million per quarter; however, they are not making money in Kansas.

Viola Riggin, Kansas University Physicians Incorporated, stated that because the current mental health contract is up in 2006, they have begun working on trends across the United States. Both the Kansas Department of Corrections and the KU Physicians Incorporated will work together to evaluate and develop the RFP. They expect to see smaller companies be more aggressive, pricing that will allow for every minor detailed cost

to be identified, and a guaranteed profitability. Understanding what services are available will help safeguard against ending up with a poor quality contract at a high price.

There are currently several private companies that offer prison health care:

Prison Health Services  
Correctional Medical Systems  
Wexford  
Naphcare Health Services  
ADDUS  
First Correctional Medical  
Health Cost Solutions

Current trends on new contracts for health care with populations similar to Kansas's is \$10.40 per-day-per-inmate. Kansas is currently at \$7.91 (Attachment 15).

Roger Haden stated that Kansas got a lot of concessions out of contract negotiations six years ago. Prison Health Services has appeared before many legislative committees and stated that they would honor the contract. PHS has stopped electronic records system, because they maintain that they no longer need it. The discussion about quality of care issues have become more frequent. It appears that the direction KDOC is headed is that while PHS is making money they are excellent partners, but once the tides turned they have become harder to work with. PHS has requested that the state reduce their performance bond because they can only get performance bonds based on the company's net worth. Kansas is tying up a lot of their net worth, and therefore, they cannot go after more profitable business.

### **Topic – Risk Management Philosophy**

Secretary Werholtz followed up on the funding portion of SB 123. He provided the members with a sheet showing that it was estimated that SB 123 would cost \$6,425,515 (Attachment 16).

The Secretary also touched on using jail beds as a place to house inmates. He sees this as a temporary solution since many jails are already filled up (Attachments 17 and 18). He does not like the idea of having inmates scattered all over the state. There can be private prisons constructed in Kansas, but they can only house Federal prisoners or State of Kansas prisoners, not anyone from out of state.

Chairman Loyd provided the Committee with information on the DNA Technology, which he had recently obtained (Attachment 19).

The Committee meeting adjourned at 5:00 p.m. The next meeting was scheduled for August 12, 2003 in Room 123-S at 9:00 a.m.

**August 12, 2003  
Morning Session**

**Topic – “Core Class” on Methamphetamine**

Legislative Research Department staff provided the Committee with an article entitled “Wyoming’s Methamphetamine Initiative: The Power of Informed Process,” which discusses Wyoming’s response to the methamphetamine (meth) crisis in their state and how positive change emerged from the crisis by making a shift in priorities from enforcement to treatment (Attachment 20).

Currie Myers, Sheriff, Johnson County, gave the Committee a "power point" presentation regarding meth use. Synthetic drug abuse has been increasing since 1988. The largest type of synthetic drug is meth. This is a problem where everyone needs to work together, not just law enforcement. People who are users usually become their own source of supply. As an example, cocaine is made in other countries and shipped to the United States, whereas, meth is made by individuals in the U.S. Those who use meth can feed their own habits. The ingredients are readily available and meth is 95-98 percent addictive, whereas, alcohol is 10-12 percent. He cautioned that if the state uses Drug Courts, it needs to have treatment programs. Treatment programs are usually 12-step programs that last 90-120 days. Meth user problems can last 12-18 months.

Sheriff Myers stated that there are four different ways to make meth. He then informed the Committee how it was made and that it takes 2-12 hours to make depending on which way you “cook” it. He showed pictures of meth labs. Drugs are always going to be around. We need to get the word out about the danger of meth labs and the drugs they make. He informed members that kids should never drink from a bottle that they did not open because the new “thing” happening is making meth in liquid form and spiking drinks.

Effects of meth are dry mouth, core body temperature is usually 102, depression, suicidal tendencies, and paranoia. The “rush” for using meth is anywhere from 5 to 30 minutes, as compared to cocaine which is 30 seconds to 2 minutes. The “high” can be up to 4 hours, the “high” on cocaine is about 1 hour. Meth binge cycles are an average of 7-10 days, cocaine binge cycles are a day or two.

A Committee member questioned if there is a reduction in the number of labs. Sheriff Myers responded that in 2002 the lab numbers were down by about 100, but there is also a large amount of meth being imported from Mexico. More and more meth labs are making less, around 3.5 grams, which is more of a person doing it for their own addiction.

Sheriff Myers said meth labs are found everywhere - homes, on boats, in cars, by rivers, underneath bridges, storage facilities, trailer parks, motel rooms, and in apartments. Each of us need to keep our eyes opened to what is going on around us and in our neighborhoods.

**Afternoon Session**

### **Topic – Rural Law Enforcement Perspective**

Steve Bundy, Sheriff, Rice County, represented the rural law enforcement in the state. Rural areas attract those manufacturing meth. It offers a primary resource, anhydrous ammonia, which is used in the production of meth and can be found at just about any intersection in rural counties. Occasionally, entire tanks are taken and can be used to make thousands of batches of meth. Cooks offer up to several hundreds of dollars for 6-10 ounces of anhydrous ammonia. In rural areas it is hard to apprehend meth cooks due to the large number of square miles that need to be covered. Retailers are now monitoring and limiting the number of cold tablets purchased at one time. A new trend is to pay teenagers to buy the cold tablets for the cooks ([Attachment 21](#)). There is a problem with resources in training officers on how to deal with meth and meth sites.

### **Topic – State Law Enforcement Perspective**

Kyle Smith, Kansas Bureau of Investigation, stated that meth labs started showing up in Kansas in 1994 and have continued to grow to a total of 728 in 2002. KBI has seized 361 meth labs, which is about at the same level as this time in 2002. Because of this, KBI believes that the actual number of meth labs may have leveled off ([Attachment 22](#)).

The KBI received a \$2 million federal grant, of which half has been used to train law enforcement officers to safely handle the closure of meth labs. The KBI Special Operations Division has spent 38.2 percent of its time on meth manufacturing; whereas cocaine trafficking is 13.8 percent of its time. The state has funds for 26 narcotics agents; currently, eight of those positions are open due to budget constraints, three have indicated that they are planning on leaving in 2004, and six meth-only special agents are funded through the COPS Meth Initiative which is going to run out in June 2004.

Mr. Smith suggested that the Legislature consider passing laws listing ephedrine and pseudoephedrine in the Controlled Substances Act or restricting the number of packages that can be sold at one time; the state needs to protect drug-endangered children; and the KBI needs funding for six COPS agents, 4 chemists, and 2 crime analysts, when federal funding runs out in June 2004. Eighty percent of meth in Kansas is imported from Mexico, and the Director of the KBI wants to refocus and let the local units try to shut down the labs and the KBI work on the importation of the meth.

### **Topic – Prevention**

Christy Cain, Coordinator, Kansas Methamphetamine Prevention Project, presented the Committee with a "power point" presentation about prevention across the state.

- Kansas had one of the highest number of labs and dump sites in 2002.
- Kansas ranks 5<sup>th</sup> in the nation in the number of meth labs seized.
- Kansas seized 846 meth labs in 2001 and 728 in 2002.
- Between the ages of 20-24 have the highest addiction rate.

- 6.5 percent of seniors in Kansas high school have tried meth at least one time.
- 10 percent of those who have tried alcohol will become addicted as compared to 98 percent who try meth.
- Meth issues cost the state over \$23 million a year.

The goals of the Kansas Meth Prevention Project is to increase the capacity to assist local communities in addressing meth problems, reduce the supply of meth, reduce the demand for meth, and increase awareness about meth in Kansas ([Attachment 23](#)).

### **Topic – Treatment**

Tess Bennett, Counselor, Smoky Hill Foundation, spoke on the treatment of those addicted to meth. During fiscal year 2003, there were 46 clients who participated in this treatment program. None of the offenders completed all phases of the program and were sent back to prison. There are currently 23 offenders participating in the program. The treatment includes positive reinforcement, corrective feedback, establishing positive relationships, encouraging self-help groups, and the use of urinalysis to monitor drug usage. Therapy focuses on behavior versus feelings, goals, and how using affects their family. It consists of 32 sections of primary treatment, which meet twice a week for two hours and then goes to continuing care ([Attachment 24](#)).

### **Topic – “Meth Watch”; Environmental Impact of Methamphetamine**

T.J. Ciaffone, Chief, Kansas Department of Health and Environment, Methamphetamine Unit, informed members that people use meth to lose weight, to have more energy, for heightened physical and mental performance, and it is less expensive and more available than other types of drugs. Some health implications are malnutrition, liver and brain damage, nasal damage, severe weight loss, respiratory disorders, fatal kidney and lung disorders, insomnia, coma, and death.

Environmental impacts from meth labs include contaminated soil, water wells, and septic systems, indoor air contaminants, and hazardous waste accumulations. If a meth lab site is found, KDHE should be notified because they will respond to clean up meth sites 24 hours a day, seven days a week. KDHE transports the waste and hazardous materials to a storage facility for disposal ([Attachment 25](#)).

KDHE has started a program called Retailer Meth Watch Program, which encourages businesses to report suspicious transactions to KBI or local law enforcement, educates customers by using brochures, and trains employees to help administer the program. Some businesses which are members of the program are IGA, Food 4 Less, Wal-Mart, Walgreens, Dillons, Osco, PMCA and ALCO.

Lori Alvarado, Team Leader for Prevention, Kansas Department of Social and Rehabilitation Services, testified that SRS treatment data show an increase in the number of clients receiving treatment for methamphetamine. The admissions have risen from 468



in 1995 to 1,386 in 2003. They are primarily between the ages of 20 to mid-30's, Caucasian males and females.

Ms. Alvarado talked about what drugs can do to those living in the home where meth is made and/or used. Children often inhale the vapors from meth, accidental skin pricks from discarded needles, or absorbing of drug or toxic chemicals through the skin. Many children that live in homes where meth is used are neglected and experience physical/sexual abuse. Because meth causes a high level of paranoia, they tend to have their homes booby trapped, exposing children to possible danger. Children living in these homes tend to have many problems, some of which are low self-esteem, poor social skills, mental health problems, teen pregnancy, and school failure, possibly leading to criminal behavior and substance abuse (Attachment 26).

Nancy Bukar, Consumer Healthcare Products Association, testified that CHPA represents the manufacturers of ephedrine and pseudoephedrine, which are used to make meth. All of their products are manufactured in blister packs. There are over 4,600 products containing ephedrine and pseudoephedrine. There are seven states that have set a "package limit" as to how many of these products can be purchased at one time. No states have passed laws to place the products in the pharmacy.

Eric Douglas, Government Liaison, Walgreens Corporate Headquarters, informed the members that about a year ago, any product that contains ephedrine and pseudoephedrine and has been determined to be used to make meth, has been programmed into the computer system so that it will calculate the total amount of pills into grams. The computer locks down if it is at or over 3 grams; the manager then has to be called, and he has the ability to unlock it. The person is told that they will have to put one of the products back in order to purchase the other products. They also have locked restrooms, where an employee has to escort them to the restroom, unlock the door, and make sure that they are bringing no products into the restroom. All large packages are under the 3 gram limit, which is 96 pills.

The meeting adjourned at 5:00 p.m.

Prepared by Cindy O'Neal  
Edited by Martha Dorsey

Approved by Committee:

September 23, 2003  
(date)