

## MINUTES

### JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT

October 7-8, 2004  
Room 241-N—Statehouse

#### Members Present

Senator Pete Brungardt, Chairman  
Representative Ward Loyd, Vice Chairman  
Senator Karin Brownlee  
Senator David Haley  
Senator Phillip Journey  
Senator Kay O'Connor  
Representative Doug Gatewood  
Representative Bill Light  
Representative Jan Pauls  
Representative Dale Swenson

#### Members Absent

Senator Greta Goodwin  
Senator Jean Schodorf  
Representative Tom Klein  
Representative Dean Newton

#### Staff Present

Jill Wolters, Revisor of Statutes Office  
Diana Lee, Revisor of Statutes Office  
Jerry Ann Donaldson, Kansas Legislative Research Department  
Becky Krahl, Kansas Legislative Research Department  
Connie Burns, Committee Secretary

#### Conferees

Dr. Stuart Little, Kansas Community Corrections Association  
Roger Haden, Programs and Staff Development, Kansas Department of Corrections  
Patti Biggs, Executive Director, Kansas Sentencing Commission  
Sam Cline, Warden, Ellsworth Correctional Facility  
Don Raymond, Director, InnerChange Freedom Initiative  
Kyle Smith, Kansas Bureau Investigation

David Chapman, Kansas Department of Social and Rehabilitation Services  
Cristi Cain, Coordinator, Kansas Methamphetamine Prevention Project  
T. J. Ciaffone, Unit Chief, Kansas Department of Health and Environment  
Roger Werholtz, Secretary of Kansas Department of Corrections  
Denise Everhart, Commissioner, Juvenile Justice Authority  
James Frazier, Deputy Commissioner, Juvenile Justice Authority

## **Thursday, October 7 Morning Session**

### **Update on Community Residential Beds**

Roger Haden, Deputy Secretary of Programs, Research and Support, Kansas Department of Corrections (KDOC), provided an update on Community Residential Beds (CRBs) (Attachment 1). CRBs provide structured living for offenders released from prison, who lack a suitable parole plan, or on post-incarceration supervision who have encountered difficulties in maintaining compliance with post release conditions. The main focus is to provide offender accountability and basic re-entry activities (*i.e.*, housing and employment) to encourage the offenders' successful return to the community. Offenders assigned are expected to seek permanent housing while residing in the temporary residence of the CRB.

Kansas has three CRBs located in Kansas City, Wichita, and Topeka with two sites closed due to budget cuts located in Shawnee County and Hutchinson. The total placement capacity at a given time is 86 male offenders statewide. Two contractors, Mirror, Inc. and the Salvation Army Shield of Service provide CRB services, these contractors are responsible for establishment and operation of the CRBs, including offender supervision, and delivery of services to offenders. Basic features of CRBs:

- Transportation if the offenders have no funds or are unable to utilize public transportation;
- Assistance in securing driver's licenses and social security cards;
- Assistance in obtaining clothing at reduced costs;
- Referrals to community services that provide medication at reduced or no cost;
- Scheduling transportation and follow-up medical, mental health and social security appointments;
- Developing employer contacts within the community that may hire difficult to place offenders, including those with serious medical or mental health needs, or those with serious person crimes, including sex offenses;
- Developing housing contacts for offenders who may have difficulty securing appropriate housing due to the severity of their criminal convictions.

*Representative Pauls made the motion to approve the Committee Minutes from the September meeting as corrected. Representative Light seconded the motion. The motion carried.*

### **Update on SB 123**

Patti Biggs, Executive Director, Kansas Sentencing Commission, provided the Committee with an update on SB 123—Alternative Sentencing Policy for Drug Offenders ([Attachment 2](#)). This alternative sentencing structure required changes to the state's sentencing policy and the development and implementation of policies and procedures. The implementation date of SB 123 was November 1, 2003. A summary table highlighted the major milestones achieved in the implementation and the following topics: treatment services, community corrections, invoicing and payments, a discussion regarding the overall number of offenders, and communication strategies employed.

### **Afternoon Session**

#### **Update on InnerChange Freedom Initiative**

Sam Cline, Warden, Ellsworth Correctional Facility spoke briefly on InnerChange Freedom Initiative (IFI) and introduced the Director of IFI at the Ellsworth Correctional Facility.

Don Raymond, Director, InnerChange Freedom Initiative (IFI) provided the Committee with a PowerPoint presentation ([Attachment 3](#)). IFI establishes a set of voluntary guidelines the offender agrees to adhere to, and places heavy emphasis on creating pro-social, pro-community attitudes, values and beliefs. Statistics were provided to the community on InnerChange Freedom Initiative ([Attachment 4](#)).

#### **Update on Methamphetamine Prevention and Treatment**

Diana Lee, Assistant Revisor of Statutes, provided the Committee legislation on methamphetamine prevention and treatment in 2004 Legislative Session ([Attachment 5](#)). New law from 2004 Session was HB 2777. This bill provided a fix for the problem created by the 2004 State v. McAdam decision of the Kansas Supreme Court and created the crime of aggravated endangering of a child. Proposed legislation from the 2004 session was:

- **HB 2317** – would have excluded any drug product containing, among other things, ephedra or pseudoephedra from the definition of “drug paraphernalia” in the Uniform Controlled Substance Act.
- **HB 2486** – would have provided for annual registration with the Kansas Bureau of Investigation for manufacturers of products containing ephedrine or pseudoephedrine, components for the production of methamphetamine.
- **HB 2766** – would have made retroactive the provisions of 2003 SB 123 dealing with mandatory drug treatment for certain offenders convicted of drug

possession, including offenders convicted of methamphetamine possession, and would provide for sentence modification for these offenders.

- **HB 2831** – would have provided for the conversion of a prison facility into a drug and alcohol treatment facility for certain offenders, including methamphetamine possession.

## **Kansas Bureau of Investigation**

Kyle Smith, Director of Public and Governmental Affairs, Kansas Bureau of Investigation, informed the Committee that the manufacture of methamphetamine is the number one public safety problem in Kansas. Long term health problems are also acute problems of fires and explosions from the manufacturing of methamphetamine ([Attachment 6](#)). Last year 120 children were found at lab sites, some with serious health problems. There are progressive measures and solutions to this problem:

- **Education and Prevention** – grants to fund the Methamphetamine Prevention Project. Expand education and prevention efforts in over 35 of 105 counties in implementing the core components of Methamphetamine Watch.
- **Treatment** – Part of the SB 123, the Legislature provided over \$8 million for drug treatment.
- **Enforcement** – The number of labs reported seized by law enforcement has gone down:
  - Reported Clandestine Laboratory seizures:
    - 2000 - 702
    - 2001 - 847
    - 2002 - 728
    - 2003 - 639

An Oklahoma statute signed last April requires the powder form of the immediate precursor drug that is used to make methamphetamine be sold only at pharmacies, upon showing photo ID and signing a log. The down side is that in Derby, Kansas, the Dillion's store reported a minibus from Oklahoma pulled in with about 20 apparently homeless people who came in and each bought the 3-package limit and got back on the bus. KBI expects many labs will simply move north of the border to make production easier due to the ease of acquiring the ephedrine and psuedoephedrine in Kansas. The solution is simple: control access to the precursor ephedrine and psuedoephedrine chemicals used by the clandestine laboratories. The Oklahoma statute and statistics after the legislation was passed, were provided to the Committee.

David Chapman, Addiction and Prevention Services, Kansas Department of Social and Rehabilitation Services, shared with the Committee statistical reports generated from 66 alcohol and drug abuse treatment programs that provided data to SRS ([Attachment 7](#)). Trends for treatment:

- FY 1995—shows 468 admissions with the primary problem of methamphetamine. FY 2004 admissions increased to 1,581 with the same primary problem of methamphetamine.
- FY 1995—methamphetamine as the primary problem accounted for 2.4 percent of all alcohol and drug abuse treatment admissions. FY 2004 admissions accounted for 10.6 percent.
- FY 2004—SRS reported admitting 1,581 clients with the primary problem of methamphetamine, an additional 1,107 clients presented with a secondary problem of methamphetamine. These programs reported another 850 admissions with a tertiary problem of methamphetamine.
- FY 2004—females accounted for 46.05 percent of methamphetamine admissions.
- FY 2004—9.97 percent of the women entering for treatment were pregnant at admission.
- FY 2004—76.79 percent of the women entering treatment were of child bearing age (15 to 35 years of age).
- FY 2004—Caucasians accounted for 91.14 percent of admissions.

Becky Krahl, Kansas Legislative Research Department, provided an overview of selected reports on methamphetamine programs in other states ([Attachment 8](#)). The Committee was provided with “A Study Prepared in Response to Wyoming House Bill 83” which included the executive summary, and information from the U.S. Department of Justice, with a timeline for the Wyoming Methamphetamine Initiative (WMI):

- 1993—Department of Criminal Investigation begins to notice an increase in the number of methamphetamine-related arrests.
- 1996—Bernie Ellis conducts studies to determine the nature and extent of substance abuse in Wyoming.
- 1997—State Legislature asks for a plan to combat the methamphetamine problem.
- 1998—State Legislature appropriates \$3.2 million to seed WMI.
- 1999—State Legislature delivers a 2-year, \$5.2 million appropriation to continue development and implementation of WMI.

The success of WMI will be known as the state evaluates the impact of its efforts. If the initiative fails, much can be learned from the process itself:

- the lessons of working together in a united front;

- taking the campaign to the public as a grassroots activism;
- success in the Legislature is the power of democracy; and
- the use of research to drive policy in making informed decisions.

Several handouts with statistical data about trends of drug abuse in America, State Enactment's related to Methamphetamine, Profile of Drug Indicators for Kansas, briefing papers on "The Methamphetamine Menace", and Kansas Drug Threat Assessment (Attachment 9).

## **October 8 Morning Session**

### **Kansas Methamphetamine Prevention Project**

Cristi Cain, Coordinator, Kansas Methamphetamine Prevention Project, updated the Committee on Outcomes in Kansas Communities, Key Evaluation findings, the accomplishments for 2004 and upcoming efforts (Attachment 10).

Outcomes in Kansas Communities:

- decrease in theft of precursors (including anhydrous ammonia);
- reduced usage by youth;
- increased arrests;
- increased safety;
- improved collaboration;
- increase in public awareness; and
- increased media coverage.

Key Evaluation findings:

- three of four fully implementing counties saw all-time lows in perceived availability, which is counter to statewide trends and comparison county trends;
- all counties saw improvement in rates of friends who used methamphetamine (historical lows);
- use of methamphetamine among high school seniors in the past 30 days decreased by as much as 24 percent;

2004 Accomplishments:

- national launch of Meth Watch based on Kansas model with training conducted in July 2004;
- home visitor safety training conducted for all SRS workers in the state (CPS, APS);
- creation of Kansas Alliance for Drug Endangered Children;
- Drug Endangered Communities State Conference; and
- numerous state and national presentations.

Upcoming Efforts:

- border county initiative;
- Drug Endangered Children efforts, including project in Shawnee County focusing on substance-exposed newborns;
- National Meth Legislative and Policy Conference;
- community mini-grants/funding for Regional Prevention Centers;
- web-based methamphetamine training; and
- pilot project for anhydrous ammonia control.

Information was provided to the Committee on related outcomes for Kansas youth and Border Counties Initiative.

## **Meth Watch**

T. J. Ciaffone, Unit Chief, Kansas Department of Health and Environment (KDHE), presented to the Committee information on the clandestine lab program ([Attachment 11](#)).

KDHE Methamphetamine Lab Cleanup Program:

- Kansas Chemical Control Act – 1999;
- three major tasks for KDHE;
- cleanup;
- education;
- notification;
- manufacturers, wholesalers, distributors; and
- retailer Meth Watch Programs.

Fiscal Year 2004 Summary:

- □ technical expertise utilized;
- □ press releases – eight published articles;
- □ other state assistance – 28;
- □ twelve states using Meth Watch;
- □ consumer Healthcare Products Association; and
- □ www.methwatch.com.

There is a coordinated effort between KDHE and KBI in training through National Guard and EPA and also in grant procurement.

#### Annual Cleanup Statistics:

- KDHE Cleanups – FY 2001;
  - □ 232 labs = \$258,534;
- KDHE Cleanups – FY 2002;
  - □ 487 labs = \$542,534;
- KDHE Cleanups – FY 2003;
  - □ 257 labs = \$280,262;
- KDHE Cleanups – FY 2004;
  - □ 240 labs = \$253,272; and
- \$1,055/per lab.

Cleanup information was provided to the Committee by county and the costs and count associated.

### **Updates on Kansas Prison Populations and Capacity**

Patti Biggs, Executive Director, Kansas Sentencing Commission, provided the Committee with statistical information on current prison populations and projected prison populations (Attachment 12). The total of new commitments indicates an increase of 18 offenders when compared with the previous fiscal year. The reduction of condition violators reflects the continuous impact of SB 323, enacted into law in May 2000 and eliminated post incarceration supervision for probation condition violator prison admissions. HB 2469 created a new crime, which was later assigned as KSA 65-7006 (precursor drug). The severity for this crime is a drug grid severity level I felony. The total prison admission under this statute has reached from zero to 156 admissions:

- □ two in FY 2000;
- □ 13 FY 2001;
- □ 49 in FY 2002;
- □ 47 FY 2003; and
- □ 45 FY 2004.



The “stacking effect” of Drug Level I in the prison population has already been observed. The prison population of Drug Level I:

- □ FY 1999 – 40;
- □ FY 2000 – 66;
- □ FY 2001 – 162;
- □ FY 2002 – 370;
- □ FY 2003 – 489; and
- □ FY 2004 – 640.

The FY 2004 Drug Level I prison population is 1,500 percent over the FY 1999.

The average length of sentence (LOS) of all severity levels in FY 2004 remained constant or slightly increased or decreased when compared with that of FY 2003. Regarding the estimated prison bed needs by individual severity levels – the most significant increase are found in Nondrug Level I (71.6 percent) Offgrid offenses (52.2 percent), and Drug Level I (32.9 percent). The increases in these severity levels are not only due to the increase in admissions and the length of sentence, but are also due to the stacking effect that will continue for a considerable amount of time, even if the LOS of Drug Severity Level I decreased.

FY 2005 projections indicate the state’s prison population will increase by 1,339 inmates or 14.6 percent over the ten-year forecast period. The increase over the projection period is due to the pronounced presence of the “stacking effect” of lengthy sentences for the most serious and violent offenses. The “stacking effect” is an issue that the state should examine seriously, since minor adjustments or policy changes will not alleviate the bed space problem.

## **Kansas Department of Corrections**

Roger Werholtz, Secretary, Kansas Department of Corrections (KDOC), provided a PowerPoint presentation with statistics and analysis of present prison populations ([Attachment 13](#)). Secretary Werholtz stated that Kansas is about in the middle compared to the national average:

- □ Kansas ranks 33<sup>rd</sup> in corrections spending as a percentage of personal income;
- □ Kansas ranks 34<sup>th</sup> in per capita spending for corrections;
- □ Kansas ranks 15<sup>th</sup> in state spending on corrections as compared to spending by local units of government (up from 19<sup>th</sup> in 2001);
- □ Kansas ranks 34<sup>th</sup> in sentenced prisoners under the jurisdiction of state correctional authorities;
- □ Kansas ranks 45<sup>th</sup> in terms of the number of persons per 100,000 on probation;
- □ Kansas reported 15,217 adults on probation on December 31, 2002;
- □ Kansas ranks 21<sup>st</sup> in terms of the number of persons per 100,000 on parole;

- Kansas ranks 14<sup>th</sup> in terms of the percentage of the correctional population (probation, community corrections, prison, and parole) that is incarcerated;
- The Kansas prison population has grown from 4,538 on June 30, 1985 to 9,111 on October 1, 2004.
- The Kansas in-state parole caseload increased from 2,762 (June 30, 1985) to 6,525 (February 21, 1994) and then declined 3,727 (December 21, 2001). It has now increased to 4,753 on October 1, 2004. Numbers of parolees supervised out-of-state through the interstate compact have followed a similar pattern.
- The Kansas Community Corrections Act program's average daily population increased from 1,672 in 1989 to 5,155 in 1999 and then declined to 4,133 in 2002. It increased to 4,678 as of September 3, 2004.

The demographics of the prison population (June 30, 2003):

- Gender -
  - 94.0 percent male; and
  - 6.0 percent female.
- Racial Group –
  - 2.5 percent Caucasian ;
  - 34.7 percent African American;
  - 2.0 percent American Indian; and
  - 0.8 percent Asian
- Current Age –
  - 15-19 - 1.9 percent;
  - 20-24 - 17.5 percent;
  - 25-29 - 15.1 percent;
  - 30-34 - 14.9 percent;
  - 35-39 - 15.8 percent;
  - 40-44 - 15.8 percent;
  - 45-49 - 9.4 percent; and
  - 50 + - 1.9 percent;
- Education Level –
  - grades 0-11, 39.8 percent;
  - high school graduate, 18.7 percent;
  - General Education Diploma, 34.1 percent; and
  - post high school, 7.4 percent.

Secretary Werholtz went over information concerning:

- FY 2004 Court Commitments by Type of Crime and Offense Grouping;
- Inmate Characteristics: Comparison of the June 30, 2003 and June 30, 2004 populations and also of male and female inmates;

- □ Characteristics of New Admissions Population: Comparison of FY 1994 – FY 2004;
- □ June 30, 2004 Inmate Population by Offense Grouping and Gender (Overall Most Serious Active Offense);
- □ Length of Sentences June 30, 2004 Inmate Population;
- □ FY 2003 Court Commitments by County;
- □ Capacity of Correctional Facilities: June 30, 2004 (by Gender and Unit);
- □ Capacity vs. Inmate Population as June 30, 2004 by Gender and Security/Custody Designation;
- □ FY 2004 Release Plans – Where do offenders go to live; and
- □ FY 2004 Release Plans – Where do sex offenders go to live.

### **Juvenile Justice Authority**

Denise Everhart, Commissioner, Juvenile Justice Authority, informed the Committee that the complete population numbers would not be available until December. James Frazier, Deputy Commissioner, provided the Committee with a statistical snapshot on population by facility ([Attachment 14](#)).

Don Houston, Vice President, The GEO Group, Inc., provided written testimony as a provider of private sector correctional management services ([Attachment 15](#)).

Information was provided by the Senate President's office on the Oregon Initiative that adopts emergency rules to temporarily regulate the sale of products containing pseudoephedrine, used to make methamphetamine ([Attachment 16](#)). The proposal requires stores to keep such products behind the counter, to require identification, and to record names of all buyers. This is similar to the statute enacted in Oklahoma.

The Committee meeting adjourned. The next meeting is scheduled for November 18 and 19, 2004.

Prepared by Connie Burns  
Edited by Becky Krahl

Approved by Committee on:

November 19, 2004

(date)