

MINUTES

JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT

November 29, 2011
Room 546-S—Statehouse

Members Present

Representative Pat Colloton, Chairperson
Senator Peter Brungardt, Vice-chairperson
Senator Terry Bruce
Senator David Haley
Senator Dick Kelsey
Senator Kelly Kultala
Senator Jeff Longbine
Senator Tim Owens
Representative Jim Denning
Representative Doug Gatewood
Representative Jana Goodman
Representative Jerry Henry
Representative Virgil Peck
Representative Jim Ward

Staff Present

Lauren Douglass, Kansas Legislative Research Department
Bob Allison-Gallimore, Kansas Legislative Research Department
Jason Thompson, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Tamera Lawrence, Office of the Revisor of Statutes
Jackie Lunn, Committee Assistant

Conferees

Ray Roberts, Secretary, Department of Corrections
Scott Schultz, Executive Director, Kansas Sentencing Commission
Curtis L. Whitten, Commissioner, Juvenile Justice Authority
Ed Klumpp, Legislative Liaison, Kansas Association of Chiefs of Police, Kansas Sheriffs
Association and Kansas Peace Officers Association
Stuart Little, Little Government Relations, LLC
Mark Masterson, Director, Sedgwick County Department of Corrections
Dr. Delores Craig-Moreland, Professor, Wichita State University
Peggy Pratt, Director of Northwest Kansas Juvenile Services
Betsy Gillespie, Director, Johnson County Community Corrections
Robert Siedlecki, Secretary, Department of Social and Rehabilitation Services

Morning Session

Chairperson Colloton called the meeting to order at 10:10 a.m. and outlined what the meeting would cover and what she hoped to accomplish. She announced she would hold the final meeting of the Committee the first week of the Session in January 2012, and referred to the proposed movement of some functions currently performed by the Juvenile Justice Authority (JJA) to the Department of Social and Rehabilitation Services (SRS).

Chairperson Colloton introduced Ray Roberts, Secretary, Department of Corrections, to give his testimony regarding capacity, staffing, population management, and possible legislation. He distributed a written copy of his testimony to the Committee and answered questions during his presentation (Attachment 1). Secretary Roberts introduced some of his staff, described their duties, and stated they also do work for JJA.

Secretary Roberts stated, over the past two years, the Kansas prison population has shown a steady growth from 8,602 in FY 2009 to 9,180 in FY 2011. This increase indicated, within the next ten years, the Kansas prison population will increase to 11,284. In FY 2011, 4,958 offenders were admitted to the Kansas Department of Corrections. Of these, 74.9 percent were new court commitments. Of the new court commitments, 40.0 percent are direct new court commitments, 32.8 percent are probation condition violators, and 1.8 percent are probation violators with new sentences. Based on the projections, the Secretary stated the offender population will not only grow over the next ten years, it will be composed of more serious and violent offenders.

As of March 2011, 47 percent of the inmates within the Kansas Department of Corrections system have been diagnosed with a mental disorder classified in the current Diagnostic and Statistical Manual of Mental Disorders (DSMIV) of the American Psychiatric Association, and 27 percent of the population has been diagnosed as severely and persistently mentally ill. It is estimated, over the next ten years, an additional 475 mentally ill offenders will be admitted to the system, with 175 of these offenders requiring special housing beds for males and 30 female mental health designated beds.

As the population increases and sentences become longer, the need for geriatric services also will increase. Today, 470 inmates in the Kansas Department of Corrections system need assisted daily living services.

In closing, he stated there will be a need for higher custody, special management, and geriatric beds during the next ten years. Meeting the growing need for higher custody beds will necessitate contracting for beds, construction of new beds, implementation of additional recidivism-reducing programs, or some combination of the above. Secretary Roberts outlined several potential programs to meet the needs of the Kansas prison population.

At the conclusion of the Secretary's presentation, Chairperson Colloton called the Committee's attention to the minutes from the September 20, 2012, meeting. *Senator Brungardt moved to approve the minutes. Representative Gatewood seconded. The motion carried.*

Chairperson Colloton referred to the Department of Corrections' request for an additional \$4.8 million to fund recidivism-reducing evidence-based programming, as outlined in Secretary Roberts' testimony, and asked if there was a motion to support the request. *Representative Ward made a motion for the Committee to recommend support of the Department of Corrections' request for an additional \$4.8 million in funding for recidivism-reducing evidence-based programming. Senator Brungardt seconded the motion.* A discussion followed, after

which Chairperson Colloton called for a vote on the motion. The motion carried with Representative Peck abstaining from voting.

Chairperson Colloton introduced Scott Schultz, newly appointed Executive Director, Kansas Sentencing Commission. He gave the Committee a quick outline of his background, then referred the Committee to the written copy of his testimony, *Fiscal Year 2012 Adult Inmate Prison Population Projections (Attachment 2)*. He began by noting a significant increase in the prison population in FY 2011. Analysis of FY 2011 prison admissions and releases revealed the largest number of admissions in excess of releases was found in the group of Off-grid felonies, followed by Non-drug Severity Levels V, III, I, and VII and Drug Severity Levels II and III.

Director Schultz reviewed the *FY 2012 Adult Inmate Prison Population Projections*. The largest increase over the ten-year forecast period is for Non-drug Severity Level III with a projected increase of 609 inmates. The second largest increase is for Non-drug Severity Level V with a projected increase of 376 inmates. The third largest increase is for the Off-grid offenders with a projected increase of 298.

Director Schultz referred the Committee to the *Ten Year KDOC Inmate Custody Classification Projection – FY 2012 Through FY 2021 (Attachment 3)*. He stated this projection addresses the types of beds the state would need for the total number of beds projected in the Adult Inmate Prison Projections. The end of 2012 forecasts the total prison population will reach 9,404, including 8,704 males and 700 females. It is projected, by the end of FY 2012, the male population will require 338 unclassified beds, 606 special management beds, 1,084 maximum beds, 1,621 medium high beds, 2,561 medium low beds, and 2,494 minimum beds. By the end of FY 2021, the male prison population is expected to reach 10,366. Of this population, it is projected that 364 unclassified beds, 802 special management beds, 1,215 maximum beds, 2,247 medium high beds, 2,868 medium low beds, and 2,870 minimum beds will be needed.

The female prison population is projected to reach 700 inmates in FY 2012 and 918 inmates in FY 2021. Of this population, it is projected 26 unclassified beds, 16 special management beds, 79 maximum beds, 75 medium high beds, 144 medium low beds, and 360 minimum beds will be needed by the end of FY 2012. By the end of FY 2021, it is projected 34 unclassified beds, 35 special management beds, 115 maximum beds, 112 medium high beds, 198 medium low beds, and 424 minimum beds will be needed.

At the conclusion of Director Schultz' presentation, Chairperson Colloton called the Committee's attention to the minutes from the September 21, 2011, meeting. *Senator Brungardt moved to approve the minutes. Senator Haley seconded. The motion carried.*

Chairperson Colloton introduced Curtis L. Whitten, Commissioner, JJA, to give his testimony (*Attachment 4*). Commissioner Whitten stated he sent a memorandum to the Committee members the previous week addressing the Committee's concerns from an earlier meeting. He then called on Randy Bowman to give a summary of the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) report. He stated the Foundation and JJA have been working with partnering judicial districts to assess the five pilot JDAI sites in Johnson County, Sedgwick County, Wyandotte County, Douglas County, and Shawnee County. It was noted there are roughly 450 beds across Kansas (detention centers only) at, roughly, 75 percent capacity.

Commissioner Whitten stated JJA has been working to avoid co-placements of JJA custody youth with "child in need of care" (CINC) youth in SRS custody. It appears the separation can be accomplished in ways not significantly impacting the lives of the youth and

the provider network, while providing a greater degree of protections for the lives and safety of the youth.

Commissioner Whitten then spoke briefly about the letter he received from Senator Kultala regarding the Committee's visit to the Topeka Juvenile Correctional Complex. He stated they have addressed the Committee's concern about vocational training for the girls there and referred the Committee to a copy of an email he sent to Chairperson Colloton on the topic ([Attachment 5](#)).

In closing, Commissioner Whitten referred to the Governor's proposed reorganization of JJA and SRS, which would transfer responsibility for the following four items from JJA to SRS:

- Prevention Block Grants;
- Prevention Trust Funds;
- Intake and Assessment Services; and
- Title II and Title IV grants.

Chairperson Colloton called on Robert Siedlecki, Secretary, SRS, to talk briefly about the proposed reorganization. He stated it would allow SRS to focus mainly on children and families, and he is planning to meet with county officials, sheriffs, and others to make the process more effective. In closing, he stated he would be in the meeting in the afternoon to take questions.

Afternoon Session

Chairperson Colloton called on Ed Klumpp, Legislative Liaison, Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association, to give his testimony on the impact of the proposed JJA and SRS reorganization. Mr. Klumpp stated the organizations he represents are concerned that, to date, there has been no interaction with local authorities who work on a daily basis with these programs to seek information, advice, or input regarding such a move. He stated, while the details are lacking, there are several potential impacts to local law enforcement and, more importantly, to the youth in need of these services. With the limited information available on the reorganization, the organizations he represents believe it is critical to examine the concerns associated with the proposed transfer of responsibilities ([Attachment 6](#)).

In closing, Mr. Klumpp stated law enforcement organizations look forward to learning more details about the implementation, which will reveal impacts on these services. Currently, the services are successfully guided by local decisions, based on local needs and resources. Their primary concern is assuring the state maintains high-quality delivery of services to at-risk youth. Their second is maintaining the efficiency of law enforcement operations, as well as the intake assessment, intervention, and treatment programs based on local resources and needs.

During discussion with the Committee, Mr. Klumpp reviewed the testimony from the early 1990s regarding the creation of JJA and the issues its creation was intended to address. Chairperson Colloton asked Mr. Klumpp to give the information to Lauren Douglass, Kansas Legislative Research Department (KLRD), so she could forward it to the Committee members.

Chairperson Colloton called on Stuart Little, Little Government Relations, LLC, to give his testimony regarding the proposed JJA and SRS reorganization ([Attachment 7](#)). Mr. Little opened by stating the creation of the JJA was one of the best things the Legislature did in the

1990s. It was created after three years of assessments and studies to to meet the needs of youth in Kansas. He believes the JJA is working in its intended way and is a very successful program that does not need to be changed at this time. He stated the Kansas Community Corrections Association (KCCA), which he represents, voted unanimously to take a position, based on what is known at this point, to oppose the reorganization of Medicaid-related programs. The reorganization, in the Association's opinion, is neither more efficient or a better public policy. Mr. Little stated reorganization of governmental functions is clearly the Governor's prerogative, but this reorganization proposal was done without stakeholder input. In closing, Mr. Little urged the Committee to consider the implications and issues related to the reorganization proposal and provide guidance as to what should be the next step.

Chairperson Colloton called on Mark Masterson, Director, Sedgwick County Department of Corrections, to give his testimony on the proposed JJA and SRS reorganization (Attachment 8). He stated the JJA was established to make juvenile delinquency prevention and juvenile crime a public safety priority. The function was removed from SRS because public safety was jeopardized due to the rise in gang violence and distribution of crack cocaine. Wichita and Sedgwick County experienced very serious increases in violent crimes by youth gangs in the 1990s. The system was full, overcrowded, dangerous, and broken. The Legislature enacted juvenile justice reform and created the JJA to respond to these critical public safety issues. It has been over a decade and there is overwhelming evidence that Juvenile Justice Reform worked. It is a reform with staying power. In closing, he urged the Committee to delay the decision of reorganization of JJA and SRS until the 2013 Legislature to allow time for discussion and analysis of the impacts, and stated his department opposed the reorganization. He invited the Committee to visit the model facility in Wichita. Chairperson Colloton said she would like to do so during the upcoming Session.

Chairperson Colloton called on Dr. Delores Craig-Moreland, Professor, Wichita State University. Dr. Craig-Moreland stated, before the JJA was established, the needs of juveniles were not met, and it is very important to have an agency with a single focus on at-risk youth. She believes the reorganization will not allow for public safety to be maintained and opportunities for prevention will be lost. She stated JJA created a level playing field throughout the state. She referred the Committee to the Sedgwick County Juvenile System Activity Chart and a listing of programs that have been cut and the programs still in existence (Attachment 9).

Chairperson Colloton called on Peggy Pratt, Director of Northwest Kansas Juvenile Services, to give her testimony on the proposed reorganization of JJA and SRS. Director Pratt did not present written testimony. She stated she was to give the rural perspective regarding the reorganization of JJA and SRS. Her organization services 17 counties in northwest Kansas, a very large area to cover. JJA is meeting the needs of all those counties and has been very successful. They do not have a detention facility in their area, but have used other tools available to meet their needs through community-based support. A change in their programs at this time would break their entire system, and it would be the same as it was before JJA and not beneficial for the kids of northwest Kansas.

Chairperson Colloton called on Betsy Gillespie, Director, Johnson County Community Corrections, to give her testimony regarding the proposed reorganization of JJA and SRS (Attachment 10). Director Gillespie stated she was representing Johnson County Community Corrections and the Johnson County Juvenile Corrections Advisory Board. She stated they do not have a problem with moving the current child care licensing process from KDHE to the new Department for Children and Families (DCF) or making the state's Medicaid system more efficient and effective while still serving those in need of service. However, they do have concerns about the move of Juvenile Intake and Assessment Services (JIAS) and Prevention

Block Grants from JJA to DCF. Several officials involved with the JJA program in Johnson County have contacted her and are concerned that all of the work the state and its local partners throughout the state have accomplished through juvenile justice reform has been ignored in the new reorganization plan. The juvenile system has worked and been very successful for the past 14 years in northeast Kansas.

She stated many people remember how dysfunctional the juvenile system was when it was under the purview of SRS. Law enforcement officials remember how difficult it was to find SRS staff when decisions needed to be made. Everything about the current system was created to be interconnected with law enforcement, corrections, and other local stakeholders working together for public safety and in the best interest of the juveniles and their families. She said simply makes no sense to disrupt the current system that is not broken. Johnson County has invested a great deal in a new facility that provides space at no cost to the state for JIAS functions. It is located on the correctional property and operated by corrections officials. They also have partnered with the Annie E. Casey Foundation to implement the Juvenile Detention Alternatives Initiative in five of the largest counties in Kansas. She stated the Prevention Block Grants would be moved to an agency that is not as aware of issues regarding at-risk youth as JJA through the local juvenile corrections advisory boards. The state's economy has suffered, state budget cuts have needed to be made, and Prevention Block Grant funding has been significantly reduced. These cuts have caused a reduction in the prevention programs and services statewide. Prevention programs are extremely important to prevent youth from entering or progressing further into the juvenile justice system. In closing, she urged the Committee to recommend the funding for Prevention Block Grants be increased in the 2013 Legislative Session.

Chairperson Colloton called the Committee's attention to the "written only" testimony of the Honorable Judge James L. Burgess, Presiding Judge, Juvenile Department, Sedgwick County ([Attachment 11](#)).

Chairperson Colloton called on Robert Siedlecki, Secretary, SRS, to give his testimony regarding the reorganization of JJA and SRS ([Attachment 12](#)). He stated the Governor has recommended, as part of his reorganization planning, that SRS assume responsibility for oversight of Prevention Block Grants, Prevention Trust Funds, Intake and Assessment, and Title II and Title IV grants currently administered by JJA. Chairperson Colloton and Secretary Siedlecki discussed why the reorganization of JJA and SRS was proposed and by whom; what analysis was made and by whom to warrant a reorganization; whether the fiscal impact had been studied; and who was involved in the process of laying out the proposal. During the discussion it was noted the secretaries of the departments and agencies involved were in the planning meeting, and a meeting would be held December 12 to include the stakeholders who appeared at this meeting.

Several Committee members asked questions. Representative Ward referred to an earlier SRS savings proposal submitted to the consensus estimating group and asked how that proposal might be affected by the movement of JJA functions to SRS. Senator Kultala asked about current levels and sources of funding, and how each might be affected by the proposed reorganization. Secretary Siedlecki offered to provide more detailed responses to these questions at a later time. In closing the discussion, Chairperson Colloton stated the burden was on the Secretary to identify what he wanted to do and bring back his proposal with details in writing after researching and meeting with stakeholders to find out if any changes need to be made.

Chairperson Colloton recognized Gina Meier-Hummel, Director of Children and Family Services, SRS, to speak. Ms. Meier-Hummel stated she understood the anxiety and concerns of the Committee and conferees. She endorsed the reorganization and stated officials are looking at what they can do to enhance the system. A discussion followed, noting they need to bring back information showing how the system would be improved.

Chairperson Colloton recognized Senator Kelsey, with the following motion for the Committee's consideration:

The Committee recommends that the proposal announced by Governor Brownback to move Juvenile Intake and Assessment Services (JIAS), State Prevention Block Grants, Kansas Juvenile Justice and Delinquency Prevention Trust Funds, Kansas Federal Title II and Title V prevention funding not be included in any Executive Reorganization Order (ERO) proposed by the administration for consideration by the 2012 Kansas Legislature. The committee believes that the movement of these programs would potentially negatively impact public safety by disruption of the current system, which is efficient, cost effective, and is working well. The current system has limited the number of youth held in Detention and has also allowed the Juvenile Justice Authority to significantly reduce the number of youth in out-of-home placement and in Juvenile Correctional Facilities. The front line of the juvenile intake and assessment system is local law enforcement. Local law enforcement has already established effective working relationships within the existing system to ensure that the needs in their communities and the needs of local units of government are met by JIAS. JIAS service delivery varies widely across the state, and in addition to its core function, also has focused greatly on compliance with the Federal Office of Juvenile Justice and Delinquency (OJJDP) regulations for sight and sound operation, non-institutionalization of status offenders, and other regulations, which if violated could jeopardize federal funding to the state. All of these regulations pertain to public safety, which is JJA's area of expertise. This proposal also would require local units of government to work with yet another state agency creating more, not less bureaucracy, layers of regulations, and increased costs for local units of government. For all these reasons, the Committee strongly recommends that no programs be moved from the Juvenile Justice Authority to any other state agency, at this time.

Senator Kelsey made a motion to adopt the recommendation. Senator Owens seconded. The motion carried with Representative Goodman voting "no."

Chairperson Colloton referred to proposed legislation found in the September 21 testimony of Brad Burke, Chief Counsel, JJA, and asked if there was a motion to support the legislation. *Senator Kelsey made a motion to introduce in the House legislation amending KSA 38-2304 and KSA 38-2203 to create a presumption that if a CINC youth is adjudicated a juvenile offender and placed in the custody of the Commissioner of the JJA, the youth's CINC case will be stayed during the pendency of the juvenile offender case. Upon dismissal or other termination of the juvenile offender case, the stay in the CINC case would be lifted, and the CINC youth would continue under the jurisdiction of the court in the CINC proceeding. Representative Gatewood seconded. The motion carried.*

Representative Ward made a motion to introduce in the Senate legislation that would amend KSA 38-2365 to create a presumption of reintegration and termination of the Commissioner's jurisdiction when a juvenile offender in the custody of the Commissioner of the

JJA has been placed back in the home for 60 days without incident. The juvenile offender then would be subject to the district court's jurisdiction for potential sentence modifications or termination. Senator Kelsey seconded. The motion carried.

Chairperson Colloton announced the last meeting would be held the first week of Session with details to follow.

The meeting was adjourned at 3:30 p.m.

Prepared by Jackie Lunn
Edited by Lauren Douglass

Approved by the Committee on:

January 10, 2012
(Date)