

## MINUTES

### KANSAS CRIMINAL JUSTICE REFORM COMMISSION

November 22, 2021  
Room 142-S—Statehouse

#### Members Present

Marc Bennett, Chairperson  
Honorable Glenn Braun  
Sheriff Bill Carr  
Professor John Francis  
Chief Jeff Hooper  
Spence Koehn  
Sylvia Penner  
Bill Persinger  
Professor Jean Phillips  
Jennifer Roth  
Shelly Williams  
Jessica Domme, Designee for Attorney General Derek Schmidt, ex officio  
Scott Schultz, Executive Director, Kansas Sentencing Commission, ex officio

#### Members Absent

Representative Stephen Owens, Vice-chairperson  
Senator David Haley  
Senator Rick Wilborn  
Representative Gail Finney  
Chief Todd Ackerman  
Jennifer Baysinger  
Chad Harmon  
Honorable Rustin Martin  
Tabitha Owen  
Pastor Adrion Roberson  
Jeff Zmuda, Secretary of Corrections, ex officio

#### Staff Present

Natalie Nelson, Kansas Legislative Research Department (KLRD)  
Milesa Segun, KLRD  
Lindsay Archer, KLRD  
Jason Thompson, Office of Revisor of Statutes  
Jenna Moyer, Office of Revisor of Statutes  
Connie Bahner, Committee Assistant

## **Others Attending**

Jonathan Ogletree, Kansas Prisoner Review Board  
Stephanie Duriez, Council for State Governments (CSG)

## **MONDAY, NOVEMBER 22 AFTERNOON SESSION**

### **Call to Order**

Chairperson Bennett called the meeting to order. Natalie Nelson, Kansas Legislative Research Department (KLRD), took roll. A quorum was present.

### **Approval of October 18, 2021, Meeting Minutes**

*Sheriff Carr moved to approve the minutes from the October 18, 2021, meeting, seconded by Mr. Persinger. Following a roll call vote, the minutes were approved.*

### **Discussion and Consideration of Research-Based Incentives Subcommittee Report**

Chairperson Bennett stated Judge Braun would like to make comments regarding the Diversion Subcommittee recommendations discussed last week. He stated a need for a recommendation to make diversion fees more uniform across the state; his experience is that certain county prosecutors have varying fees from one jurisdiction to another, which can lead citizens to feel that justice is “for sale”. Judge Braun stated the Legislature should study uniform fees and costs so the potential for abuse in that area is removed. Chairperson Bennett stated it was recognized the terms and conditions of diversion are up to the local prosecutor, but setting standardized fees are up to the Legislature, and that consideration may be included in the Commission’s report.

Chairperson Bennett stated Mr. Koehn sent out an updated report from the Research-Based Incentives Subcommittee to reflect suggestions made at last week’s meeting. Mr. Koehn explained he added a sentence to the amendments to KSA 21-6608 to clarify that the intention of the proposed language is not to limit the power of the court to terminate probation at any point, but to provide supervision officers a path to recommend early termination of probation following these benchmarks.

*Professor Francis moved to submit the report of the Research-Based Incentives Subcommittee in its entirety for inclusion in the Criminal Justice Reform Commission’s Final Report, seconded by Sheriff Carr. Following a roll call vote, the motion passed.*

## **Discussion and Consideration of Race in the Criminal Justice System Subcommittee Report**

Chairperson Bennett stated, given the limited time, the subcommittee could not study every issue related to race. However, other groups have been doing work on the topic and the subcommittee wanted to use this as an opportunity to shed light on the work being done in this subcommittee and elsewhere in the state.

Chairperson Bennett stated the subcommittee heard from the Governor's Commission on Racial Equity and Justice (CREJ) and found there to be some overlap between the goals of CREJ and the Commission, namely each group's focus on "stabilizing factors," such as access to work, treatment, housing, healthcare, and education. The members of the subcommittee recognize the exhaustive work of CREJ and draw particular attention to the work done and suggestions made by that body with respect to common areas of concern, as set forth below.

### ***Co-Responder Programs***

The subcommittee believes the expanded use of co-responder programs would be in the best interests of the State of Kansas, and would be of particular benefit to individuals without adequate access to mental health care, an issue that too often affects communities of color. The subcommittee decided not to submit a specific suggestion for legislation because the subcommittee recognizes that the following issues must first be addressed: 1) lack of consistent funding sources for the implementation of co-responder programs and the hiring and retention of appropriately-trained mental-health professionals; and 2) the deficit of qualified mental health professionals in both rural and urban areas of the state. The subcommittee recommends the Legislature create a statewide advisory board to monitor the development and implementation of co-responder programs across Kansas.

### ***Training***

Chairperson Bennett explained the issue of law enforcement training was a recurring topic for the subcommittee. The expanded use of implicit-bias training, diversity training, and de-escalation training through the Kansas Commission on Peace Officers (KSCPOST); Standards and Training for existing officers and for new officers graduating from the Kansas Law Enforcement Training Center is recommended by the subcommittee. The subcommittee also recommends the Office of Judicial Administration and the Kansas Department of Corrections expand similar training for their probation and parole officers. Finally, the subcommittee recommends the membership of KSCPOST be expanded to enhance the diversity of the commission.

### ***"Criminal Street Gang" Definition***

The subcommittee discussed concerns with the current statutory definition of "criminal street gang member" set forth at KSA 21-6313; the minimum bond requirements for criminal street gang members as set forth in KSA 21-6316; and the application of the definition to the Racketeer Influenced and Corrupt Organizations Act statute, KSA 21-6328(b)(1). While strong concerns were raised regarding the fairly vague definition in the current statute, time limitations prevented the subcommittee from offering proposed amendments to clarify the language. The members of the subcommittee recommend that further attention be paid to the definition set forth in KSA 21-6313. In the Interim, subcommittee members agreed that a statutory change to KSA 21-6316 to require bail be "appropriately set" rather than "at least \$50,000" was

appropriate, and recommended the Legislature re-evaluate the definitional language found in KSA 21-6313.

### **Collection of Evidence**

While the subcommittee did not have time to formulate a final recommendation, the subcommittee agrees there is a need for enhanced demographic data including race, gender, and ethnicity of individuals having contact with law enforcement to be maintained in an accessible, statewide database.

Following discussion on the subcommittee's report, the Commission agreed to add language pertaining to the training recommendation to reflect the value of crisis intervention training, the use of "guardian"-style training over "warrior"-style training, and the recognition of issues that must be addressed to expand training as the subcommittee recommends. The Commission also agreed to include a recommendation for mental health training for those holding licensure through the Kansas Board of Healing Arts and other applicable boards. The Commission also agreed to include recognition of the work done by the Pre-trial Task Force with respect to the criminal street gang membership statute.

*Sheriff Carr moved to submit the report of the Race in the Criminal Justice System Subcommittee, as amended, in its entirety for inclusion in the Criminal Justice Reform Commission's Final Report, seconded by Shelly Williams. Following a roll call vote, the motion passed.*

Chairperson Bennett stated the work of the Kansas Criminal Justice Reform Commission has now been completed and directed Natalie Nelson, KLRD, to add a statement in the final report acknowledging the work of former Commission facilitator Reggie Robinson and Representative Russ Jennings.

Chairperson Bennett asked staff to keep him informed when bills are set for hearing so that he can contact the chairs of the subcommittees about providing testimony on those bills.

Stephanie Duriez, Council of State Governments (CSG), stated CSG would be happy to assist, prepare, and coordinate items in the upcoming legislative session related to this Commission's work.

### **Adjourn**

There being no further business, the meeting was adjourned at 3:37 p.m.

Prepared by Connie Bahner

Edited by Natalie Nelson

Approved by the Committee on:

February 14, 2022

(Date)