

MINUTES

KANSAS DUI COMMISSION

October 1-2, 2009
Room 143-N—Statehouse

Members Present

Senator Tim Owens, Chairperson
Representative Janice Pauls, Vice-chairperson
Senator David Haley (October 1)
Representative Lance Kinzer
Gregory Benefiel
Pete Bodyk
Mark Bruce
Honorable Jennifer Jones
Secretary Don Jordan
Wiley Kerr
Ken McGovern
Chris Mechler
Helen Pedigo
Marcy Ralston
Honorable Peter Ruddick
Dalyn Schmitt
Les Sperling
Ed Klumpp substituted for Police Chief Bob Story
Jeremy Thomas
Douglas Wells
Secretary Roger Werholtz
Karen Wittman
Deb Stithem substituted for Secretary Don Jordan
Dave Sim substituted for Wiley Kerr

Members Absent

Mary Ann Khoury - excused

Staff Present

Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Lauren Douglass, Kansas Legislative Research Department
Jason Thompson, Office of the Revisor of Statutes

Sean Ostrow, Office of the Revisor of Statutes
Karen Clowers, Committee Assistant

Others Attending

See attached list.

Monday, October 1 Morning Session

The meeting was called to order by Chairperson Owens at 9:05 a.m.

The Chairman announced that Ed Klumpp has been appointed by Attorney General Six to replace Police Chief Bob Story. Police Chief Story resigned as Chief of Police of Junction City to work in the private sector in Iraq.

The Commission approved the September minutes with the following changes:

- Changing the word "heresy" to "hearsay" on the bottom of page 5 and anywhere else it appears;
- On page 2, paragraph 6, in the first sentence by inserting the word "with" after Commission; in the second sentence strike the word "several" and insert "in 103 counties" and change client based system to "client-server based system." Additionally, the Committee changed the third sentence to read: "The court data is stored at the client's server (*i.e.*, in each county) and provides court information to state agencies as provided by statute."
- On page 4, insert "for all DUI offenders" before "(Attachment 6)."
- On page 5, insert the word "current" before penalties in the first and second bullet.
- On page 6, under Les Sperling's subcommittee report, on the seventh bullet, strike ASAM and insert Alcohol and Drug Safety Action Program.

Ed Klumpp moved, Greg Benefiel seconded, to approve the minutes of September 14-15, 2009 as corrected. Motion carried.

Honorable Phil Journey, 18th Judicial District, addressed the Commission, providing his perspective concerning DUIs (driving under the influence) in Kansas as a judge of the District Court with respect to the use of ignition interlock systems (Attachment 1).

David Wallace, Director, National Center for DWI (Driving While Impaired) Courts, National Association of Drug Court Professionals, provided the Commission with an overview of DWI/DUI Courts (Attachment 2). Mr. Wallace provided background on the establishment of DWI Courts and the advantages specialized courts provide such as the development of a specialized treatment focus and a manageable network of relevant and supportive community resources. Mr. Wallace reviewed the *10 Guiding Principles of DUI Courts* and studies of the programs established in Michigan and

Georgia regarding success and recidivism.

Honorable Peggy Davis, Court Commissioner and DWI Court Facility Member for the National Drug Court Institute, addressed the Commission on the various aspects of the Greene County (Missouri) DWI Court (Attachment 3). The presentation covered the development and current performance of the DWI court.

The Commission recessed for lunch.

Afternoon Session

The meeting reconvened at 1:00 p.m.

Steve Talpins, Chairman and CEO, National Partnership on Alcohol Misuse and Crime spoke on DUI Courts, the South Dakota 24/7 Sobriety Program and Hawaii's HOPE (Hawaii's Opportunity Program with Enforcement) (Attachment 4).

Honorable Peter Ruddick presented the Commission with a Judge's perspective on DUI in Kansas (Attachment 5). Comments included:

- Data on the number of filings, jail populations, work release admission in Johnson County;
- Effective local programming for pre-trial release, probation, and a successful hybrid work release program; and
- Suggestions on the increased felony DUI cases due to current statutes and recent Appellate Court decisions.

Gordon Lansford, Director, Kansas Criminal Justice Information System (KCJIS) spoke about KCJIS and the electronic submission of DUI records and information sharing (Attachment 6). Mr. Lansford provided a brief overview of the KCJIS system.

Stuart Little reviewed a letter from Claudia Larkin, Executive Director, Kansas Association of Addiction Professionals, endorsing the standing motion from September 15 on the licensing of addiction professionals (Attachment 7).

Chairman Owens opened the standing motion on the licensing of addiction professions for consideration. Following discussion Chris Mechler withdrew her motion from September 15. Roger Werholtz, the second, had no objection.

Ed Klumpp moved, Major Mark Bruce seconded, for the Commission to support and encourage the Legislature to hold full hearings on a bill providing for the licensing process of addiction counselors and to pass such legislation provided it includes meeting the goals of assuring addiction counseling providers are qualified and accountable without jeopardizing availability of services, and that related administrative and regulatory support is adequately funded.

Following discussion Ed Klumpp made a substitute motion for the Commission to support and encourage the Legislature to hold full hearings on a bill providing for the licensing process of

addiction counselors. Major Mark Bruce seconded the substitute motion. Motion carried.

The meeting was adjourned at 4:15 p.m.

Friday, October 2 Morning Session

The meeting was called to order by Chairperson Owens at 9:10 a.m.

Athena Andaya, Kansas Legislative Research Department, briefed the Commission on rental company policies regarding rentals to individuals required to have an ignition interlock device (Attachment 8). She reported that rentals are made to individuals with a valid driver's license and installation or use of an ignition interlock device is not covered in their contracts. Ms. Andaya noted that the State of Illinois does have a statute requiring any person whose driving privilege is restricted by requiring an ignition interlock device shall notify any person intending to rent, lease, or loan a motor vehicle to them. The Illinois law also makes it a misdemeanor to knowingly rent, lease, or loan a motor vehicle to a person known to have his or her driving privilege restricted to having to drive a vehicle equipped with an ignition interlock device.

Jason Thompson, Office of the Revisor of Statutes, briefed the Commission on additional information regarding the New Mexico DWI law from questions raised during the September 15 meeting (Attachment 9).

Doug Wells addressed the Commission on DUI from the perspective of a defense attorney (Attachment 10). Mr. Wells agreed the goal is to protect the public by providing full and fair implementation of DUI statutes efficiently and with a focus on rehabilitation. His remarks included recent changes to the laws including elimination of the decay rate, expungements, problems facing rural areas, and the increased costs to taxpayers. Mr. Wells also suggested increased judicial discretion in sentencing, enhancements to driver's license restrictions, and the effects of metabolite drugs in a person's system.

Michael R. Clarke, attorney, provided his perspective on DUI defense stating the focus needs to be on stopping repeat offenders. He endorsed the use of ignition interlock devices indicating suspension of drivers' licenses is not working. It does not stop people from driving, most of the State is rural and it is nearly impossible to manage without driving. Mr. Clarke also stated his opinion that mandatory sentences are not effective, partially due to an uninformed public. The implied consent statute is confusing, and current law does not encourage a breath test.

Written comments on DUIs from a defense attorney's perspective were provided by Brian Leininger, Leininger Law Offices, Overland Park, Kansas (Attachment 11).

The Commission broke into subcommittees for discussion on their assigned topics.

The Commission reconvened at 2:06 p.m.

The Chairman indicated the Commission will review the subcommittee reports at the beginning of the next meeting in order to start formulating an interim report for the Legislature in January.

The meeting adjourned at 2:30 p.m.

The next scheduled meeting is November 5, 2009.

Prepared by Karen Clowers
Edited by Athena Andaya

Approved by Commission on:

November 5, 2009
(Date)