

## MINUTES

### JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE

June 29-30, 2009  
Room 535-N—Statehouse

#### Members Present

Senator Thomas C. (Tim) Owens, Chairperson  
Representative Mitch Holmes, Vice-Chairperson  
Senator Terry Bruce  
Senator Ty Masterson  
Senator Dennis Pyle  
Representative Bill Feuerborn  
Representative Rocky Fund  
Representative Bob Grant  
Representative Broderick Henderson  
Representative Steve Huebert  
Representative Jeff King  
Representative Joe Patton

#### Member Absent

Senator Kelly Kultala

#### Staff

Cindy Lash, Kansas Legislative Research Department  
Amy Deckard, Kansas Legislative Research Department  
Mike Corrigan, Office of the Revisor of Statutes  
Mike Heim, Office of the Revisor of Statutes  
Kathy Letch, Committee Secretary

#### Others in Attendance

Libby Snider, Kansas Department of Corrections  
Edie Martin, Kansas Department of Revenue  
Patricia Platt, Motor Fuel Tax Refunds, Kansas Department of Revenue  
M. J. Willoughby, Kansas Judicial Branch  
Lana Walsh, Kansas Judicial Branch  
Tanya Keys, Kansas Department of Social and Rehabilitation Services  
Sue McKenna, Kansas Department of Social and Rehabilitation Services

Elizabeth Phelps, Kansas Department of Social and Rehabilitation Services  
Carl Patillo, Durable Power of Attorney for Mary Patillo  
Andy Schlapp, Wichita State University  
Angela Brown

## **Monday, June 29 Morning Session**

The Chairperson called the New Member Orientation portion of the meeting to order at 10:00 a.m. and asked all those present to introduce themselves.

Cindy Lash, Kansas Legislative Research Department, began the overview for new Committee members ([Attachment 1](#)). She explained the Claims Committee decision-making process, issues of equity, and that the Committee's actions are recommendations for the Claims bill.

During the 2008 Interim:

- 130 claims were heard;
- 79 percent of the claims were against the Kansas Department of Corrections;
- The Committee recommended full or partial payment on 14 of the 130 claims; and
- The total amount recommended by the Committee was approximately \$158,000, of which approximately \$145,000 was for Motor Fuel Tax Refunds.

Mike Corrigan, Office of the Revisor of Statutes, spoke about the statutory requirements governing the Committee ([Attachment 2](#)). He clarified that a person does not normally have to file a claim with the Committee to exhaust administrative remedies, and explained state agencies' ability to pay claims directly, within certain limits. He discussed executive sessions, mentioned previous legislation that would have reduced the number of members and changed the make-up of the Committee, and described how provisos have been used to handle complex claims' payments.

A Committee member asked about the possibility of introducing a bill to inhibit frivolous claims that appear to waste Committee time and state money. The member's opinion is that the same standards should apply with the Committee that apply in court.

In response, Mr. Corrigan explained that the Committee cannot introduce a bill other than the Claims bill. He is available to work with the Committee on procedures regarding threats and frivolousness, among other things, that could go into a bill introduced by another committee.

Amy Deckard, Kansas Legislative Research Department, provided background on the Committee and the Claims bill. The Claims bill is an appropriation bill and is subject to amendments and line-item veto by the Governor. After the bill is signed into law, the Department of Administration mails the claimant forms which acknowledge a complete release of any claim against the State. The Department of Administration does not send the claimant a check until the signed release has been received.

She explained that claims are paid from state agency funds, unless designated to be paid from the State General Fund. Claims are paid from the agencies' existing funds; agencies do not receive an increase in budget to pay claims against them.

A Committee member asked about the possibility of a process for expediting "small claims."

Ms. Deckard answered that most of the claims for small amounts are filed against the Kansas Department of Corrections, which has already considered all claims against it that are under \$500. These claims have been investigated by the correctional facility, and rejected in full or part by the Secretary of Corrections. They can then be filed with the Committee. Claims greater than \$500 cannot be paid by the Department, so must be filed with the Committee or filed as a lawsuit.

Patricia Platt, Kansas Department of Revenue, stated that motor fuel tax refund statutes have been in place since the 1940s, and were probably put in place to benefit farmers. Now, however, the bulk of it is for construction use. Motor fuel tax currently is \$.24 per gallon on gasoline and \$.26 per gallon on diesel. The Motor Fuel Tax is an excise tax. The refund is for the tax on motor fuel and special fuel used in vehicles for off-road purposes, such as farming, and construction, or for special uses, such as school buses. If the vehicles are not required to be tagged, refunds of \$25 or more on taxes are eligible. This includes four-wheelers, lawn mowers, and boats used for personal use, among others. When motor fuel tax is refunded, the end-user must then pay sales tax on the refund.

Ms. Platt stated the Department gets approximately 6,000 requests for Motor Fuel Tax Refunds annually. The Department is authorized to refund taxes if the request is received within one year of the date the expense was incurred. Refund requests received one to three years after the expense must be considered by the Claims Committee (Attachment 4).

Libby Snider, Staff Attorney with Kansas Department of Corrections (KDOC), explained that KDOC currently houses about 8,500 inmates in eight different institutions across the state. Many policies and procedures are in place for KDOC; they are called Internal Management Policies and Procedures (IMPP). The IMPPs are available on the KDOC website as are the relevant KARs. In addition, every facility has a set of general orders, and some have living-unit rules as well. Some of the most relevant rules were provided for Committee members (Attachments 5 and 6).

Depending upon an inmate's security or incentive level, personal property must fit in a 15 inch by 13-inch by 21-inch box. Legal materials are allowed an additional box. Electronics do not have to fit within the personal property box. Items valued over \$15 should be engraved with the inmate number. The box value is limited to \$75. IMPPs limit the amount of individual personal property specifically.

Property is an effective governing tool for incentive or motivation. Inmates often have property packed and stored for various reasons, from moving to a different facility to restriction level changes to disciplinary reasons. The inmate's property file is a single hard copy file, not stored electronically or in duplicate. The property is inventoried at every move, every packing, and every unpacking of the box.

IMPP 01-117 authorizes the Secretary of KDOC to pay a non-inmate personnel claim as well as a public claim up to a maximum amount of \$1,000. IMPP 01-118 states the Secretary of KDOC has the authority to pay an inmate claim up to a maximum amount of \$500. 2006 HB 2818 would have increased the internal processing limit from \$500 to \$2,500; however, that bill died in the House Appropriations Committee. Ms. Snider suggested that inmates will sometimes claim more than the limit for internal procedure, simply to get the claim before the Committee without having to go through the internal claim process. Many of the values are specified within the IMPPs, including depreciation. Establishment of ownership and value are required, among other things, for KDOC to be willing to pay an internal claim.

The meeting recessed for lunch.

## Afternoon Session

The Chairperson reconvened the meeting at 1:00 p.m.

*Representative Grant moved that the minutes of the December 17, 2008 meeting be approved; Representative Henderson seconded the motion; the motion carried.*

*Representative Grant moved to approve the Rules; Senator Pyle seconded the motion; the motion carried.*

The Chairperson opened the telephone hearing on the claim filed by inmate **Donald R. Cunningham at Norton Correctional Facility (NCF), Claim No. 6112.** Mr. Cunningham summarized his claim against KDOC for \$93.64 for loss of property from his locker. He had no lock on his locker.

Libby Snider, KDOC, stated that Mr. Cunningham did not note any missing items on the inventory sheet he was given. If Mr. Cunningham did not have a lock for his locker, he should not have a locker full of canteen items. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6112 be denied.*  
(See section captioned "Committee Action and Recommendation.")

The Chairperson opened the telephone hearing on the claim filed by inmate **Dwayne Wright at Winfield Correctional Facility (WCF), Claim No. 6118.** Mr. Wright summarized his claim against Hutchinson Correctional Facility for \$20.00 due to property damage. Mr. Wright was transferred from the Hutchinson Correctional Facility minimum unit. When his property was returned to him, he found one of his fans was broken, a light bulb was broken, and a pair of shorts and a coffee cup were missing. Mr. Wright stated that he went through internal administrative procedures, but it did not help him.

Libby Snider, KDOC, stated that the documentation showed a considerable delay in Mr. Wright submitting his internal claims on the items mentioned in Claim No. 6118. There is no specific time limit, but it is stated in IMPPs that an inmate must note damage or missing items when signing an inventory sheet for property. She also is not aware of a specific amount of time an inmate is given to check the inventory form against property. She recommended that the claim be denied.

Mr. Wright responded that when property is returned the form must be signed, but at least at Hutchinson Correctional Facility, inmates are not allowed to look through their property or plug in electronics at the time it is given to them in order to keep the line moving.

*Following discussion, the Joint Committee recommended that Claim No. 6118 be denied.*  
(See section captioned "Committee Action and Recommendation.")

The Chairperson opened the telephone hearings on the claims filed by inmates at **Ellsworth Correctional Facility.**

**John Edwards summarized Claim No. 6153** against Hutchinson Correctional Facility for \$56.80 due to loss of property. He stated that in maximum custody he did not have a locker in which

to lock his personal property, simply a shelf. When he was packed out to segregation with three other inmates, he was not allowed to pack his own property though he tried. The officers would not let him lock his property in the officer's office. When he was released from segregation, his radio and headphones were missing. The items were not on his inventory sheet.

Libby Snider, KDOC, replied that he did sign the inventory sheet without showing any items as missing. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6153 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Sheldon E. Judd summarized his Claim No. 6156** against El Dorado Correctional Facility for \$257.87 due to shipping out his tinted glasses to a friend for safe-keeping. He stated that after 13 or 14 years of incarceration, he was allowed to purchase his own glasses. He has worn tinted lenses since he was 16 years old, due to head injuries. When transferred again to Ellsworth Correctional Facility, the facility would not allow him to keep his tinted-lensed glasses. He was required to send out his glasses and to wear state-issued glasses. He lost the use of his glasses he purchased, the cost of the eye appointments, and time away from work. He stated, also, that his tinted lenses were not so dark that his eyes could not be seen.

Libby Snider, KDOC, stated Mr. Judd's optometrist recommended tinted lenses. Correct Care Solutions has its own policy that requires the optometrist recommendation be forwarded to their regional office. Upon transfer, another request was sent. The regional office denied the authorization. She recommended that this claim be denied.

A Committee member asked Ms. Snider to find out the reason for the denial of authorization.

Ms. Snider said the tinted lenses evidently should not have been approved at El Dorado Correctional Facility since there was no medically approved recommendation for the tinted lenses.

*Following discussion, the Joint Committee recommended that Claim No. 6156 be denied.*  
(See section captioned "Committee Action and Recommendation.")

The Chairperson opened the telephone hearings on the claims filed by inmates at **Lansing Correctional Facility**.

**Steven Kent Bloom summarized Claim No. 6158** against the Kansas Supreme Court for \$10,000,808.87 due to personal injury and property damage. Mr. Bloom stated that the Appellate and Supreme courts of Kansas acted in opposition to state laws. He submitted an appeal brief, but the courts refused to file his appeal. The Kansas Parole Board has denied parole for ten years based on the courts' denial.

M. J. Willoughby, Kansas Judicial Branch, responded that Mr. Bloom's appeal was expedited. He was given more time, which he did not use. The appeal was then denied. He chose to go to U.S. Supreme Court instead. Ms. Willoughby recommended that this claim be denied.

Mr. Bloom replied that he filed a motion for an extension, which the judge refused. He refiled, but the court refused.

A Committee member asked how Mr. Bloom came to a \$10 million figure. Mr. Bloom responded that the Parole Board has been using unjust disciplinary reports that he has been denied

the right to litigate to deny him parole for ten years and he wants \$1 million per year that he was denied the right to defend himself against the disciplinary reports.

*Following discussion, the Joint Committee recommended that Claim No. 6158 be denied.*  
*(See section captioned "Committee Action and Recommendation.")*

**Jeffery L. Campbell summarized Claim No. 6134** against Lansing Correctional Facility for \$490.68 due to loss of property. Mr. Campbell stated that his leather goods were missing from his locked locker.

Libby Snider, KDOC, replied that the locker showed no signs of forced entry and the sharing of lockers or combinations is not allowed. When investigating the claim, the staff key could not unlock the locker, so it appears that staff negligence could not have been responsible for the missing items. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6134 be denied.*  
*(See section captioned "Committee Action and Recommendation.")*

**Justin Wheeler summarized Claim No. 6140** against Hutchinson Correctional Facility for \$71.17 due to loss of property. Mr. Wheeler stated that he was packed out by officers when he was moved to segregation and then transferred to Norton. Upon arriving in Norton, his watch and boots were missing from his personal property.

Libby Snider, KDOC, replied that while in segregation and again upon the move, Mr. Wheeler signed the inventory sheet without noting any missing items. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6140 be denied.*  
*(See section captioned "Committee Action and Recommendation.")*

**Brian Manis summarized Claim No. 6159** against Lansing Correctional Facility for \$88.20 in back wages. He was removed from his job while the facility was investigating him for wrongdoing. He was found not guilty of wrongdoing, yet he lost out on three months of state employment. The battery they were investigating did not happen on the job.

Libby Snider, KDOC, replied that the investigation of battery was a valid investigation and necessary. He has no right to employment while incarcerated. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6159 be denied.*  
*(See section captioned "Committee Action and Recommendation.")*

**Danny R. Schmidt summarized Claim No. 6145** against Lansing Correctional Facility for \$99.76 due to property damage and confiscation. Mr. Schmidt explained that his cell had been shaken down, and items were broken and missing from his cell. An officer verified broken and missing items. His shower shoes were found in the shower, but nothing else was located.

Libby Snider, KDOC, replied there was no indication that anyone had entered his cell. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6145 be denied.*  
*(See section captioned "Committee Action and Recommendation.")*

**Ricardo Murillo attempted to summarize Claim No. 6141** against Lansing Correctional Facility for \$57.52 due to loss of property. Mr. Murillo speaks little English. With Gina Walls, KDOC staff, acting as interpreter, he explained that he was packed out of his cell by guards, and upon the return of his property some of it was missing. He had help filling out the claim form.

Libby Snider, KDOC, replied that Mr. Murillo signed the inventory sheet without marking any items as missing. She recommended that the claim be denied.

Committee members discussed communication issues for non-English-speaking inmates and where the burden falls to interpret inventory sheets and other KDOC documents.

*Following discussion, the Joint Committee recommended that Claim No. 6141 be denied.*  
*(See section captioned "Committee Action and Recommendation.")*

**Rodney Turner summarized Claim No. 6148** against KDOC for \$1,500 per day due to personal injury and loss of liberty interest.

The Chairperson informed Mr. Turner that since he has taken this case to court the Committee is unable at this time to act on the claim. He may refile this claim at a later time upon conclusion of the court case, if he so desires.

*Following discussion, the Joint Committee recommended that Claim No. 6148 be dismissed without prejudice.* (See section captioned "Committee Action and Recommendation.")

**Jerome Cheeks summarized Claim No. 6149** against KDOC for \$25,000.00 due to personal injury and retaliation. He stated that while he was waiting for bed space in the Intensive Management Unit (IMU) program for which he was already approved, he was taken from the cell block for more than four months to go to court about being released from administrative segregation in super-max. At that time they removed him from recommendation for the IMU program, which also kept him from getting more desirable bed space. He believes they removed him from recommendation for the IMU program because he litigated his claim, which was denied in district court, and filed an appeal.

Libby Snider, KDOC, replied that Mr. Cheek's claim about a change in his status was not substantiated with any documentation back to November 2004. She could not find that he had been approved for nor was to be moved to the IMU program. All indications were that "no change" was consistently the recommendation. She recommended that the claim be denied.

Mr. Cheeks responded that the documentation was available from May and June of 2004.

*Following discussion, the Joint Committee recommended that Claim No. 6149 be denied.*  
*(See section captioned "Committee Action and Recommendation.")*

**Jerome Cheeks then summarized Claim No. 6150** against KDOC for \$148,000.00 due to personal injury and lack of due process. He explained that at the time that the Kansas Administrative Regulations (KARs) were revoked and the Internal Management Policy and Procedures (IMPPs) were implemented, he was in administrative segregation. He should not have been kept in

segregation because he was not placed there under IMPPs. The \$148,000 was for \$119.00 per day for the five years and nine months he was kept in segregation.

Libby Snider, KDOC, replied that when the KARs were revoked, internal policies were still in force. His right to due process was not violated; it was appropriate that the internal policies kept him in segregation. She recommended that the claim be denied.

Mr. Cheeks stated that he was denied parole twice due to being in super-max.

Following discussion, the Joint Committee recommended that Claim No. 6150 be denied. (See section captioned "Committee Action and Recommendation.")

**Dwight Woolridge summarized Claim No. 6133** against Lansing Correctional Facility for \$58.36 due to loss of property. He stated that his shoes and clock were confiscated for being altered and he was given a disciplinary report. He requested their return, but was told they were lost.

Libby Snider, KDOC, replied that his items were confiscated due to the fact that he was storing marijuana in them. Mr. Woolridge pled guilty to the allegation. Inmates have no legal claim for contraband, which is what the shoes and clock became when they were used as a storage vessel for illegal contraband (marijuana). She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6133 be denied.* (See section captioned "Committee Action and Recommendation.")

**James Gail Cody Crawford summarized Claim No. 6092** against KDOC for \$10,000.00 due to personal injury. He explained that the stairs were wet and no caution signs were displayed when he fell on the stairs and injured his shoulder. He said one officer mentioned that he appeared to be horsing around with a guard when he fell, but he denies this allegation.

Libby Snider, KDOC, replied that the incident report was located. It stated that guards witnessed Mr. Crawford when he fell, and wet floor signs were displayed. The inmate filed a grievance, but then withdrew the grievance. His shoulder was injured, but he has received medical attention. She recommended that the claim be denied.

Mr. Crawford mentioned he is on work restriction. He has asked for a copy of his claim and letter of recommendation from KDOC, as well as a copy of the minutes from this Committee meeting when approved.

*Following discussion, the Joint Committee recommended that Claim No. 6092 be denied.* (See section captioned "Committee Action and Recommendation.")

The Chairperson opened the telephone hearing on the claim filed by **Terril Hutton at Larned Correctional Mental Health Facility**. Mr. Hutton summarized **Claim No. 6124** against Larned Correctional Mental Health Facility for \$940,000,000 due to loss of property and property damage. He explained that when being moved from one cell to another cell, his property was confiscated and destroyed. His mother's lawyer recommended that he claim a high dollar figure to prevent this type of action from being repeated. His claim did not mention any dates of confiscation of his property due to the inventory receipts not having dates.

Libby Snider, KDOC, replied that Mr. Hutton could not prove ownership of some of the items,



so they were confiscated. Other items were confiscated because, per IMPP, no logos are allowed on plastic cups. No notes were made on the inventory sheets that items were missing. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6124 be denied. (See section captioned "Committee Action and Recommendation.")*

The Chairperson opened the telephone hearings on the claims filed by inmates at **Topeka Correctional Facility.**

**LaTrena Webb summarized Claim No. 6016** against Topeka Correctional Facility (TCF) for \$100,000 due to personal injury, which was carried over from the December 17, 2008, Committee meeting. She explained that TCF assigned her to a top bunk, against her complaints and against their own records from her previous incarceration that stated she should be on the bottom bunk. She has diabetic seizures. Her first night in the facility she had a seizure and fell from the top bunk, causing unconsciousness, a severe concussion, and head injury. She considered filing a lawsuit, but could not find a lawyer willing to sue the State of Kansas. The amount of her claim was simply a number she picked. No amount is really adequate, because she could have died from the fall. She continues to have daily headaches.

Libby Snider, KDOC, replied that she should have been given a bottom bunk. No verification of Ms. Webb's claim that she told KDOC staff about the bunk restriction is possible, as Ms. Webb could provide no names of staff she told. There were no witnesses who claim to have seen her fall from her bunk. When she was taken to the hospital after the fall, she tested positive for amphetamines, whether legal or not is not known, but no injuries were apparent beyond "fairly superficial lacerations" to her head. Ms. Snider could not substantiate Ms. Webb's assertion of a day and a half of unconsciousness, but there is medical staff notation of "in and out of consciousness." She does have Type 2 Diabetes and receives medication for it. On the intake summary, Ms. Webb mentioned a history of back pain. Ms. Snider recommended that the claim be allowed for \$500.00 for KDOC staff negligence in bed assignment upon admittance. This amount is historically consistent for this type of claim against KDOC for this type of negligence.

When asked by a Committee member if \$500 is acceptable, Ms. Webb responded that it was not acceptable and should be more.

*Following discussion, the Joint Committee recommended that Claim No. 6016 be allowed for \$500.00. (See section captioned "Committee Action and Recommendation.")*

**Debbie Meyer summarized Claim No. 6102** against Topeka Correctional Facility for \$50,000 due to personal injury. She explained that the dentist for the correctional facility told her that nothing was wrong with her teeth. She then told him she wanted her teeth cleaned, to which he replied that he would clean her teeth, but not until he pulled a specific tooth because of an abscess.

Libby Snider, KDOC, replied that in June 2008, Ms. Meyer's tooth was chipped when a filling was being removed, and half of the tooth was extracted. Two different dentists recommended that the rest of the tooth be pulled. After evaluation by an oral surgeon, with her permission, the rest of the tooth was extracted. There is no documentation that her treatment was inappropriate. Ms. Snider recommended that the claim be denied.

Ms. Meyer said, at the very least, she needs a partial denture, but KDOC will not pay for it. She asked if the Claims Committee would approve a \$90 payment for the partial.

*Following discussion, the Joint Committee recommended that Claim No. 6102 be denied. (See section captioned "Committee Action and Recommendation.")*

**Natalie Callaway summarized Claim No. 6108** against Topeka Correctional Facility for \$16 million for personal injury due to eight years of violation of her 14th and 8th Amendment rights. KDOC has failed to provide adequate mental and physical health care for her gender identity disorder (GID). The diagnosis was first made between the ages of 12 and 14 years.

KDOC also has failed to allow her visitation with her son, even though she filled the role of a parent to the child. She has been discriminated against because of her GID. The discrimination has caused great distress to her and her son.

Her claim amount is based on the eight years, from date of incarceration to the date of the claim at \$1 million per year, for non-treatment of her GID, not allowing visitation with her son, future costs for treatment and specific therapies the KDOC will not provide, and mental anguish.

The Chairperson explained to Ms. Callaway that due to her ongoing lawsuit regarding this issue, the Claims Committee is not able to consider her claim at this time. (*Natalie Callaway vs. State of Kansas*, Case No. 08C 1737 filed February 17, 2009 with the Kansas Court of Appeals) She may refile the claim upon conclusion of the lawsuit.

*Following discussion, the Joint Committee recommended that Claim No. 6108 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")*

**Shelia D. Hudson summarized Claim No. 6122** against Topeka Correctional Facility for \$30,000 per year for personal injury. Ms. Hudson explained that she was diagnosed with carpal tunnel in her right wrist due to baking and food preparation as primary baker from 1991 to 2001. She is required to wear two wrist bands. Her baking duties were to mix and roll bread dough, as well as to meet all baking needs for the facility from scratch, which involved 500 servings daily. She received \$21.00 per month in 1991. When working for Armark, she was an hourly worker. She filed twice for disability and was denied twice. She is now on medical restriction, cannot work as a baker any longer, and may only work at other jobs four hours a day due to physical limitations.

Libby Snider, KDOC, replied that Ms. Hudson was never diagnosed with carpal tunnel syndrome by any licensed healthcare practitioner with KDOC and any mention of it has been totally self-reported. Her symptoms and diagnosis seem to vary from time to time and are inconsistent with carpal tunnel. From July 2001 to April 2004, she made no mention of carpal tunnel. In 2008, she mentioned that she had never been diagnosed with carpal tunnel outside of KDOC, but had always been treated for it while incarcerated. Ms. Snider recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6122 be denied. (See section captioned "Committee Action and Recommendation.")*

**Asa Adams summarized Claim No. 6168** against Kansas Department of Social and Rehabilitation Services (SRS) for \$100,000,000 due to personal injury. She explained that while her daughter was on life-support in the hospital due to trauma and head injury, the judge ordered that she not be removed from life-support. Ms. Adams said she was told that SRS directed hospital staff to remove the life-support.

Chairperson Owens discussed whether there was an ongoing lawsuit on this claim's issue. Sue McKenna, SRS, explained that the claimant's current lawsuit is an appeal of the claimant's

conviction for first degree murder in the death of her daughter.

Ms. McKenna explained that while the child was in the custody of the Secretary of SRS, the Secretary was not asked for consent to remove life support. The hospital's position was that the child had died. Removal of life support was postponed pending an inquiry regarding the harvesting of viable organs. That matter went before the court. The court adamantly opposed removal of life support or harvesting of any organs. Three days later, the matter again went before the court. The court then made the legal conclusion that the child had been dead prior to the earlier court hearing. Paramedics responded on May 16; the child was pronounced clinically dead on May 22. Ms. McKenna recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6168 be denied.*  
(See section captioned "Committee Action and Recommendation.")

The meeting was adjourned at 5:20 p.m.

## **Tuesday, June 30**

Chairperson Owens called the meeting to order at 9:00 a.m.

The Chairperson opened the telephone hearings on the claims filed by inmates at **El Dorado Correctional Facility**.

**Ray Floyd Garcia, Jr. summarized Claim No. 6125** against El Dorado Correctional Facility for \$19.00 due to confiscation of property. He explained that 30 newspapers were confiscated from his cell and thrown away, because he allegedly used a rolled up newspaper and a pencil as a weapon. He claimed that he would have received a disciplinary report (DR) if he had been guilty of this action. He only received yard restriction.

Libby Snider, KDOC, replied that Mr. Garcia did receive a DR. The shakedown report also is referred to in her documentation showing 30 newspapers were confiscated. IMPP allows only ten newspapers. She recommended that the claim be denied.

Mr. Garcia rebutted that the DR was given during the next shift; it was not given for the same incident.

*Following discussion, the Joint Committee recommended that Claim No. 6125 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Ray Floyd Garcia, Jr. summarized Claim No. 6126** against El Dorado Correctional Facility for \$500.00 due to personal injury. He explained that he has nerve damage in his wrist due to handcuffs being put on him too tightly.

Libby Snider, KDOC, replied that Mr. Garcia's medical records show he has some arthritis. He also broke his elbow in three places when he was a teenager, but there is no substantiation of any nerve damage. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6126 be denied. (See section captioned "Committee Action and Recommendation.")*

**Ray Floyd Garcia, Jr. summarized Claims No. 6130 and 6131** against El Dorado Correctional Facility for \$500.00 due to personal injury and \$57.50 due to property damage. He explained that while handcuffed behind his back in his cell with the door closed, officers sprayed mace at him through the food opening of the cell door. Force was used as the group of officers entered the cell and pushed him down on his bunk. They tightened his necklace and had hands around his neck. The mace stained his shoes.

Libby Snider, KDOC, replied that Mr. Garcia was removed from the indoor exercise area and was issued a DR for disobeying an order. When Mr. Garcia attempted to slip out of the restraints, chemical intervention was used. He was put into the shower then for decontamination and his shoes got wet but were not rendered unusable. She recommended that the claims be denied.

Mr. Garcia explained that his shoes were given as evidence in the internal complaint he made and were never returned to him.

*Following discussion, the Joint Committee recommended that Claim No. 6130 and Claim No. 6131 be denied. (See section captioned "Committee Action and Recommendation.")*

**Cleo Hall summarized Claim No. 6127** against El Dorado Correctional Facility for \$200.00 due to loss of property. He explained that when his allowable property was given to him while in segregation, he signed for the return of one box and was told he had two other boxes. When he got out of segregation, he was told his other two boxes were lost.

Libby Snider, KDOC, replied that Mr. Hall's claim is for five items, only one of which is on the inventory sheet, which he signed as received. Three boxes would have been excessive property. She recommended that the claim be denied.

Mr. Hall explained that he only received his hygiene items, for which he signed. His fan, TV, radio, and hot pot are separate and not considered excessive property if it does not fit into one box.

Ms. Snider responded that electronics are allowed beyond the one box of personal property and one box of legal documentation.

*Following discussion, the Joint Committee recommended that Claim No. 6127 be denied. (See section captioned "Committee Action and Recommendation.")*

**Thomas Everson summarized Claim No. 6135** against Hutchinson Correctional Facility for \$51.64 due to loss of property. Mr. Everson's personal property was packed out after he went to segregation. He was then transferred to a different facility. His property did not follow.

Libby Snider, KDOC, replied that this appears to be true. She recommended that the claim be allowed.

*Following discussion, the Joint Committee recommended that Claim No. 6135 be allowed for \$51.64, paid for by Hutchinson Correctional Facility. (See section captioned "Committee Action and Recommendation.")*

**Jim C. Elliott summarized Claim No. 6139** against Lansing Correctional Facility for \$342.70 due to loss of property. He explained that when he was transferred and his level was changed, someone marked his property for destruction and donation. It was not his signature. He did not sign it over.

Libby Snider, KDOC, replied that Mr. Elliott received a DR and he was dropped to Incentive Level One. He was no longer allowed property. His wife said he told her that he had to dispose of his property, but did not ask her to come pick it up. It was donated to a not-for-profit organization in Leavenworth. Ms. Snider recommended that the claim be denied.

Mr. Elliott replied that his wife could not drive 400 plus miles to collect his property and the facility would not authorize a special purchase order to send items to her.

*Following discussion, the Joint Committee recommended that Claim No. 6139 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**John H. Pickerill summarized Claim No. 6144** against KDOC for \$13.84 due to being required to use Goin' Postal. Mr. Pickerill was charged \$10.00 to send a belt buckle out, instead of the \$.84 that it should have cost him.

Libby Snider, KDOC, replied that there was not a second mailing option at that time according to Department policy. Now there are other options available. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6144 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**James Monroe Pollock summarized Claim No. 6147** against El Dorado Correctional Facility for \$16.87 due to property damage. He explained that he bought a hot pot. After the hot pot broke, he wrote to the manufacturer, Rival, who sent him a new hot pot. The facility would not allow him to keep the new hot pot because it was not purchased from the facility's canteen, as required by policy.

Libby Snider, KDOC, replied that the new hot pot the manufacturer sent Mr. Pollock did not conform with Departmental policy. She recommended that the claim be denied.

At Mr. Pollock's request, a copy of the Committee minutes will be sent to him upon approval by the Committee at the November meeting.

*Following discussion, the Joint Committee recommended that Claim No. 6147 be denied.*  
(See section captioned "Committee Action and Recommendation.")

**Dmitri Woods summarized Claim No. 6162** against Hutchinson Correctional Facility for \$102.93 due to loss of property. Mr. Woods explained that after receiving a DR, he was put in segregation. His television was taken at that time, but was not put on the inventory sheet.

Libby Snider, KDOC, replied that the television was the subject of the DR. It was not properly registered and there had been tampering with the stickers on it. Therefore, it was confiscated as contraband, Mr. Woods was given a DR, and was put in segregation. She recommended that the claim be denied.

*Following discussion, the Joint Committee recommended that Claim No. 6162 be denied.*  
(See section captioned "Committee Action and Recommendation.")

*Following discussion, the Joint Committee recommended that **Thomas Landwehr's Claim No. 6157** be carried over to the November meeting.* (See section captioned "Committee Action and Recommendation.")

**Cindy Lash, Kansas Legislative Research Department, summarized Claire Gadberry's Claim No. 6128** against Kansas State Fair for \$20,000 due to personal injury. Ms. Gadberry was at the State Fair in Hutchinson, walking three-abreast along a sidewalk when she stepped in a hole beside the sidewalk and fell, shattering her shoulder, breaking her glasses, causing her to be off work for three weeks, and requiring physical therapy. She also would like her health insurance reimbursed. Ms. Lash explained that originally Ms. Gadberry had asked for a "fair amount" and later asked for \$20,000 compensation. The claim form indicates there is no litigation on this claim at this time.

Denny Stoecklein, Kansas State Fair, via telephone, explained that the sidewalk had been poured during the summer of 2008. It is code width or greater. It was finished properly, but the heavy rains that they experienced evidently washed dirt away from beside the walk. The injury occurred on September 12, 2008 and the hole was filled in with sand on September 12, 2008, apparently after her fall. Maintenance staff respond to complaints and comments quickly. There were 340,000 visitors during the week of the State Fair in 2008, and another 150,000 throughout the rest of the year. Copies of colored photographs of the sidewalk after the holes were filled with sand were provided for the Committee.

A Committee member asked about insurance that the State Fair has for this kind of incident. Mr. Stoecklein replied that the Fair is self-insured as a state agency. Out-of-pocket expense is what the State Fair looked at when considering Ms. Gadberry's complaint.

*Following discussion, the Joint Committee recommended that Claim No. 6128 be denied.*  
(See section captioned "Committee Action and Recommendation.")

The Chairperson opened the telephone hearings on the claims filed by inmates at **Hutchinson Correctional Facility.**

**DaQuan C. Dean summarized Claim No. 6137** against Hutchinson Correctional Facility for \$49.45 for loss of property. He explained that when he returned from the yard, his cell door was standing open and no guard present. No other doors were open. A guard said someone had been working in his cell and had left his door open. No locks are allowed in maximum custody, so he was not able to lock up his property. His shoes and a couple of canteen items were missing.

Libby Snider, KDOC, stated that inmates own property at their own risk. Mr. Dean had submitted his claim internally, and this is the first she was aware that he was not permitted a lock to protect his property. She recommended that the claim be denied.

Mr. Dean responded by saying that he had just received the forms to complete for appeal, therefore he had not had the opportunity to respond to the Secretary of Corrections until now to inform him that the cabinet in his cell could not be locked.

Following discussion, the Joint Committee recommended that Claim No. 6137 be allowed for \$49.45. (See section captioned "Committee Action and Recommendation.")

**Greg A. Weir summarized Claim No. 6129** against KDOC for \$500,000 for personal injury. Mr. Weir explained that for three years a number of incidents have transpired: people have been slandering him and calling him names; he asked for a diabetic test which the facility denied him and gave him a DR; money from a friend was sent to him, but it was returned rather than put in his account; money was fraudulently taken out of his account on March 6 and March 7, 2006; and the facility charged him with four counts of battery for throwing urine and feces and penalized him. He said ". . . it's going to get me killed . . . It is a female voice . . . from I and I."

Libby Snider, KDOC, stated that there is no effective way to investigate this claim. There are no dates, staff names, grievances, property claims, or correspondence regarding his claims. She recommended that the claim be denied.

Following discussion, the Joint Committee recommended that Claim No. 6129 be denied. (See section captioned "Committee Action and Recommendation.")

**Richard Blanchette summarized Claim No. 6142** against KDOC for \$150.67 for loss of property. Upon being sent to segregation at the same time as his cell mate, Mr. Blanchette's property and his cell mate's property was packed out of their cell. Mr. Blanchette's cell mate had the same last name, therefore their property got mixed together, accidentally.

Libby Snider, KDOC, stated that officers and the Misters Blanchette had the opportunity to separate the inventories. He did sign that he got his property returned. In no instance did he say property was missing. She recommended that the claim be denied.

Mr. Blanchette explained that the first inventory sheet does not exist; the second property inventory sheet contains check-marks indicating missing items.

Following discussion, the Joint Committee recommended that Claim No. 6142 be denied. (See section captioned "Committee Action and Recommendation.")

**Carl Patillo, Durable Power of Attorney for claimant Mary Patillo, appeared for and summarized Claim No. 6171** against Kansas Department of Social and Rehabilitation Services for \$700,000 for personal injury. He said she had been discriminated against and harassed for seven years in her workplace, which caused her to have a mental breakdown. Workman's compensation will not pay. She currently is under the care of three different doctors. She has a case pending with the Equal Employment Opportunity Commission (EEOC).

Chairperson Owens explained to Mr. Patillo that due to the ongoing EEOC suit, the Claims Committee is not able to hear the claim at this time.

Following discussion, the Joint Committee recommended that Claim No. 6171 be dismissed without prejudice. (See section captioned "Committee Action and Recommendation.")

The Chairperson opened the telephone hearings on **former inmates**.

**Angela Brown summarized Claim No. 6123** against Topeka Correctional Facility for

\$57,500 for personal injury. She explained that she was removed from work release and received a DR for escape and "dealing and trading." She is asking for lost wages of \$7,500 due to being removed from work release and punitive damages of \$50,000. She and the inmate with whom she worked were sitting in front of their work area eating hamburgers. She was at her job, so there was no "escape" and was not aware that she should not have accepted the hamburger from the other inmate. She was not out of place.

Libby Snider, KDOC, stated the dealing and trading charge was because the other inmate had purchased Burger King hamburgers and had given Ms. Brown one of them. No exchange of any property is allowed. The aggravated escape charge was because they were not to have gone to Burger King. Inmates do not have the "right" to a job. It is a privilege. She recommended that the claim be denied.

A Committee member asked Ms. Brown if she was given lunch when on work release. Ms. Brown replied that they were given \$7.00 a day for lunch and could have an employee get it for them.

*Following discussion, the Joint Committee recommended that Claim No. 6123 be denied. (See section captioned "Committee Action and Recommendation.")*

**Cindy Lash, KLRD, summarized Claim No. 6136 of Lyle Parker** against KDOC for \$13.10 for loss of property. Mr. Parker was transferred from Lansing Correctional Facility to Winfield Correctional Facility. When his property arrived, his fan was broken.

Libby Snider, KDOC, responded that the documentation comes to the same conclusion and recommended that the claim be allowed.

*Following discussion, the Joint Committee recommended that Claim No. 6136 be allowed for \$13.10. (See section captioned "Committee Action and Recommendation.")*

**Cindy Lash, KLRD, summarized Claim No. 6143 of Hassion L. Price** against Lansing Correctional Facility for \$48.00 for loss of property. His property was not inventoried when he was sent to court. When he returned he received his property with some items missing.

Libby Snider, KDOC, recommended that the claim be allowed for \$20.91, taking depreciation into consideration. No property inventory was done when he was transferred, and other inmates had access to Mr. Price's property for a time.

*Following discussion, the Joint Committee recommended that Claim No. 6143 be allowed for \$20.91 from Lansing Correctional Facility. (See section captioned "Committee Action and Recommendation.")*

After Committee discussion, it was determined that the next Committee meeting will be scheduled for Thursday and Friday, November 5 and 6, 2009. Thursday's meeting will begin at 10:00 a.m. and Friday's meeting will begin at 9:00 a.m. The meeting will be held in Room 535-N of the Capitol Building.

The meeting was adjourned at 12:30 p.m.

Prepared by Kathy Letch  
Edited by Cindy Lash



Approved by Committee on:

November 2, 2009  
(Date)