

MINUTES

JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT

November 2-3, 2006
Room 514-S—Statehouse

Members Present

Senator Pete Brungardt, Chairman
Representative Bill Light, Vice-Chairman
Senator Greta Goodwin, Ranking Minority Member, Senate
Representative Doug Gatewood, Ranking Minority Member, House
Senator Karin Brownlee
Senator David Haley
Senator Phil Journey
Representative Kathe Decker
Representative Jan Pauls
Representative Dale Swenson

Members Absent

Senator Jean Schodorf
Representative Jim Ward
Representative Shari Weber

Member Resigned

Senator Kay O'Connor (resigned October 20, 2006)

Staff Present

Reagan Cussimano, Kansas Legislative Research Department
Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Michael Steiner, Kansas Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Deb O'Neil, Committee Secretary

Conferees

Marilyn Scafe, Director, Kansas Reentry Policy Council (KRPC)
Pat Berry, Programs Manager, Kansas Department of Corrections
Bev Metcalf, President/CEO, Mirror, Inc.
Darren Ryan, Chemical Dependency Recovery Program
Gary Daniels, Secretary, Department of Social and Rehabilitation Services
Vickie Malley, Director of Substance Abuse Treatment Services, Community Mental Health

Center of Crawford County
Mark Keating, Director of Sex Offender Management, Kansas Department of Corrections
Ray Lowery, Director of Corrections Programs, Douglas County Citizen's Committee on Alcoholism
Rick Kendall, MS, State Program Manager, Sex Offender Treatment Program
Ray Dalton, Deputy Secretary, Department of Social and Rehabilitation Services
Kathie Harris, Intervention Team Supervisor, Kansas Department of Corrections
Larry Cyrier, Director of Education, Greenbush
Roger Werholtz, Secretary, Department of Corrections
Fred Lucky, Senior Vice-President, Kansas Hospital Association
Greg Madsen, Vice-President, St. John Hospital, Sisters of Charity of Leavenworth Health System
Dan Morin, Kansas Medical Society
E.K. Bruhn, Atchison Juvenile Correctional Facility
Don Jordan, Commissioner, Juvenile Justice Authority
Katrina Pollett, Superintendent, Beloit Juvenile Correctional Facility
Jennifer Eilert, Beloit Juvenile Correctional Facility
Mike Hoar, Chief Program Officer, United Methodist Youthville
Cheryl Rathbun, Vice-President of Clinical Services, St. Francis Academy
Mike Monahan, Industry Program Director, Kansas Juvenile Correctional Complex

**Thursday, November 2
Morning Session**

The meeting was called to order at 10:18 a.m. Senator Pete Brungardt opened the meeting with comments on the meeting topics scheduled for November 2 and 3, 2006.

Kansas Criminal Justice Recodification, Rehabilitation and Restoration (3Rs) Committee Update

Athena Andaya, Kansas Legislative Research Department (KLRD), gave an update of the activities of the 3Rs Committee. On April 16, 2004, House Substitute for SB 45 formed the 3Rs Committee. An Interim Report was filed by that Committee on April 1, 2005, to discuss the goals of the Committee.

Ms. Andaya reported that on October 14, 2005, 3Rs Chairman Representative Ward Loyd updated the Joint Committee on Corrections and Juvenile Justice Oversight (JCCJJO) restating the statutory responsibilities, explaining the three subcommittees, and introducing the Kansas Reentry Policy Council (KRPC), which was established to serve as both a conduit and oversight for potential funding that is granted for reentry initiatives. During the 2005 update presented by Representative Loyd, he noted that assistance has been provided to Kansas by the Council of State Governments (CSG) and funding from the Justice, Equality, Human Dignity and Tolerance (JEHT) Foundation in the amount of \$4.5 million, which was given directly to Kansas Department of Corrections (KDOC). It also was reported that Marilyn Scafe accepted the position of Executive Director of KRPC on August 21, 2006.

After a request for extension, HB 2555 by JCCJJO was introduced on January 9, 2006, to extend the 3Rs final report deadline to January 9, 2007, and to extend the life of the Committee to

March 31, 2007. A "Committee Report" consisting of the reports of the three Subcommittees was filed by the full Committee on January 20, 2006. On May 19, 2006, HB 2555 became law.

Ms. Andaya listed the three recommendations agreed upon by the full 3Rs Committee to recommend to the full Legislature. The first recommendation would be the establishment of an independent research body to evaluate Kansas criminal justice efforts, economic impacts, and benefits to Kansas. The second recommendation adopted by the full Committee would be in regard to information technology. The 3Rs Committee will recommend to the Legislature that the Kansas criminal justice agencies management information data systems be modernized by supporting the Kansas Criminal Justice Information System sustainability plan. Final recommendations will be discussed in the full Committee meetings on November 13, December 13, and December 14, 2006. It is hoped by then, all recommendations will be finalized and the final report will be printed and distributed by January 9, 2007.

Ms. Andaya also staffed the Behavioral Health Subcommittee and that subcommittee has not met since the recommendation came out in January. Since the "Committee Report" there is no further information to report.

A question was raised by Senator Goodwin as to the relationship between the Kansas Reentry Policy Council and the original Policy Council on which she served. Marilyn Scafe was asked to speak to that question and other issues covered by Ms. Andaya.

Marilyn Scafe, Director, Kansas Reentry Policy Council (KRPC), was asked to comment on some of the items mentioned in the update by Ms. Andaya. Ms. Scafe noted the very recent transition date of October 25, and stated that the priority has been getting an office established. There is not a lot to report to the Reentry Policy Council at this point. The salary for Ms. Scafe will be paid out of the initial Justice Equality Human Dignity and Tolerance (JEHT) Grant. In December, the JEHT Board will review the remaining grant money and the money should be received after the first of the year. Margie Phelps currently is developing the budget for the KRPC. Ms. Scafe noted that the Policy Board was formed to receive the initial JEHT money and has no statutory authority. KRPC is a strategic planning group, collaborating and enabling the various agencies to contribute more in the local settings for reentry (health care, mental health, among other things) issues. Ms. Scafe stated that her understanding on the remainder of the grant money was that it would come through the KRPC and the Department of Corrections (KDOC) would administer the funds. The KRPC office is located within the KDOC.

Jill Wolters, Senior Assistant Revisor, Kansas Revisor of Statutes Office, gave a progress report on the Recodification Subcommittee of the Kansas Criminal Justice Recodification, Rehabilitation and Restoration Project, which she staffs along with Jerry Donaldson. Ms. Wolters stated that the subcommittee has reviewed and made recommendations to the final drafts of Articles 31, 32, and 33 of the Criminal Code, which are the preliminary articles, the principle of criminal liability and anticipatory crimes. There are preliminary drafts of Articles 34 and 35, crimes against persons and sex offenses, but those Articles have not been reviewed fully in front of the Committee.

In future meetings, the Subcommittee will be discussing and making recommendations concerning the proportionality of sentencing and the Vera Institute study. It also will look at transferring the Drug Crimes from Chapter 65 of Public Health into Chapter 21 of the Criminal Code. The Subcommittee has agreed that there is not enough time to review crimes in other sections of the statutes outside the Criminal Code, but will make a general recommendation that the Legislature should look at putting all crimes into the Criminal Code at some point in the future.

Ms. Wolters stated that because of mitigating circumstances, the Recodification Subcommittee does not believe there will be a comprehensive draft ready by mid-November; however, there is a contingency plan in place (Attachment 1).

Reagan Cussimano, Kansas Legislative Research Department, addressed the Committee on the 3Rs Reentry Subcommittee findings. The Reentry Subcommittee has come up with seven recommendations, but has chosen as a subcommittee to pursue only two of those seven. There is discussion about considering four of the other recommendations for approval by the full 3Rs Committee. The two recommendations are:

- Establish a restricted driver's license for offenders who meet eligibility requirements.
- Review laws that limit employment or occupations for persons with felony convictions.

Ms. Cussimano discussed these recommendations and the rationale behind them. The full 3Rs Committee has requested draft legislation on each of these recommendations for review at the next meeting.

The other five recommendations listed by Ms. Cussimano as having been studied by the Reentry Subcommittee but having no action taken are:

- Review the current Kansas Tort Claims Act and insurance regulations to provide immunity from liability and insurance for organizations or individuals providing volunteer transportation services for offenders;
- Mandate the Kansas Bureau of Investigation forward data regarding pending warrants to the Kansas Department of Corrections on a weekly basis;
- Require jails that receive offenders upon release to contact the local parole office if the offender is released within 30 days;
- Remove the prohibition against offenders living in group homes for persons with disabilities; and
- Modify the statute that limits offenders sentenced under determinate sentencing to return under revocation for 180 days.

Overview of Drug/Alcohol Treatment Programs

Patricia Berry, Corrections Manager for Substance Abuse Treatment Programs, Kansas Department of Corrections (KDOC), gave a brief overview of their various programs. The facility-based programs within KDOC are the Chemical Dependency Recovery Program (CDRP) at Larned Correctional Mental Health Facility, the Treatment of Alcohol and Substance at Labette (TASAL) at Labette Women's Correctional Camp, the Therapeutic Community (TC) Programs for males (Hutchinson Correctional Facility and Osawatomie Correctional Facility), and females (Topeka Correctional Facility). Ms. Berry discussed the type, location, length, and space available for each of these programs, the rules and expectations of the programs, and the tools used in said programs. Information on the Community-based Transitional Therapeutic Community (TTC) Program also was discussed. Ms. Berry shared FY 2007 budget information, as well as the gaps in services, with the

Committee, stating that there always are waiting lists and never enough services (Attachments 2 and 3).

Roger Haden, KDOC, in answer to a question asked by Representative Decker, stated that the waiting lists for the programs discussed by Ms. Berry will be addressed in the budget.

Beverly Metcalf, President/CEO, Mirror, Inc., introduced her associate, Cynthia Brightenbach to the Committee and then shared that Mirror, Inc. has a 30-year history of delivering substance abuse treatment services. The model that Mirror, Inc. incorporates has the principles of effective correctional treatment, using social learning skills, cognitive skill development, cognitive restructuring, and relapse prevention development resulting in a cognitive therapeutic community. Ms. Metcalf also shared outcomes recidivism rates and outcomes employment as well as charts and graphs detailing dollars, beds, and hours (Attachment 4).

Representative Light requested further information on outcomes. Senator Goodwin suggested including an item in the Committee Report about not having treatment programs for a large portion of the State. Representative Decker felt the issue was funding rather than the lack of treatment centers, and asked for a list of all treatment facilities. It also was noted that the Regional Alcohol and Drug Assessment Center (RADAC) does the assessments.

Afternoon Session

Overview of Drug/Alcohol Treatment Programs (continued)

Reagan Cussimano again addressed the Committee, clarifying issues raised in regard to the 3Rs Committee update in the morning session. With regard to the Reentry Subcommittee's recommendation mandating the forwarding of data regarding pending warrants to the KDOC on a weekly basis, Ms. Cussimano stated that Secretary Roger Werholtz, KDOC, has requested time for the implementation of a program to address this. Currently, KDOC has access to "Kansas Hot Files" which contains data that can be used to identify pending warrants. Secretary Werholtz requested 12 to 18 months so that KDOC can coordinate with other agencies. In reference to Representative Decker's request, Ms. Cussimano provided a map of treatment providers by county, along with the website (<http://www.srskansas.org/hcp/aaps/>) for the Addiction and Prevention Services (AAPS) services throughout Kansas (Attachment 5).

The second item in regard to the 3Rs Committee dealt with modifying the statute that limits offenders sentenced to determinate sentencing to return under revocation for 180 days. The understanding that Ms. Cussimano has as to the rationale behind modifying that statute was that the 180 days does not tie into a treatment or any type of programming, so they would be looking at adjusting the statute to allow time to complete treatment programs. Secretary Werholtz stated that this is a 3Rs discussion, and in the 3Rs' meetings, he has been a part of the considerations on this subject centered around having sufficient time to complete treatment or education programs to address the reasons offenders were coming back to prison. One of the other pieces of the discussion, coming primarily from Parole Board members, was frustration over repeat offenders. One of the ideas discussed was that on a second or third return (on a condition violation), release might actually be controlled by the Parole Board, as opposed to a "date certain" release. The 3Rs Committee never decided on a specific permutation of that, the consideration is to address the frustration of repeat returns and to try to have sufficient time to make some type of programmatic response.

Darren Ryan, Chemical Dependency Recovery Program (CDRP), thanked the Committee for allowing him to speak, and said Ray Reno, Deputy Warden, was with him today. Mr. Ryan stated that the CDRP came over from SRS to the KDOC in 2000. The mission of CDRP is to "provide a therapeutic environment conducive to treatment for men who are currently in the custody of the KDOC and in need of chemical dependency treatment." Mr. Ryan shared a trifold handout with the Committee which describes the program, the mission statement, the philosophy, goals, outcomes, and various other items. The handout states that the inmates are required to take responsibility for attendance and completion of assigned tasks. Each inmate is required to complete a realistic and comprehensive relapse prevention plan, with assistance from their counselor, prior to discharge (Attachment 6).

CDRP is an 18-week intensive outpatient program, the only short-term substance abuse treatment program KDOC offers for male offenders. Forty treatment slots are available in the current program and they are utilized 100 percent of the time. A great deal of time is spent on relapse prevention plans, incorporating as many resources and facility personnel in the plan as possible. According to Mr. Ryan, statistics verify that inmates who complete the CDRP return to prison at a lower rate than those who needed substance abuse treatment, but did not participate; those who participated in other substance abuse programs (primarily Therapeutic Community); or those participating in CDRP but not completing the program. The "Thinking for a Change" model is one of the best and if implemented correctly should have good results. Mr. Ryan also discussed the CDRP Mentoring Program, which began three years ago and has had a total of 24 participants, as well as the criteria for the CDRP Mentoring Program (Attachment 7). Representative Decker requested numbers for the Therapeutic Community (an 11 to 13-month program as compared to CDRP, an 18-week program). Mr. Haden said he would get additional numbers to the Committee.

Gary Daniels, Secretary, Department of Social and Rehabilitation Services (SRS), gave an overview of substance abuse treatment services and Corrections. Secretary Daniels informed the Committee that there are more than 1,200 drug and alcohol counselors working in 245 licensed treatment agencies providing substance abuse services in Kansas. Fifty-one are contracted to provide Substance Abuse Prevention and Treatment (SAPT) Block Grant-funded services, 96 are providing Medicaid (Title-XIX) substance abuse treatment services, and 56 programs that are providing services under the 4th time DUI treatment grants. SRS collects data from these SRS funded programs. This system provides substance abuse treatment services to approximately 15,000 people annually. There are 6,632 clients admitted to SRS administered programs from Corrections or Law Enforcement. This total represents 44 percent of all treatment admissions into SRS funded programs in FY 2006.

In regard to treatment effectiveness, Secretary Daniels stated that the SRS data indicates most individuals admitted to SRS funded programs were admitted only one time during the year (88 percent) and only 9 percent were admitted twice during the year. Research has demonstrated that positive treatment outcomes are contingent on adequate lengths of treatment. Ninety days is generally of little or no benefit. The average length of stay for block grant funded clients is 139 days, while those in the 4th time DUI program average 315 days in treatment services. The level of funding has not kept pace with the demands on the Block Grant and 4th Time DUI programs. SRS supports the KDOC request for additional funds as well as making an enhancement request of their own to increase the funds available to support the expanding need in these programs.

In the spring of 2004, Secretary Daniels said the federal Centers for Medicare and Medicaid Services (CMS) notified SRS that portions of the Medicaid State Plan were considered out of compliance. Throughout the first half of 2006, a collaborative and focused work group of staff from SRS and the KHPA, assisted by consultants with both CMS and state plan expertise, explored options. A foundation for responding to CMS was developed consistent with the values that have

guided system partners in developing sturdy community-based services, and would support future transformation goals. Mr. Daniels shared some of the specifics of that plan (Attachment 8).

Vickie Malle, MSCJ, SCADC, SB123 Program Coordinator/Outpatient Counselor, Community Mental Health Center of Crawford County, addressed the Committee in regard to Addictions Treatment Programs of Southeast Kansas. There are ten SB 123 clients seen in the outpatient program, two to ten in the intermediate program, and two to four in the women's reintegration program. Ms. Malle shared that the "Thinking for Change" curriculum (developed by the KDOC) and Relapse Prevention Counseling by Terrence Gorski, Cenaps Corporation, were the programming materials used in their program. In addition, Ms. Malle recently went to Los Angeles to observe an evidence based practice developed and used by the Matrix Institute Inc., a non-profit treatment program, which they currently are using only in specific areas, but desire to have incorporated into all levels of care.

Substance Abuse Treatment Services, Community Mental Health Center is housed with Crawford County Community Corrections, which has been found to be a very effective arrangement. Ms. Malle discussed service charges and the various ways treatments are paid. In Crawford County, reimbursement rates are adequate for all levels of care except women's reintegration (Attachment 9).

Overview of Sex Offender Treatment Programs

Mark Keating, Director of Sex Offender Management, KDOC, stated that the issues of managing and treating sex offenders are probably the biggest issues in society today. Growing attention in the media and recent legislation have created an awareness in the community of sex offender treatment. As a department, KDOC has a mission to assist these sex offenders in becoming law-abiding citizens as well as to help them be successful in their reintegration. A major component of that is the Sex Offender Treatment Program (SOTP). The KDOC Internal Management Policy and Procedure (IMPP) 11-115 governs how KDOC treats, manages, and supervises sex offenders. There is a focus on lowering the risk of reoffense.

Since 1992, KDOC has contracted with Douglas County Citizen's Committee on Alcoholism, Inc. (DCCCA), a provider of sex offender treatment services in the facilities and in the communities. DCCCA is continually upgrading programs and specialized treatment groups are available and can be tailored to meet the needs of the offender.

Mr. Keating gave the total number of sex offenders incarcerated or on supervision in Kansas, the SOTP budget for FY 2007, and a breakdown of program slots by facility. Additionally, he gave the numbers of successful completions as well as unsuccessful terminations for FY 2005 and FY 2006, stating that the number of those successfully completing SOTP almost doubled from FY 2005 to FY 2006 (Attachments 10 and 11). Senator Brownlee asked that DCCCA, Inc. keep track of whether those offenders considered "successful" reoffend.

Ray Lowery, Director of Correctional Programs, Douglas County Citizen's Committee on Alcoholism (DCCCA), Inc., stated that he was responsible for finding experts in the field to put in charge of specific areas to provide the best possible treatment services for the State of Kansas, as well as to oversee the business operations. They are the exclusive provider for Federal Corrections sex offender treatment in Kansas. In addition, DCCCA also has relationships at the community corrections level throughout the State and provides sex offender treatment services in communities. They deliver treatment to 11,000 to 12,000 offenders. DCCCA recommends "co-facilitated" groups where two therapists provide treatment. Because of a rapid incline in numbers between 2000 and 2006, which are now beginning to plateau, there was a need to increase the number of groups, which

would in turn increase the number of counselors if co-facilitation was maintained. Therefore, the groups were reduced to a less desirable "single counselor" scenario. The contract is up for bid soon, and they will have to evaluate what they can or cannot do at the current funding level, which will be reflected in the RFP. DCCCA may need to make some changes in services to meet current fiscal requirements.

Richard (Rick) Kendall, Kansas State Program Manager, Sex Offender Treatment Program KDOC, addressed previous questions on recidivism rates. KDOC tracks offenders for three years from the time of release. Last year the, recidivism rate of those successfully completing treatment programs was 2.5 percent.

Mr. Kendall described the various types of sex offenders (child molesters, rapists, and Internet offenders), and also spoke to the process of identifying whether a sex offender is a sex predator. The Multi-Disciplinary Team (MDT) rates the offender as high, medium, or low risk prior to their release. The criteria used to determine if an offender is considered an actual sexual predator includes: number of convictions (patterns), non-conviction history, conduct (cruelty level) in offense, clinical information, and institutional adjustment. After reviewing these criteria, the file goes to the Attorney General's office to determine sex predator status. If the MDT finds them high risk, the Attorney General's office takes the offender to the court of their original jurisdiction where the Judge determines if probable cause exists. Specifically, that the probable cause that a sex offense was committed and the person has a mental condition or abnormality such that they are more likely than not to reoffend. If that determination is made, the offender is sent to Larned State Hospital for an evaluation. If all criteria are met, the offender is provided the opportunity for a civil commitment hearing and then is civilly committed as a sex predator ([Attachment 12](#)).

Overview of Sex Predator Program

Ray Dalton, Deputy Secretary, Department of Social and Rehabilitation Services, testified that as of October 27, 2006, there were 152 sexual predators in the Sexual Predator Treatment Program (SPTP) at Larned State Hospital (LSH). Over the last year, there have been 20 new admissions, with an average of 1.67 admissions per month. Five residents are at Transitional House Services (THS) located on the grounds of the Osawatomie State Hospital (OSH). One resident was placed on conditional release last year.

SRS continues the plan to develop a community based SPTP group home for those in transition who are frail, elderly, and need assistance 24 hours a day, seven days a week. The newly implemented SB 506 residency restrictions and county zoning requirements have limited possible sites for a community based SPTP group home. Because of a steady growth in admissions, there is a need for additional housing, staffing, and other resource increases. SRS believes THS will be full by the end of December. There are expansion and remodeling projects occurring in various locations. By the end of November, there will be space for 219 SPTP residents at LSH; however, there are only funds for 160 residents ([Attachment 13](#)).

Review of Adult Education Programs

Kathie Harris, Intervention Team Supervisor, KDOC, discussed educational/vocational programming for offender success. Her team includes Mark Keating and Pat Berry, and they are responsible to manage, monitor, and develop programs that will intervene with the disruptive

behavior of the offender. Ms. Harris stated that the KDOC contributes to public safety by exercising safe and effective incarceration, managing offenders in the community, and actively encouraging and assisting offenders to become law-abiding citizens.

Upon incarceration, inmates undergo a comprehensive assessment to identify risk areas in education, substance abuse, employment, medical, and mental health. Ms. Harris gave an overview of the GED/literacy program, vocational programs, and the Life Skills Program. In summary, Ms. Harris said that current educational and vocational capacities cannot accommodate the need, and KDOC is working to fill programming gaps. However, without expanded education capacity, offenders will leave prison without the education necessary to obtain sustainable employment and succeed in the community. As of September 26, there were 277 inmates on the waiting list for GED or literacy programs that need to have them completed in eight months. Ms. Harris also shared some difficulties in the reentry process as a lack of work experience and criminal records make it difficult to obtain employment, as many occupations are closed to felons. According to Ms. Harris, offenders are five times more likely to return to prison if they cannot find a job (Attachments 14 and 15).

Larry Cyrier, Director, Greenbush Education Services for KDOC, provided testimony regarding education services in Kansas adult correctional facilities. He also stated that they provide education services to the Juvenile Justice Authority (JJA). Mr. Cyrier shared Greenbush's vocational programs by facility and gave a brief description of the vocational curriculum, stating that some of the top jobs will be in the construction arena.

Mr. Cyrier shared that in the decade from 1996 to 2006, budgets have been reduced by 50 percent. Last year, two classroom programs were lost. In 1996, there were over 120 staff; now there are 49 staff members. There are now only three supervisors for the entire state compared to the 14 previously employed. Overall, KDOC and Greenbush have a great partnership and are committed to quality education and, it is hoped, there will be a plan to rebuild education (Attachment 16).

Discussion of HB 2893

Jill Wolters, Senior Assistant Revisor, Office of Revisor of Statutes, addressed the Committee in regard to HB 2893 which is related to health care costs and Medicaid fraud. Sections 1 and 2, dealing with health care costs, will be covered in this meeting. According to Ms. Wolters, Section 1 of the bill limits the liability of a law enforcement agency for health care costs of persons in custody to the lesser of the actual health care provider billed amount or the Medicaid rate. It is the responsibility of the custodial law enforcement agency to determine, under agreement with the Kansas Health Policy Authority, the amount payable for the services provided and to communicate that determination along with the remittance advice and payment for the services provided.

Ms. Wolters stated that Section 2 prohibits a law enforcement officer from releasing a person in custody while the person is receiving treatment from a health care provider merely to avoid the cost of necessary medical treatment, unless the health care provider consents to such release, or unless the release is ordered by the court (Attachment 17).

Roger Werholtz, Secretary, KDOC, shared that the KDOC is a part of a collaborative team, along with the Kansas Association of Counties and a number of other entities, that has looked at ways to cut health care costs. The Secretary stated that in four months there has been a 70 percent savings to the counties. The savings resulted from reduced rates as well as from the review that the health care provider does on the medical billings to make sure there are not duplicate billings or that charges that would normally be bundled are not separated.

In regard to HB 2893, Secretary Werholtz said that the KDOC and the Juvenile Justice Authority, (JJA) were originally part of that bill, but it was apparent the bill was not likely to emerge from the Judiciary Committee as long as the KDOC and JJA were involved. They felt it was important for the counties so JJA and the KDOC asked to be removed from the bill. In addition to the cost issues raised in the discussions during the 2006 Legislative Session, public safety issues also were raised ([Attachment 18](#)). Secretary Werholtz cited these two issues as the reasons for the KDOC and JJA originally being included in HB 2893. The KDOC pays rates in excess of rates paid to insurance companies at some hospitals. Secretary Werholtz stated that the solutions proposed have been unsuccessful to this point and that the KDOC is soliciting ideas to resolve the issues. Discussion followed, with ideas including turning the issues over to the Health Policy Authority to deal with, looking at the way other states deal with the issue, and discussing some "middle ground" with the hospitals instead of asking for Medicaid rates.

Fred Lucky, Senior Vice-President, Kansas Hospital Association (KHA), explained the impact of HB 2893 to the Committee. According to Mr. Lucky, a widespread practice of local law enforcement agencies was to "un-arrest" offenders in need of medical care and instruct the health care provider to provide services, with the intent that the law enforcement agencies then would not be responsible for the bill. After services were rendered, the healthcare provider was to call law enforcement to come and re-arrest the patient/offender. Local law enforcement agencies did not like having to pay the full rate. The process, as originally begun, related solely to the Sheriff's Association. In the end, both sides agreed that if providers would accept Medicaid payment rates for services rendered, then the practice of "un-arresting" would be discontinued. The KDOC came into the picture later when the bill went to the Senate. During the negotiations and subsequent hearings on HB 2893, the members of KHA were unanimous in their opposition to the inclusion of the KDOC for several reasons, including low Medicaid rates. Mr. Lucky stated KHA will remain in opposition to their inclusion ([Attachment 19](#)).

Greg Madsen, Vice-President, St. John Hospital, Sisters of Charity of Leavenworth Health System, stated that St. John offers a substantial discount to Lansing Correctional Facility. Mr. Madsen stated that when an inmate is brought in, there are different issues that must be addressed. The patient is in dire need of care because less dire needs are taken care of in the infirmary of the correctional facility. Additionally, an inmate will take one room to themselves when a room typically accommodates two patients. To treat inmates at Medicaid rates is to take a higher cost patient at a substantially below cost reimbursement, as Medicaid pays far below their actual costs. According to Mr. Madsen, a hospital cannot continue to exist with too high a percentage of Medicaid pay. There also is the added problem of people not wanting to come to a hospital that cares for inmates, which cuts the hospital revenues even further ([Attachment 20](#)).

Dan Morin, Kansas Medical Society (KMS), stated that KMS would agree with KHA in regard to the Medicaid issues. Most physicians nationwide are not continuing to see new Medicare patients because the reimbursement levels are set at such a level that those patients are a loss for many practices. Medicaid rates are even substantially lower than Medicare rates and that could cause a problem with access to care in Kansas. One in five physicians cannot afford to pay the employees they need to hire to process the administrative tasks of Medicaid.

KMS was in the discussions during the 2006 Legislative Session with the KHA and the Sheriff's Association. One of the reasons KMS endorsed HB 2893 as it passed was because of their sympathy with the counties, who have no control over determining what the health care costs are going to be from year to year, because there is no constant population. The entire budgets of some counties would be expended because of inmates having heart attacks or other severe problems. The KDOC has a more stable inmate population. An additional issue for KMS is that KDOC patients are, generally, a much higher cost patient than the normal patients and they have a much higher

incidence of psychiatric issues. The KDOC population, in conjunction with the aging general population, has caused health care costs to rise increasingly.

Mr. Morin stated that it was his understanding that the KDOC health programs will go under the umbrella of the Kansas Health Policy Authority, and that Authority is to come back to the 2008 Legislature with recommendations to improve the process and costs for the KDOC.

The meeting was adjourned for the day at 5:05 p.m.

Friday, November 3 Morning Session

Overview of Treatment Programs in the Juvenile System—Mental Health/Substance Abuse

E.K. Bruhn, Program Director, Atchison Juvenile Correctional Facility (AJCF), told the Committee that each facility has mental health programs as well as substance abuse programs, offered on a daily basis. Mr. Bruhn gave an overview of the Juvenile Correctional Facilities (JCF) Mental Health Programs, outlining the individual programs at Atchison Juvenile Correctional Facility (AJCF), Beloit Juvenile Correctional Facility (BJCF), and Kansas Juvenile Correctional Complex (KJCC), with an emphasis on AJCF where he is involved on a daily basis. Most of the programs offered by the different facilities are similar but they each offer unique programming and curriculum to address each youth's individual needs ([Attachment 21](#)).

Approximately 40 percent of AJCF juvenile offenders need psychotropic medications. Systemwide, the number is closer to 25 percent. For a juvenile to be assigned to Larned, the youth is not taking medication on a regular basis and is at risk for suicide and self harm issues. Larned houses youth ages 10 to 22 1/2.

Mr. Bruhn continued by addressing the JCF substance abuse service programs, which are offered at each facility. All male youth entering the JCF system are screened for substance abuse problems upon admittance to the KJCC reception and diagnostic unit (RDU). BJCF does the same assessments and testing on female youth entering the facility. The assessments help identify any programming the youth might need to address their substance abuse issues. Youth in need of the most intensive substance abuse services are transferred to LJCF to be served in their intensive substance abuse program ([Attachment 22](#)).

Overview of Treatment Programs in the Juvenile System—Update on Level V and VI

Reagan Cussimano, KLRD, gave an overview on Level V and Level VI Issues. "Medicaid," "Centers for Medicare and Medicaid Services (CMS)," "Federal Medical Assistance Percentage (FMAP)," "Medicaid State Plan," and "Institution for Mental Disease" were all defined to give further understanding to the Committee on this issue. Ms. Cussimano described a Level V facility and explained determining factors for Level V out-of-home placements. Youth placed in this type of facility

have a length of stay limit of 140 days, according to the Medicaid state plan, so Federal Medicaid funds cannot be claimed for stays in excess of 140 days. There are 17 facilities in the state of Kansas with a capacity to serve 489 youth.

Level VI facilities also were described as well as the services provided by these types of facilities. In Level VI, placements are not to exceed 90 days unless an extension is approved by the staff. Youth placed in Level VI facilities have a length of stay limit of 180 days, according to Medicaid state plan. There are 10 Level VI facilities in Kansas with a capacity to serve 300 youth. Ms. Cussimano explained the factors determining Level VI placement and gave background on the Level V and VI issue ([Attachment 23](#)).

Don Jordan, Commissioner, JJA, stated that it was not until the end of 2005 that JJA, SRS, and the Kansas Health Policy Authority (KHPA) were faced with length of stay limitations. In January 2006, the agencies began paying from the State General Fund in order to continue services. After coming up with a mechanism to deal with the length of stay issue, the agencies and providers worked together to develop a system to meet the needs of children and families in Kansas in such a way that the Center for Medicaid Services (CMS) would want to participate in helping fund the facilities.

Mr. Jordan shared written testimony that he had presented previously, giving an update on how providers and agencies have been engaged in the SRS process to redesign residential services in Kansas to meet the CMS concerns. CMS stated that current Level V and VI facilities in Kansas are generally Psychiatric Residential Treatment Facilities (PRTFs) and need to follow federal PRTF guidelines. At that time, the focus was switched to helping current Level V and VI facilities become PRTFs. The switch allows the agency to ensure youth have access to appropriate residential services to meet their therapeutic needs, keep the current provider system intact, and ensure federal funding participation is maximized. As mandated, an accrediting body has been chosen and JJA is working closely with providers to ensure they have the tools and information needed to adjust their services to meet PRTF regulations. The accrediting body is working closely with providers to ensure that they will be accredited by January 1, 2007. Many steps have been taken by SRS, JJA, and KHPA to make any changes successful ([Attachment 24](#)).

PRTFs will require "medical necessity" for admission. Therefore, length of stay issues will then be determined by medical necessity rather than an arbitrary number of days. Youth will regularly be reassessed to determine the continued need for that level of care. Some former Level V facilities did not see their mission as mental health treatment, so Youth Residential Centers (YRC) are being examined. These will be paid less than the current Level V facilities and will focus more on social services treatment (educational programs, vocational independent living, and socialization). Level V and Level VI defined as PRTFs, YRC, and Foster Care with the future possibility of small group homes are treatments that will be available.

Beloit Juvenile Correctional Facility Virtual School

Katrina Pollett, Superintendent, Beloit Juvenile Correctional Facility (BJCF), addressed the Committee on changes that have occurred in the last few months around the educational programs at the BJCF. Previously, USD 273 Beloit provided all educational services for the youth in the facility. During the 2005 Session the utilization of virtual schooling was raised and the Juvenile Justice Authority began to investigate the use of this type of school at BJCF. Greenbush put together an education package that best suited the needs at BJCF that met the requirements set forth by the No Child Left Behind Act at a cost of \$300,000 per year. Under these arrangements, Ms. Pollett believes they will be able to raise achievement in math and reading at least two grade levels ([Attachment 25](#)).

Don Jordan, Commissioner, JJA, discussed the educational programs offered at the juvenile correctional facilities, stating that each juvenile correctional facility offers unique educational opportunities to the youth in their care. Commissioner Jordan stated that the goal of all of the facilities is to ensure youth receive the educational training they need to become successful citizens. Mr. Jordan then gave a brief description and cost per youth of the basic educational programs offered at each of the juvenile facilities ([Attachment 26](#)).

Overview of Sex Offender Treatment Programs in the Juvenile System

Katrina Pollett, Superintendent, BJCF, gave the Committee a brief overview of female sex offender programs offered at the facility. Ms. Pollett explained that the primary treatment providers at BJCF have training and experience working with those classified as juvenile sex offenders. Upon entering the facility, information is gathered from various case managers, pre-sentence investigations and witness reports, and from Community Agency Supervision Information Management System (CASIMS), which is a JJA maintained database, to help design the best possible program for the youth. Youth begin participating in a treatment group immediately after completing the 21-day intake and assessment process. Two groups in which the youth may be placed are the Pathways group and the Growing Beyond group, utilizing Growing Beyond—a Treatment Manual for Girls, for those having been sexually abused themselves, which are ongoing treatment groups. The Pathways group was discussed in detail ([Attachment 27](#)).

Jennifer Eilert, Beloit Juvenile Correctional Facility, told the Committee that she would speak specifically to females who had been sexually abused and were now abusers or sex offenders themselves. Ms. Eilert said that at this point at BJCF, 100 percent of female juveniles adjudicated for sex crimes have admitted or stated they themselves were sexually abused. Some of this abuse has been verified by SRS investigation. The youth are not allowed to use their abuse as an excuse for their offense but it is important for females who have been abused to identify past abuse and address their own sexual abuse history. By addressing their own history, the youth can deal with it rather than act out which reduces their risk of reoffense.

Relationship issues are addressed and empathy is taught as the door to understanding and connecting to others. Trust, boundaries, aggression and forgiveness are addressed, along with the feelings and behaviors that have come about as a result of their victimization. The youth learn to take responsibility for their offense, to understand why they committed their offense, and to have a plan to make sure that offense does not occur again in the future ([Attachment 28](#)).

BJCF has provided sex offender treatment since 1996 and thus far none of the females who received sex offender treatment have returned for sex offenses. About 20 percent of the population of BJCF are sex offenders. The average length of incarceration for female sex offenders is 18 months. HOPE (Healing Our Pride and Esteem) is a program for girls who have been sexually abused, but their offense was not a sex crime. It is a healing process for them to become survivors and not remain victims of their abuse. Forty to 65 percent of females admitted to BJCF claim to have been victims of sexual abuse. This is not necessarily accurate and the number of victims of sexual abuse is generally higher as many will not admit they have been abused initially, but will come forward later when trust is built.

Mike Hoar, Chief Program Officer for Residential Programs, United Methodist Youthville, has been working in Residential Treatment for over 30 years and with sexual issues programs for eight years. Youthville has a Sexual Aggressive Treatment Program (SATP) which started in November 1999 and a Sexual Issues Treatment Program (SITP) which began in February 2003. SATP has served 70 clients thus far while SITP has served 40 clients. Youthville is part of the Joint

Commission on Accreditation of Health Care Organizations (JCAHO) accredited program and a Child Welfare League of America Agency. The program enables participants to understand the destructive impact of their offenses on their victims, families and themselves, and learn responsible means of meeting personal needs and interacting with others. Residents must account for their offenses and for the thoughts, feelings and perceptions they experienced before, during, and after each offense. They must be prepared to work in those relationships and their own self-perceptions. Therapy is reality based and may be confrontational at times for the clients.

Mr. Hoar said that the philosophy of Youthville includes a strong belief in the adolescent's accountability and responsibility for the offending behavior. Honesty, victim empathy, behavior, and relapse prevention are key principles in the program. Difficulty with limits, boundaries, authority, assertiveness, and control are usually presenting problems for the adolescent offender, according to Youthville's Chief Program Officer, so all living areas have constant and direct supervision whenever clients are present. Additionally, all bedrooms and bathrooms have been remodeled to be single units.

Treating the client for their own victimization also is part of the program, according to Mr. Hoar, because over 70 percent of the abusers also have been victims. Almost all of the clients in the SITP have been victims. The primary goal of the program is to reduce the client's risk of re-offending and to have each adolescent understand and control his sexually deviant behaviors. This is measured by successful completion of the program. Relapse prevention and potential liabilities, as well as other issues and concerns, were explained to the Committee by Mr. Hoar, who strongly recommended that out-patient therapy and post-residential treatment include individual, group, and family therapy, as there needs to be a continuum of treatment. As offenders progress in their treatment, the intensity can decrease, but comprehensive treatment is critical (Attachment 29).

E.K. Bruhn, Program Director, AJCF, addressed male sex offender treatment in the juvenile correctional facilities. Mr. Bruhn informed the Committee that each youth who committed a sex crime participates in sex offender programming throughout their stay. Figures as of June 30, 2006 showed 358 male and 24 female youths incarcerated in a juvenile correctional facility. Of those, 33 percent are sex offenders (122 male sex offenders and five female sex offenders). Sex offenders make up 47.5 percent of the AJCF population, 36.9 percent of the Larned Juvenile Correctional Facility population, 26.4 percent of the Kansas Juvenile Correctional Complex population, and 20.8 percent of the BJCF population. Programming for the juvenile correctional facilities is comprised of four phases and each youth is required to take a combination of these classes. Mr. Bruhn said that the majority of male youth with sex offenses are required to take Phase I and Phase III. Individuals with more than one offense, who demonstrated planning, aggression, or violence toward their victim, or who demonstrate continuing problematic sexual behavior within the facility, also are required to take Phase II (Attachment 30). Mr. Bruhn stated that the one thing he might ask of the state to benefit the program and allow for expansion would be a specialized treatment unit that would deal only with sex offenders, allowing a higher intensity level with more specialized groups, better treatment, and better counselors.

Cheryl Rathbun, Vice-President of Clinical Services, St. Francis Academy, stated that providing treatment services for youth who are perpetrators of sexual abuse has been part of the St. Francis service continuum for over 25 years. Ms. Rathbun gave a brief overview of services, saying that at any given time, there are approximately 25 youths in residential settings with St. Francis Academy and 35 in non-residential settings. These youth come predominately from Central and Western Kansas. Costs for services typically run more than the state reimbursement amounts. The Juvenile Justice Authority has been providing supplemental reimbursement dollars per service delivery for Level V Sex Offender Treatment to address the difference, but this will end with PRTF implementation. Ms. Rathbun also mentioned the "medically necessary" service requirement as being a problem and addressed other continued challenges. In addition to her testimony, Ms.

Rathbun provided the Committee with a supplemental packet of information for review regarding research on adolescent sex offenders, including FAQ's from NCSBY (National Center on Sexual Behavior of Youth) and information from MATSA (Massachusetts Adolescent Sexual Offender Coalition). A sheet delineating different types of sexual abuse was handed out separately to the Committee (Attachments 31 and 32).

In the course of answering questions from the Committee, Ms. Rathbun stated that there are very different treatment plans for predators than for opportunists. Some relapse prevention topics also were covered.

Ms. Cussimano, reminded the Committee of the LCC charges for this Committee, as the afternoon session would include deliberations and recommendations for the Committee Report. The first charge from the LCC for the Joint Committee on Corrections and Juvenile Justice Oversight was a review of the Johnson County Therapeutic Community programs and services, in addition to a review of the funding issues that had come up with the Kansas Sentencing Commission in regard to additional funds requested during the last legislative session. Secondly, the LCC asked the Committee to review the monitoring of activities of offenders through TOADS (Total Offender Activity Documentation System) and KASPER (Kansas Adult Supervision Population Electronic Repository) and the funding of those programs. Also, the Committee was to review the Driving Under the Influence (DUI) treatment services and the funding sources.

Afternoon Session

Overview of Education Programs in the Juvenile System

Mike Monahan, Industry Program Director, Kansas Juvenile Correctional Complex (KJCC), has been involved with the education of troubled and delinquent youth for 20 years. At KJCC, young men have the opportunity to earn their GED or high school diploma and, upon completion, enter the postsecondary programs offered through Highland Community College and Kaw Area Technical School. In conjunction with that, they also work while pursuing their education. KJCC offers an industries program which has a number of different goals. One of the goals is to keep the young men busy and engaged as there are fewer problems if they are kept busy. Additional goals are to give them "job specific" skills and an opportunity to learn about skills that will allow them to remain employed. Another reason the KJCC industries program exists is to provide the youth with an opportunity to earn an income and pay any restitution that they owe, pay tuition in a post-secondary program, and accumulate funds for their transition back into the community. The programs are a great motivator for the youth to continue their appropriate and responsible behavior. There currently are three industries operating on campus. Mr. Monahan described the greenhouse production, textiles, and MKS/Rehabilitech programs (Attachment 33).

Attachment 34 was given to the Committee to review.

Committee Deliberations and Recommendations for Committee Report

The Committee discussed topics recommended by the Legislative Coordinating Council and topics addressed during the Interim. The Committee made final recommendations.

Other Business

Minutes from the September meeting were approved as corrected.

Representative Gatewood recognized Representative Decker and the fact that she would not be returning to the Legislature next year. Representative Gatewood said that he had appreciated serving with her on this Committee, on other House juvenile justice and corrections committees and various education committees, and noted that she would be missed. The sentiment was echoed by the rest of the Committee members.

The meeting was adjourned by Senator Brungardt.

Prepared by Deb O'Neil
Edited by Reagan Cussimano

Approved by Committee on:

December 29, 2006

(date)