DRAFT

Report of the Joint Committee on Corrections and Juvenile Justice Oversight to the 2010 Kansas Legislature

CHAIRPERSON: Representative Pat Colloton

VICE-CHAIRPERSON: Senator Pete Brungardt

OTHER MEMBERS: Representatives Barbara Craft, Doug Gatewood, John Grange, Jerry Henry, Joe Patton, and Jim Ward; and Senators Karin Brownlee, Terry Bruce, David Haley, Richard Kelsey, Janice Lee, and Thomas C. "Tim" Owens

STUDY TOPICS

Statutory duties pursuant to KSA 46-2801 in which the Committee is statutorily directed to monitor the adult inmate population and study the programs, activities, plans, and operations of the Kansas Department of Corrections and the adult correctional institutions; monitor the establishment of the Juvenile Justice Authority and study its programs, activities, plans, and operations and the juvenile correctional facilities; review and study the adult correctional and juvenile offender local programs and related entities; and report annually to the Legislative Coordinating Council.

December 2009

Joint Committee on Corrections and Juvenile Justice Oversight

Report

Conclusions and Recommendations

The Committee makes the following recommendations:

- Endorse the concept of taking fees for DUI alcohol treatment;
- Introduce House bill (9rs1208) which would change the district court fine allocation to fund the therapeutic communities in prison;
- Encompass the visions that the Kansas Sentencing Commission proposed and be introduced as a House bill for the 2010 Legislative Session, such as:
  - Merge the non-drug and drug sentencing grids into one grid;
  - Reduce or eliminate the number of special sentencing rules for property offenders;
  - Place as many felonies on the grid as possible;
  - Recommend changes to the drug laws;
  - Manufacturing methamphetamine is a level 3 person felony while manufacturing all other drugs would be a level 5 felony;
  - Sale, distribution, and possession with intent to sell or distribute would be based on the quantity of drugs possessed to be sold or actually sold; and
  - Make a first time domestic battery a class B person misdemeanor, a second domestic battery a class A person misdemeanor, and a third or subsequent domestic battery a level 7 person felony;
- Move forward with Specialty Courts for further development;
- Introduce a bill in the House on early release of terminally ill inmates;
- Recommend commendation of the work of community corrections and urge that community corrections be a high priority of the Legislature; and acknowledge that the prison population will be impacted if funding is not available;
- Introduce a Senate bill that would raise the probation fee to an amount that would cover approximately $300,000 needed to institute risk assessment tools in court services;
- Introduce a Senate Bill (9rs1090) that will prevent the transfer to a KDOC facility for offenders who have 10 days or less to be served in the state prison and require the offender be retained in the county jail;
- Recommend the Public Safety Budget Committee strongly consider approving the $750,000 for the radios for the Kansas Department of Corrections to be in compliance with federal regulation;

- Recommend examining ways to control offender population growth prior to running out of beds and examining what options are available to the Legislature;
- Recommend further study of nonfunctioning mentally ill inmates;
- Recommend the Parole Board consider pre-SB 123 offenders, and to bring them into compliance with the balance of the current guidelines of SB 123;
- Support, encourage, and recommend a collaboration between the Kansas Juvenile Justice Authority (JJA) and the Kansas Supreme Court to implement the use of the Youthful Level of Service/Case Management Inventory (YLS/CMI) at the court services level prior to disposition of juvenile offender cases;
- Support and encourage the JJA to implement a contract condition for all YRCII providers that require participation in the Community Based Standards (CbS) facility evaluation process and acknowledge that there will be a cost associated with it; and
- Support JJA's move away from the one size fits all approach to move toward what is described as best practices of the three tier system of level of risk in order to contain the problem described and to keep the contact between the juvenile offenders.

Proposed Legislation: The Committee recommends the introduction of five bills.

Background

The 1997 Legislature created the Joint Committee on Corrections and Juvenile Justice Oversight (Committee hereinafter) to provide Legislative oversight of two executive agencies: the Kansas Department of Corrections and the Juvenile Justice Authority.

The Kansas Department of Corrections (KDOC) is a cabinet-level criminal justice agency created in 1975 to provide effective containment, risk management, and supervision of adult offenders. KDOC operates eight correctional facilities: El Dorado Correctional Facility, Ellsworth Correctional Facility, Hutchinson Correctional Facility, Lansing Correctional Facility, Larned Correctional Mental Health Facility, Norton Correctional Facility, Topeka Correctional Facility, and Winfield Correctional Facility. KDOC operates parole offices located in 19 communities throughout the state. KDOC also is responsible for the administration of funding and oversight of 30 local community corrections programs. The two correctional conservation camps, one for men and one for women in Labette County, are now closed.

The Kansas Juvenile Justice Authority (JJA) is a cabinet-level criminal justice agency that began operating on July 1, 1997. Individuals as young as ten years of age and as old as 17 years of age may be adjudicated as juvenile offenders and ordered into the custody of the Commissioner of Juvenile Justice. The JJA may retain custody of a juvenile offender in a juvenile correctional facility to the age of 22.5 and in the community to the age of 23. The JJA has four correctional facilities but only two remain operational as correctional facilities: Larned Juvenile Correctional Facility (LJCF) and Kansas Juvenile Correction Complex (KJCC), East and West. LJCF exclusively serves male offenders. KJCC is divided into two separate campuses. The west campus exclusively serves female juvenile offenders and the east campus exclusively serves male offenders. The third facility, the Atchison Juvenile Correctional Facility, suspended operations as a juvenile correctional facility on December 8, 2008. The fourth facility, Beloit Juvenile Correctional

Facility, suspended operations as a juvenile correctional facility in September, 2009.

The Committee is composed of 14 members: seven members each from the House and Senate. The Joint Committee on Corrections and Juvenile Justice Oversight is statutorily directed in KSA 46-2801 to monitor the adult inmate population and study the programs, activities, plans, and operations of the Kansas Department of Corrections and the adult correctional institutions; monitor the establishment of the Juvenile Justice Authority and study its programs, activities, plans, and operations and the juvenile correctional facilities; review and study the adult correctional and juvenile offender local programs and related entities; and report annually to the Legislative Coordinating Council.

2006 HB 2555 repealed the provision in KSA 46-2801 requiring the Committee to expire in December, 2005. There have been no further revisions to the statute to this date.

Committee Activities

The Committee met on four occasions: July 9 and 10; and October 28 and 29, 2009. The July meeting dates were dedicated to discharging the statutory duties of the Committee related to the adult and juvenile corrections systems. The October meetings dates were dedicated to studying or discussing specialty courts, proportionality, post release supervision, community corrections, court services, program restoration, early release of terminally ill inmates, the increase in the probation fee with offenders pay for risk assessments, and YLS/CMI and Youth residential provider issues.

All items discussed by the Joint Committee on Corrections and Juvenile Justice Oversight relating to its statutory duties are reviewed in the following material.

July

The Joint Committee heard from Roger Werholtz, Secretary of the Kansas Department of Corrections, to receive an update on the adult inmate population and the programs, activities, plans, and operations of the Kansas Department of Corrections and the adult correctional institutions. The Joint Committee also heard from J. Russell Jennings, Commissioner of the Juvenile Justice Authority, to receive an update on programs, activities, plans, and operations and the juvenile correctional facilities.

Kansas Department of Corrections Overview

Inmate Population

Roger Werholtz, Secretary, Kansas Department of Corrections (KDOC), provided an overview on inmate population and activities, plans for KDOC, condition and operations of correctional institutions, budgetary updates, and status of expansion projects. The Secretary updated the Committee on performance measures. The performance measures indicate the following:

- Facility population – 7 percent reduction;
- Parole population – 42.3 percent increase;
- Inmate grievances – 36 percent reduction;
- Parole revocation rate from FY 2003, 203 months, to 2009, 96 months – 53 percent reduction;
- Community Corrections (high-risk probation) revocation rate – 37 percent reduction;
- Average number of parole absconders for FY 2009 – 69 percent reduction (739 absconders on June 30, 2000; 467 absconders on June 30, 2003; and 189 absconders on March 16, 2009); and
- Felony conviction for crimes committed on parole – 36 percent reduction.

The reduction of 447 beds is a result of the closing of the following KDOC and non-KDOC

living units or treatment facilities, or both, due to budget reductions resulting from revenue shortfalls:

- January 1 – Closed 17-bed female Substance Abuse Treatment Program at Labette;
- February 6 – Closed 80-bed male minimum Therapeutic Community Program at Osawatomie (LCF-SU);
- February 27 – Closed 70-bed male minimum unit at Toronto (EDCF-EU);
- March 31 – Closed 128-bed male minimum unit at Stockton (NCF-EU);
- June 8 – Closed 50-bed male minimum unit at Labette; and
- June 12 – Closed 102-bed male minimum unit at El Dorado (EDCF-NU).

On March 6, 2009, 176-bed male living unit "B" was closed at Winfield Correctional Facility. It was reopened on June 8, 2009. This opening was for correctional reasons; inmates housed in the minimum unit provide maintenance and support work at the primary facilities, and there is a lot of pressure put on these inmates to smuggle contraband into the facility by being able to go in and out of a secure perimeter.

KDOC currently has adequate capacity to house female inmates.

Female Capacity	747 (Includes 20 beds at LSSH)
Female Population	588
Available Bed Space	159

Available bed space for male inmates has varied from 20 to 60 beds. The population tends to spike on Wednesdays and Thursdays and then decreases on Fridays due to weekend releases. On June 30, 2009, 102 beds were available (KDOC/non-KDOC) as a result of the reopening of "B" Living Unit at Winfield Correctional Facility. These numbers do not include non-general population, special-use beds such as infirmary, disciplinary, segregation, or observation beds, which are not counted as part of the official capacity.

Population and Custody Distribution for Male Inmates (June 30, 2009)

	Max/ Spec	Medium	Minimum	Total
Capacity	2,326	3,653	2,144	8,123
Population	1,888	3,812	2,321	8,021
Available Bedspace	438	-159	-177	102

The 2008 Kansas Prison Population Projections issued by the Kansas Sentencing Commission indicated a male inmate population of 8,120 on June 30, 2009. The actual male inmate population was 8,023, which is 87 less than projected.

The Committee asked the Secretary about staffing levels at the facilities and whether security is at optimal levels. The Secretary addressed these issues by stating the security level is not optimal. With the number of budget reductions KDOC has lost over 300 positions.

The Secretary did state that there has not been a spike in violent incidents.

Population Growth Management

Secretary Werholtz provided updated information on the management of population growth. His suggestions for controlling prison population growth are as follows:

- Increase the amount of good time that can be earned and apply it retroactively to the prison portion of the sentence. Further, provide that good time credits that reduce the prison portion of the sentence not be added to extend the length of the post-release supervision period;

- Cut the length of post-release supervision for certain offenders or eliminate it completely;
- Cut off admissions to prison if the offender has less than a certain number of days remaining on his or her prison sentence, *e.g.* 30-60 days;
- Accelerate eligibility for release from prison for certain offenders based on severity level or type of offense;
- Have the Parole Board review all "old law" inmates subject to proportionality issues for possible early release;
- When DUI offenders are revoked from parole supervision, have them serve their revocation period in the county jail where they were convicted. If DUI offenders are to serve supervision violation penalties in the county jail, district courts rather than the KPB would be more suitable to conduct the revocation hearings; and
- Re-examine the offender registry and the penalties for failing to register.

Condition and Operation of Correctional Institutions

Charles E. Simmons, Deputy Secretary, Facilities Management, provided the Committee with an update on the condition and operation of correctional institutions under the control of the Secretary of Corrections. The 2007 Legislature authorized a bond issue of $19.25 million for facility infrastructure improvements. These bonds were issued in September 2007, and the bond funds must be fully expended by September 2010. A list of the original projects and additional projects was provided. As a result of budget reductions, operations have been suspended at four locations that impacted 85 employees and resulted in an inmate housing capacity reduction of 380.

- Osawatomie: Operations were suspended in February 2009. Seventeen employees were offered placement in vacant positions at Lansing Correctional Facility. The capacity reduction due to this suspension of operations was 80. The building has been returned to Osawatomie State Hospital.
- Toronto: Operations were suspended in February 2009. Seventeen employees were offered placement in vacant positions at El Dorado Correctional Facility. The capacity reduction due to this suspension of operations was 70. KDOC will continue to maintain the building and grounds, which are leased, pending reoccupation at a future date.
- Stockton: Operations were suspended in March 2009. Thirty-one employees were offered placement in vacant positions at Norton Correctional Facility. The capacity reduction due to this suspension of operations was 128. The building is owned by the state and will be maintained pending reoccupation at a future date.
- El Dorado North: Operations were suspended in June 2009. In total, 20 employees were offered placement in vacant positions at the El Dorado Correctional Facility. The capacity reduction due to this suspension of operations was 102. Corrections will continue to maintain the building and grounds, which are leased, pending reoccupation at a future date.
- Operations at the conservation camps at Oswego have been suspended, the female camp on January 1, 2009, and the male camp June 30, 2009. The 60 employees at the camps were employees of Labette County and therefore lost their jobs when the camps closed. This will have a significant impact on the rate the county pays for unemployment compensation insurance. The county has indicated that this will increase the cost from approximately $4,500 to approximately $181,000 per year, has requested to retain some unexpended funds to pay for this

increased expense, and has been advised to submit it as a claim against the state. KDOC has leased the buildings to Labette County through December 2009, so that the county can work to identify a potential tenant.

- The Federal Communications Commission (FCC) has mandated that all non-federal public safety licensees using 25 kHz radio systems migrate to narrowband (12.5 kHz) channels by January 1, 2013, and failure to comply with this deadline will result in cancellation of license and possible loss of communication capabilities. The FCC has indicated that it will not easily grant waivers for continued wideband operation after the deadline. The total cost of replacing non-compliant radios and supporting equipment within KDOC will likely run $750,000 or more.

- In June 2009, KDOC implemented an electronic messaging system for inmates. All expenses are paid by the users and cost 45 cents per message, with KDOC receiving a commission of five cents on each message. All messages are screened for appropriate content, and inmates do not have Internet access or general e-mail capabilities. The goal is to reduce mail volume, reduce the potential for trafficking in contraband through the mail, and enhance security through better screening than can be achieved through regular mail.

- In recent months, lightning strikes at Norton and roof damage due to high winds to several facilities require expenditure for repair. El Dorado was covered by insurance after payment of the $10,000 deductible. At Larned, insurance coverage also was available, but only partially covered the replacement due to the age of the roof. Hutchinson and Topeka also sustained wind damage. These types of unexpected costs must be absorbed through the repair and renovation budget, and may result in delays to other projects that have already been scheduled.

The Committee asked about replacement of services provided to the community by inmate labor. Mr. Simmons stated that KDOC is looking at replacement at the El Dorado Facility and the loss of inmate labor from the closing of the Stockton Facility. He suggested contacting Warden Shelton at the Norton Facility to utilize replacement inmate labor.

Budget Updates

Secretary Werholtz provided the Committee a budgetary update. A summary was provided of cost reduction and mitigation actions, and the list of KDOC State General Fund base budget reductions for Fiscal Year 2010, the second round of budget cuts, and the Governor's allotment (as revised July 7, 2009).

The Secretary stated as a follow-up on the status and performance of offenders after they are released, all the program cuts reduce the options for offenders to succeed when released from prison. If KDOC is successful in obtaining Bryne Grant money, it will be shifting funding for special enforcement and parole officer positions.

Status of Expansion Projects

Roger Haden, Deputy Secretary for Programs and Staff Development, provided the Committee the status of expansion projects. The budget reductions for FY 2009 and FY 2010 have resulted in the following offender intervention program reductions and capacity reductions by location and the capacity that will be continued in FY 2010.

Intervention Program: Substance Abuse Treatment Services

- The Therapeutic Community (TC) at Hutchinson Correctional Facility was terminated, eliminating 64 slots with no

capacity remaining;

- The TC at Lansing Correctional Facility was terminated, eliminating 80 slots with no capacity remaining;
- The TC at Ellsworth Correctional Facility was terminated, eliminating 52 slots with no capacity remaining; and
- The TC at Topeka Correctional Facility was terminated, eliminating 24 slots with no capacity remaining.

These reductions resulted in a loss of 220 slots and 22.5 full-time equivalent staff positions. In addition, the initial Regional Alcohol and Drug Assessment Center assessment for treatment needs of offenders entering the system at the reception and diagnostic units was discontinued. For FY 2010 the 40-slot intensive outpatient program for males at Larned Correctional Mental Health Facility will continue, and the Department plans to implement a similar 24-slot program at Topeka Correctional Facility for females.

Intervention Program: Sex Offender Treatment Program (SOTP)

- SOTP at Norton Correctional Facility was terminated, eliminating 40 slots with no capacity remaining;
- SOTP at Hutchinson Correctional Facility was reduced by 20 slots with 60 slots remaining;
- SOTP at Lansing Correctional Facility was reduced by 40 slots with 80 slots remaining; and
- SOTP at Topeka Correctional Facility was reduced to a part-time schedule.

These reductions resulted in total reduction of 100 program slots and 12.5 full-time equivalent staff positions. The community-based sex offender treatment capacity will remain at the current level with 14 staff positions.

Intervention Program: Community Transitional Housing

- In the Northern Parole region, 58 transitional house beds were eliminated with no capacity remaining; and
- In the Southern Parole region, 46 transitional house beds were eliminated with no capacity remaining.

These reductions resulted in the total elimination of 104 transitional beds and a reduction of 30 staff positions.

Inmate Health Care Services

In addition to reduction in the offender intervention programs, the inmate health services contract also has been reduced by keeping nearly 20 full-time equivalent staff positions open for the 2010 fiscal year.

Detailed information was provided that covered state funded positions and federal grant-funded positions by facility, federal grant funded programs remaining, and other program reductions.

The Committee requested additional information on how many high-risk offenders need substance abuse treatment. Secretary Werholtz subsequently provided the following information to the Committee. Treatment program need is determined by the combination of overall Level of Services Inventory-Revised (LSI-R) scores and the alcohol and drug specific domain scores. Scores above 28 and 3, respectively, are screened for the higher intensity program levels such as the Therapeutic Community. Those with overall scores above 20 but below 28, with domain scores above 3 are screened for less intense program levels. Based on the waiting list for June 10, 2009 with a total population of 8,554, the data showed the following numbers of inmates on the waiting lists for less intensive (SA) and higher intensive treatment (TC) respectively:

Months or less to earliest release	SA	TC	TOTAL
6	146	342	488
12	278	649	927*
18	362	880	1,242
24	434	1,068	1,502
36	526	1,297	1,823

*Note: These are cumulative numbers so the one year amount of 927 includes the 6 month amount of 488

Mental Illnesses Among the Inmate Population

Secretary Roger Werholtz provided testimony on the status of mental illnesses among the inmate population. There are 28 inmates who have been placed on crisis level III and higher over the past six months at each facility, on a case-by-case basis. Several case studies were provided. Secretary Werholtz also provided definitions of the primary target population in need of mental health treatment, examples of inmates with "Behavior Disorders," and a brief description of levels of care needed by mentally ill inmates.

Secretary Werholtz stated that as of May 18, 2009, 3,841 or 44 percent of the inmates within the Kansas Correctional System have been diagnosed with a DSM-IV mental disorder. (The number does not include inmates with only a substance abuse diagnosis.) A summary and copy of the KDOC Mental Health Needs Analysis was provided to the Committee. There are essentially five types of inmates within the correctional system:

- Stable Population Inmates – 4,759 (56 percent of total population);
- MH Class II (Non-Specific) – 1,470 (17 percent of total inmate population);
- MH Class III (Medication Specific) – 1,345 (16 percent of total inmate population);
- MH Class IV (Special Needs) – 663 (7 percent of total inmate population); and
- MH Class V & VI (Mental Retardation & Severe and Persistent Mentally Ill – 363 (4 percent of total inmate population).

An overview of the mental health program and problems was provided. KDOC contracts with Correct Care Solution (CCS) to provide comprehensive mental health services to inmates in KDOC's custody. The services are provided by mental health employees of CCS, and are typically located on-site. The contract is monitored for contract compliance, community standard of care, and compliance with National Commission on Correctional Health Care (NCCHC) standards by employees of Kansas University Physicians, Inc.

The Department established a Memorandum of Agreement (MOA) with Larned State Security Hospital (LSSH) to treat those inmates requiring a hospital setting, rather than a correctional institution. The MOA and consent decree require and delineate criteria for acceptance, although the established criteria are not always followed during the staffing process.

Recommendations of the Secretary are as follows:

- Create an appropriate therapeutic environment for the aggressive, mentally ill inmates;
- Open two additional housing units (male and female) servicing this high acuity, difficult to treat inmate population; and
- Account for increase in the classification of mentally ill or special needs beds, there has been an increase of 24 percent over the past three years.

Don Jordan, Secretary, Kansas Department of Social and Rehabilitation Services (SRS), spoke

on observations from the SRS perspective, but did agree with Secretary Werholtz that there is a problem, and the situation needs to be studied to find a solution.

Update on the Information Technology Enterprise Architecture Project

Secretary Werholtz stated that before the budget cuts, the top priority was replacement of KDOC Management Information System, and the agency has actively been engaged in developing a plan for about three years. The Joint Committee on Information Technology asked KDOC to insert an additional step in the process; the information presented was the result of that analysis of the KDOC system.

Ken Orr, Chief Scientist, UmmelGroup, provided a PowerPoint presentation on the Information Technology Enterprise Architecture Project. Mr. Orr stated that Kansas has the second oldest offender management system in the U.S., and provided a ten-year roadmap of project planning to replace the system. The project would cost between $6 million and $12 million and three to five years to complete.

Juvenile Justice Authority Overview

J. Russell Jennings, Commissioner, Juvenile Justice Authority (JJA), provided the Committee an overview of the Juvenile Justice Authority. JJA is made up of four system components:

- Community services – core programs;
- Community residential placements;
- Juvenile corrections facilities; and
- JJA Central Office – System Administration.

Community Services consists of prevention programs (secondary and tertiary), intake and assessment, intensive supervision probation and community case management. Prevention and intervention programs target at-risk youth and at risk of offending behavior. Intake and assessment are evaluation instruments. Two approved currently for use are the Massachusetts Youth Screening Instrument (MAYSI-2) and Problem Oriented Screening Instrument for Teens (POSIT). Intensive supervision probation uses the Youthful Level of Service/Case Management Inventory (YLS/CMI), for determining level of supervision and program referral based on risk of reoffending and programs to address identified needs. Other tools are training on evidenced-based practices relating to offender supervision, and working toward success, not simply focusing on failure. Community case management supervises youth placed in the custody of the Commissioner, manages placement of youths who are in need of out-of-home placement, works with youth and family on reintegration plans, supports youth and family while youth is at home, and assures youths have access to needed programs and treatment.

The Chairperson requested a memorandum from the Commissioner on the most useful models used by the JJA.

Information was provided on Medicaid transition, month end custody population FY05 – FY 09, custody/placement data, psychiatric residential treatment facility (PRTF), and Youth Residential Center I and II.

Activities supporting and enhancing residential services:

- Electronic submission of invoices (real-time payment);
- Technical assistance and training to enhance programming in residential placement – specific program training and annual program review – evaluation; and
- Community-Based Standards (CbS) – Kansas is a pilot site for development with Council of Juvenile Corrections Administrators (CJCA) to utilize a statistically sound and evaluated process to identify strengths, weaknesses, and conditions of YRC and

residential placements.

- Additionally, there has been involvement with YRC II providers with several meetings with Children's Alliance, case coordinator training, and residential summits in 2007 and 2008.

Community-Based Standards (CbS)

CJCA developed CbS to help community residential programs establish and sustain systems for continuous improvement and accountability. CbS models CJCA's award-winning Performance-based Standards (PbS) program, which provides a blueprint of best practices for secure facilities based on national standards and regular collection review of outcomes tracking performance.

- Charts and graph were provided, looking at several domains reflecting the field average:
- Safety 10 - percent of youths who report they fear for their safety at the program;
- Mental Health 01 - percent of youths released during the data collection period with suicide screening completed at intake;
- Programming 02 - percent of youths released during the data collection period with individual service plans developed within the first 30 days at the program;
- Health 01 - percent of youths released during the data collection period who had a complete medical intake screening conducted by a trained and qualified staff member;
- Order 02 - percent of youths reporting they understand the program's behavior management level system;
- Safety 12 - percent of family members who report they fear for their child's safety at the program;
- Justice 01 - percent of youths responding they understand program rules; and
- Safety 15 - percent of youths reporting staff is fair about discipline issues.

The benefits of CbS is it is a research-based and statistically sound evaluation process for residential providers. To the state, it validates third-party monitoring and evaluation, brings provider accountability, and is an early warning system.

Juvenile Justice Authority FY 2010 Budget Management Plan

Commissioner Jennings provided the Committee several spreadsheets with the FY 2009 and FY 2010 budget information.

Update on Beloit Juvenile Correctional Facility

Commissioner Jennings updated the Committee on the closing of the Beloit Juvenile Correction Facility. The facility will close on August 28, 2009, and the female offenders will move to the Kansas Juvenile Correctional Complex (KJCC) West Campus in Topeka, Kansas. The Beloit suspension of operations fiscal impact:

- July 2 allotment by the Governor;
- Suspend operations August 28;
- Transfer $.72 million to KJCC for girls operations;
- $1.46 million SGF savings FY 2010, 2.95 percent agency reduction; and
- $19 million SGF savings FY 2011, 3.75 percent agency reduction.

The operations at KJCC West Campus (female) will have 25 funded positions, there will be a 53 funded-position reduction at Beloit. The goal is to have a seamless transition of the residents from Beloit to KJCC – West Campus, where the youth residents experience nothing but a change in location with improved services and opportunities to change their lives, and the employees of Beloit are treated with the utmost dignity and respect.

The operations at KJCC West Campus will have two living units on the west end of KJCC campus (Capacity 30 youths). A third unit is available if needed. There will be a separation of male and female residents through an installation of an interior campus fence; separate dedicated direct supervision staff; and shared administration, health services, program, education, food service, and maintenance staff.

The JJA public website is www.jja.ks.gov. Judicial District Performance Indicators information is being updated and provided to the public. There are 12 performance indicators. The reporting period will examine only data for the most recent six-month time period and will run January 1 to June 30 and from July 1 to December 31. A report will then be sent to Judicial Districts ACs and Director on or about the 20th day following the end of the reporting period, and then JDs will have an additional ten days to review and work through any discrepancies in the data with JJA central office staff, at which time the report will be considered final. Final data will be posted to the JJA website under the MAPIT application.

October

The Chairperson stated for background information that the Sentencing Commission was looking at ways to reduce prison population due to the closing of several prison facilities. She further stated they are looking at prison reentry, specialty courts, treatment, probation, and parole sanctions.

Overview of Specialty Courts

The Hon. Ernest L. Johnson, Judge of the 29th Judicial District (Wyandotte County) and Chairperson of the Kansas Sentencing Commission, provided an overview on specialty courts. Judge Johnson provided a packet of information containing:

- Definitions of Problem-Solving Courts;
- National Association of Drug Court Professionals – Facts;
- Ten Key Components of Drug Courts;
- New Supreme Court Rule 109A;
- Missouri Drug Court Revised Statutes;
- The Guiding Principles of DWI Courts;
- Logic Model for DWI Courts;
- An Excerpt from Evidence Based Sentencing;
- The Abstract from Treatment to Drug-Involved Offenders; and
- The face page from the Mental Health Court publication.

The Kansas Sentencing Commission (KSC) has been studying these courts. The KSC currently is in the application process for a grant to study how best to enable and implement specialty courts in Kansas.

Examples of specialty courts, also known as problem-solving courts, include: Adult Drug Court, Back on TRAC: Treatment, Community Court, Domestic Violence Court, Driving While Intoxicated Court, Family Dependency Treatment Court, Federal District Drug Court, Gambling Court, Juvenile Drug Court, Reentry Drug Court, and Tribal Healing to Wellness Court.

Drug Court Facts:

- Drug courts reduce crime;
- Drug courts save money;
- Drug courts ensure compliance;
- Drug courts combat methamphetamine addiction; and
- Drug courts restore families.

An Example of a Specialty Court in Kansas

The Hon. Steven Hornbaker, Judge of the 8th Judicial District (Geary County), provided

the Committee information on the specialty court in his county. Judge Hornbaker stated that drug courts save money and save people. Drug courts were established with a team approach between the criminal justice system and the drug treatment organizations. The partnership structures treatment intervention around the influence and personal involvement of a single drug court judge. The judge and a dedicated team of professionals work together toward a similar goal of stopping the cycle of drug abuse and criminal behavior. The Geary County Drug Court Program consists of three phases:

- Phase I – Assessment and Primary Treatment phase is a minimum of 30 days and a maximum of 90 days;
- Phase II – Treatment phase is a minimum of six months; and
- Phase III – Continuing Care and Graduation will last at least six months.

A critical component of successful drug court participation involves intensive supervision and random testing to determine compliance with the rules of the Drug Court Program. Recognition of progress also is very important as is prompt response to negative behaviors. Imposition of sanctions and consequences for non-compliance of drug court conditions will ensure participants learn that immediate consequences will occur for failure to comply with conditions.

Recommendations of the Kansas Sentencing Commission

Subcommittee on Proportionality

Tom Drees, Member of the Kansas Sentencing Commission (KSC) and Chairperson of the Subcommittee on Proportionality, provided the Committee with a summary of 2010 proportionality recommendations by the Kansas Sentencing Commission Proportionality Committee. Information and graphs on the sentencing range for nondrug and drug offenses, a comparison of FY 2006 versus FY 2009 admissions, and why new court commitments are increasing was provided to the Committee. The recommendation from the KSC will be to improve the administration of justice and keeping under the 50-bed impact increase.

The KSC has been notified by Secretary Werholtz that the prisons are within 3 percent of full capacity. By statute, the KSC has to start making recommendations on how to correct this situation; options include more money to the Kansas Department of Corrections for additional prison beds, or looking at ways to decrease the rate of offenders going into prison, or increase the rate of offenders coming out of prison. Two options could be to look at increasing good time credits and making adjustments on sentencing for crimes that have high departure rates.

Discussion of KSC Recommendations Regarding Proportionality Recommendations

Helen Pedigo, KSC, reviewed the recommendations regarding proportionality recommendations provided by the Kansas Sentencing Commission Proportionality Subcommittee.

An overview of the Subcommittee recommendations:

- Sex Crimes – no changes to Article 35 will be considered during the 2010 Legislative Session.
- Sentencing Grids – merge the non-drug and drug sentencing grids into one Kansas Sentencing Grid, increase presumptive imprisonment border boxes from 3 to 16. Decrease the presumptive probation boxes from 30 to 17, increase aggravated/mitigated sentences from 5 percent to 10 percent, and minimum felony prison sentence is increased to 12 months in length.
- Sentencing Statutes – sentencing statues

amended to place as many felonies on the grid as possible (FY 2007 felony sentences: 57 percent guidelines, 43 percent off-grid/ non-grid), designate drug manufacture and distribution felonies as person offenses, Court Services should supervise persons convicted of all class A misdemeanors who are not sentenced to jail.

- Drug Laws – manufacturing methamphetamine would be a level 3 person felony. Manufacturing all other drugs would be a level 5 felony; sale, distribution, and possession with intent to distribute are set at 4 levels based on quantity of drugs possessed to be sold or actually sold [FY 2007 sentencing data shows departure rates of 88 percent on current level 1 drug grid, 66 percent on current level 2 drug grid and 80 percent of current level 3 drug sentences (border box)] are placed on probation, sale designated as person felony, weight to be determined by the products as packaged for distribution, mandatory treatment program for personal use possession (SB 123) remains intact.

- Property Offenses – a large number of special sentencing rules for property offenders are reduced or eliminated, standardization of all theft statutes so that theft, no matter how it is committed, has a uniform and proportional punishment.

- Domestic battery – a first domestic battery remains a class B person misdemeanor, a second domestic battery is a class A person misdemeanor, and a third or subsequent domestic battery is a level 7 person felony with mandatory jail sanctions as a condition of probation (third violation - 30 days jail, fourth violation – 90 days jail, and fifth violation – 1 year incarceration in prison).

Based on FY 2008 data, implementation of all recommendations would result in utilization of 265 to 458 additional beds in the first year of implementation, with a need for 430 to 719 additional prison beds in the next 10 years. Passage of this proposal would further the goals of proportional sentences, based upon the degree of harm to the victim and to the public, reserve prison for violent offenders and repeat non-violent offenders, and promote offender reformation through appropriate community sanctions.

The Committee voted in favor of encompassing the visions that the Kansas Sentencing Commission proposed and be introduced as a House bill for the 2010 Legislative Session. Additionally, the Committee voted in favor of recommending the Legislature move forward with Specialty Courts for further development.

Post Release Supervision of High Maintenance or Mentally Ill Parolees

Missy Woodward and Andrea Bright, Risk Reduction and Reentry, Kansas Department of Corrections (KDOC), provided a PowerPoint presentation on changing systems in KDOC. Ms. Woodward stated that due to recent budget cuts in Kansas, vital services and programs have ended and resources are now more limited:

- KDOC community residential beds closed April 1, 2009;

- State officials have notified more than 1,500 adults, effective July 1, 2009, they will no longer be eligible for MediKan or cash assistance;

- Another 3,000 have been told to expect deep cuts in their cash-assistance checks; receiving $100 compared to $142-190; and

- Most of those affected by the cuts are homeless or nearly homeless.

Characteristics of this population include:

- Mental illness;
- Alcohol and drug addiction;
- Homelessness;

- Mental retardation/development disabilities;
- Traumatic brain injury;
- Physical health problems;
- Limited education;
- Limited family support;
- Poor work history; or
- Fetal alcohol syndrome.

A detailed case study of a real offender, referred to by a fictional name "Jack," was provided to the Committee. The case study described the effect on this population when Mirror, Inc. closed; KDOC had 47 offenders to place in the community without that resource. Ms. Woodward stated that multi-agency collaboration can change outcomes on these offenders. Services can be continuous rather than interrupted or repetitive.

Roger Werholtz, Secretary, KDOC, provided the Committee with additional information on high-risk/high-need offenders suffering from Traumatic Brain Injury (TBI). During calendar year 2008, the Department of Corrections had 66 inmates that had head injuries severe enough that it required monitoring as "special needs"; 6 of those were severe enough to require total care. Of the 60 that are vulnerable but not infirm, the Department provides one-on-one, restrictive housing care within its general population. The four facilities that contain these 60 inmates are specific units of Lansing Correctional Facility (LCF), Topeka Correctional Facility (TCF), Larned Correctional Mental Health Facility (LCMHF), and El Dorado Correctional Facility (EDCF). Of the six inmates that were "total care," KDOC houses the majority at LCMHF but does not have enough specialized care providers to distribute the other three amongst the infirmary unit at EDCF and the Treatment Reintegration Unit (TRU) at LCF.

Discussion of Possible Legislation

Jarod Waltner, Legislative Research Department, provided a table to the Committee on approximate remittances of District Court Fines, Penalties, and Forfeitures pursuant to KSA 74-7336. There are nine funds that receive a portion of these fines.

Sean Ostrow, Revisor of Statutes Office, provided the Committee with two bill drafts at the request of the Chairperson. The bill drafts show the changes in district court fine allocation required to fund the therapeutic communities in prison, 7.83 percent, and DUI alcohol treatment, 8.51 percent. Based on these increases, it would raise roughly $1,163,646 to fund the therapeutic communities, and $1.3 million to fund the DUI alcohol treatment program.

The Committee voted in favor of endorsing the concept of taking fees for DUI alcohol treatment. Additionally, the Committee voted in favor of pre-filing bill draft 9rs1208 as a House bill to change the district court fine allocation to fund the therapeutic communities in prison.

Population Projections

Helen Pedigo, Executive Director, Kansas Sentencing Commission (KSC), provided the Committee with an update on adult inmate prison population projections. Ms. Pedigo stated this is the fourth consecutive year that releases have gone down. Comparison graphs and spreadsheets were provided:

- Guideline on New Commitment Admission Characteristics – FY 2009;
- Prison Population Characteristics;
- Comparison of Guideline New Commitments by Severity Level and average length of sentence;
- Parole/post release supervision condition violators between FY 2008 and FY 2009;
- Kansas Prison Population Trends;
- Admissions versus releases;
- Admission Trends;
- Prison Admission Trends – Probation Condition Violators, Parole/Post release Condition Violators, Admissions by Type,

Comparison between Probation and Parole/ Post release Violators with New Sentence, Trends by type FY 1996 thru FY 2009;

- FY 2010 adult inmate prison population projections, actual and projected, male prison population trends actual and projected, female prison population trend actual and projected; and
- Projected Drug Inmate Prison Population, Projected Violent Inmate Prison Population, Projected N4 – N6 Inmate Prison Population, Projected Nonviolent Inmate Prison Population.

Community Corrections Update

Keven Pellant, Deputy Secretary of Field and Community Services, KDOC, provided testimony on community and field services.

FY 2008 Community Corrections Risk Reduction Activities:

- Directors Conference and Training;
- Stakeholders Conferences;
- Competitive Grant Application;
- Off hours across the state;
- Two resource workshops;
- Case management staff conferences; and
- Targeted skills development implementation.

In parole services, the primary focus is risk reduction. The number of offenders supervised by parole staff as of September 28, 2009 is 5,999. This is an increase of 242 offenders since September 2008. Of the 5,999, there are 1,932 offenders from other states being supervised in Kansas. The breakdown of the 5,999 offenders is:

- 730 are being supervised for a 4th or greater DUI offense;
- 5,195 male offenders;
- 804 female offenders;
- Not included in the 5,999 are 311 DUI offenders who have not yet reached post release supervision, but are in county jails, making the actual supervised total at 6,310; and
- 2,375 Kansas offenders being supervised out of state, of these 1,468 are probationers and 907 are parolees.

The supervision level for offenders supervised in Kansas is:

- High Level – 468 males and 53 females - Total 521;
- Moderate Level – 2,840 males and 364 females - Total 3,204;
- Reduced or Low Level – 1,585 males and 357 females - Total 1,942; and
- Offenders not yet assessed for risk - 331.

There is electronic monitoring GPS of offenders with two or more counts of sex offenses against children at a cost of $7.00 a day. About 300 offenders are being monitored across the state.

Discussion points for Community Corrections update:

- Discuss success rate from 2006;
- Current success rate in 2009;
- Discuss unsuccessful closure since 2006;
- Rate of revocation and risk re-education initiative of 20 percent; and
- What were some of the challenges.

Dina Pennington, Director, Shawnee County and 2nd District Community Corrections, provided information on the success rate for Shawnee County and the 2nd district. The mission statement is to enhance public safety and promote client success through the use of evidence-based supervision. An overview of data:

- Success rate increased from 58.7 percent in FY 2006 to 77.5 percent in FY 2009;

- Unsuccessful closures decreased from 5.9 percent in FY 2006 to 2 percent in FY 2009;
- Revocation rate decreased from 32.9 percent in FY 2006 to 20.3 percent in FY 2009; and
- FY 2009 was the first year the 20 percent revocation reduction was met.

High caseloads are a challenge to community corrections officers (about 42 last year for each officer). Additionally, judges and prosecutors get frustrated seeing offenders with multiple appearances before the court on the same case.

Phillip L. Lockman, Director of Community Corrections, Unified Government of Wyandotte County and KCKS, spoke on the implementation of evidence based practices (EBP) in the local criminal justice system in Wyandotte County. A summary of the data includes:

- 32.3 percent increase in successful completion rate;
- 9.7 percent decrease in unsuccessful completion rate;
- 24 percent reduction in overall revocation rate; and
- The agency met the 20 percent reduction goal in FY 2008 and FY 2009.

Mr. Lockman strongly urged that funds should be reinstated to parole services and community corrections agencies so that the gains made in reducing the prison population and decreasing the risk to public safety will not be lost. The Office of Judicial Administration should be encouraged and adequately funded by the Legislature to implement a uniform standardized risk instrument prior to sentencing across the state. Additionally, drug, mental health, and problem solving courts should be proposed and funded in geographic areas where there are none and expanded in the areas where they currently exist.

William R. "Dick" Beasley, Director, 25th Judicial District Community Corrections (Finney County), provided graphs to support the update on community corrections.

Jay Holmes, Administrator, Sedgwick County Department of Corrections, provided testimony on the progress and challenges of implementing the risk reduction initiative funded through 2008 SB 14. Sedgwick County clients have achieved a 29 percent reduction in revocations in FY 2008 and a 16 percent reduction in FY 2009 from the baseline year of 2006. Successful completions increased by 17 percent and 12 percent, respectively. During this two-year period, the population of clients increased 13 percent, from 1,446 to 1,634. Mr. Holmes stated major challenges that were high-risk clients spent an average of 435 days on supervision before experiencing revocation to prison. He stated 29 percent of assigned clients are either presumptive prison or border box sentences.

The Committee recommended commendation of the work of Community Corrections and urged that Community Corrections be a high priority of the Legislature and acknowledge that the prison population will be impacted if funding is not available.

Discussion of Early Release of a Terminally Ill Inmate

Representative Bill Feuerborn provided testimony on the possibility of an early release for terminally ill inmates. Representative Feuerborn also provided to the Committee a list of statutes from other states with an early release procedure based upon an exceptional circumstance such as a medical condition. Current law requires a lengthy process and he believes, in some clearly defined cases, there should be an expedited process. Representative Feuerborn provided a letter from Secretary Werholtz, KDOC, on Functional Incapacitation Releases/Imminent Death, and stated the Department has identified several factors that should be taken into consideration in

deliberating a release statute for inmates facing imminent death:

- Length of time to process release applications;
- Provision for release supervision in lieu of custodial type supervision;
- Issues of responsibility for continued medical care costs;
- Whether there should be requirements for having served a minimum amount of time and custody level; and
- Whether there should be limitations regarding type of conviction offenses.

The Secretary stated that the Department is not endorsing or proposing any particular position with regard to statutory early release authority. He noted that Kansas has adopted a functional incapacitation release statute (KSA 22-3728), and he informed the Committee of the process involved in requesting release under this statute.

Mr. Carrol Droddy, Ottawa, Kansas, stated that his daughter was dying of cancer while incarcerated in prison. He stated that in the last three to four weeks of her life, she could hardly stand and was not a threat. He felt all the attempts to get her released so she could be at home when she died were in vain. When she was finally released, she was so close to death that the family was not sure she knew she was home. Mr. Droddy stated that it serves no purpose to hold a dying person in prison when they cannot even stand alone.

The Committee voted in favor of recommending introduction of a bill in the House on early release of terminally ill inmates.

Program Restoration

Roger Haden, Deputy Secretary of Programs and Staff Development, KDOC, updated the Committee on KDOC health care services and food service contracts. He also provided an update on restoration of funding for offender treatment, education, and supportive services. The funding restrictions in the last quarter of FY 2009 and FY 2010 resulted in the elimination of many program service areas and significantly reduced any remaining programs or services. These reductions significantly restrict the resources available to corrections case managers to effectively carry out their supervision and risk reduction duties. He said it is fair to predict that the lack of resources will result in increasing revocations as options for release preparation and transition decrease. More importantly, an inverse relationship exists between the availability of intervention and support resources and the risk to staff and public safety.

Deputy Secretary Haden provided the following information on offender program cuts:

- Reduction in FY 2010 State General Fund budget compared to FY 2009 budget before reductions (including $40.5 million of federal stimulus moneys) : 7.9 percent ;
- Reduction in FY 2010 State General Fund budget compared to FY 2009 budget before reductions (excluding $40.5 million of federal stimulus moneys) : 22.6 percent;
- Reduction in FY 2010 State General Fund financing for offender programs, including DUI treatment services, compared to FY 2009 budget before reductions : 91 percent; and
- Reduction in FY 2010 total financing (excluding federal funds) for offender programs, including DUI treatment services, compared to FY 2009 budget before reductions : 64 percent.

Major resource areas to be restored include:

- Community Transitional Housing;

- Substance Abuse Treatment Services;
- Sex Offender Treatment Services;
- Academic and Vocational Education Program;
- Miscellaneous Programs and Specific Services; and
- DUI Treatment Funding (This enhancement request funds the DUI treatment funding at the currently projected amount to meet actual demand for these treatment services).

Secretary Werholtz, KDOC, provided an updated FY 2010 Budget Adjustment for the Department revised on October 12, 2009. These requests have been sent as an enhancement request to the Governor's budget.

The Committee stated that failure to fund some of the enhancement budget programs results in additional cost to public safety and prison bed costs.

Overview of Court Services Operations and Programs

Mark Gleeson, Family and Children Program Coordinator, provided an overview of court services operations and programs. Currently, there are 351 FTE Court Services positions, all of which are funded from the State General Fund. These positions are supported by state dollars for personnel costs only; and all other operating expenses are provided by counties. Statewide, each judicial district has a court services division. A court services officer may not be located in each of the 105 counties, however, services are provided to each county by a court services officer located somewhere within each judicial district.

The primary role of court services is to assist the district courts by performing investigations and supervision. Kansas statutes provide a general definition of responsibilities of court services officers. Chief judges, within the limits of fiscal resources, in individual judicial districts are able to emphasize certain roles of court services officers from district to district in order to best serve each individual judicial district. Duties performed by court services officers are governed by statute, administrative rule, and court policy; detailed duties and data tables were provided.

Donna Hoener-Queal, Chief Court Services Officer, 30th Judicial District (Barber, Harper, Kingman, Pratt, and Sumner), provided testimony on Court Services in rural areas of Kansas. In rural areas, the lack of available resources for the offenders can present a unique set of problems:

- Each of the five counties is served by a mental health provider and a substance abuse provider; and
- In two counties, the services provided are limited to between one and three days per week, which can make long waiting lists, and does not allow for flexibility to schedule appointments with offenders on their days off from work.

These resources provide an excellent service to the courts and the community. However, if an offender is not compatible with a particular counselor, referrals to other resources are made. The other resources may be up to 70 miles away. Court services officers cannot relieve an offender from a condition of probation imposed by the court because of inconvenience.

Kathleen Rieth, Chief Court Services Officer, 10th Judicial District (Johnson), provided a detailed description of the multiple roles a court services officer has and the many services that the judges have come to expect. Ms. Rieth stated that the job is helping people to make positive changes so that they can reclaim their lives as well as keeping the community safe.

Discussion on Increasing the Probation Fee to Pay for Risk Assessment of Offenders

Chris Mechler, Courts Services Officer Specialist, Office of Judicial Administration, provided testimony on increasing the probation fee to pay for risk assessments of offenders. Statewide mandatory use of the Level of Service Inventory-Revised (LSI-R) has been an issue for several years in Kansas. The Kansas Sentencing Commission has chosen the LSI-R as the standardized risk assessment tool or instrument to use for sentencing purposes to determine offender risks and needs. Ms. Mechler stated the LSI-R has been determined to be an effective risk assessment tool and the Kansas Judicial Branch and its court services officers would like to use it; however, funding has been a roadblock in this process for several years.

Ms. Mechler stated the Department of Corrections used state funds and some grant funding to provide the necessary training and other costs for community corrections personnel. The Judicial Branch has not been provided with funding for the LSI-R implementation costs. The Judicial Branch has included a request for State General Fund financing of this project for several years. The approved budget each year allocates resources for implementation of this program. The Judicial Branch has applied for Byrne Grant funding on three occasions, but grant funding was not awarded by the Criminal Justice Coordinating Council.

Ms. Mechler advised that the Kansas Sentencing Commission has proposed an increase in probation fees to fund the LSI-R for the Judicial Branch. The recommendation would increase the current $25 misdemeanor probation fee to $125, and would increase the current felony probation fee from $50 to $250. The current probation fee amounts are set in KSA 21-4610a, and were provided. The Supreme Court is open to considering the use of probation fees to fund the LSI-R, as mandated by the Legislature. The Judicial Branch's FY 2011 maintenance budget includes a total of $229,338 from the State General Fund for first-year LSI-R training and implementation costs. Two requests for proposal (RFPs) will be issued as soon as funding has been obtained.

She further stated the Judicial Branch's current budget underfunding must be considered; due to which the Judicial Branch began a hiring freeze at the beginning of FY 2009, which is still in effect. Some positions have been held open for over one year, which means each time an employee quits or retires, no one is hired to replace them. If the Judicial Branch does not receive supplemental funding early in the 2010 Legislative Session, it will be forced to begin a series of as many as 27 furlough days for all non-judicial employees; on those days, Judicial Branch employees will not be paid, and court offices will be closed statewide.

Doug Taylor, Revisor of Statutes Office, provided a bill draft and the statute on probation services fee and community correctional services fee as requested by the Chairperson. The bill draft provided has the lesser amount than that proposed by the Kansas Sentencing Commission. The bill draft provides for a change in probation service fee from $25 to $50, and community corrections services fee from $50 to $100.

The Committee voted in favor of introducing a Senate bill that would raise the probation fee to an amount that would cover approximately $300,000 needed to institute risk assessment tools in Court Services.

Discussion of Possible Additional Legislation

Jason Thompson, Revisor of Statutes Office, provided a bill draft concerning the Department of Corrections relating to the transfer of certain offenders, as requested by the Chairperson. The bill draft provides that offenders who have 10 days or less to be served in the state prison would not be transferred and would be retained in the county jail.

The Committee requested information on what the cost would be for a one-day turnaround

processing. Secretary Werholtz subsequently provided the following information.

The KDOC estimated the cost to process and admit these offenders to serve a sentence of 10 days is $1,692 per offender, the details of which are attached (Attachment 1). Of this amount, $942 is an estimated KDOC cost and $750 is the estimated cost that a county might incur from transporting the offender to the Reception and Diagnostic Unit. Approximately $1,352 of the $1,692 is a "soft dollar" cost in that it represents the dollar value of the time and effort required of staff to process the offender. Only approximately $340 (gate money, bus ticket, bed cost per day, and county mileage expense) is an actual "hard dollar" cost, *i.e.* this cost would not be incurred if the offender were not admitted to KDOC custody.

In FY 2009, there were 106 offenders with sentences ranging from one to 10 days that were admitted to KDOC custody, resulting in a maximum total cost of $179,352 ($1,692 x 106). In addition, there were 194 offenders with sentences of 10 days or less who local officials agreed could serve their sentence in the county jail in lieu of transferring them to KDOC custody. If these offenders had been transferred to KDOC custody, the maximum total cost would have been increased by $328,248 to $507,600 ($1,692 x 300).

Under either scenario, the actual cost would have been lower since an unknown number of offenders would have served sentences of less than 10 days. However, information that would indicate the number of such offenders and the actual sentence each offender served is not available.

The Committee voted in favor of recommending introduction of a Senate bill (9rs1090) that will prevent the transfer to a KDOC facility for offenders who have 10 days or less to be served in the state prison and require the offender be retained in the county jail.

Discussion of Recommendations on Topics from the July Meeting for the Final Report

KDOC Equipment

The Federal Communications Commission (FCC) has mandated that all non-federal public safety licensees using 25 kHz radio systems migrate to narrowband (12.5 kHz) channels by January 1, 2013, and failure to comply with this deadline will result in cancellation of license and possible loss of communication capabilities. The FCC has indicated that it will not easily grant waivers for continued wideband operation after the deadline. The total cost of replacing non-compliant radios and supporting equipment will likely run $750,000 or more.

The Committee voted in favor of recommending the Public Safety Budget Committee strongly consider approving the $750,000 for the radios for the Kansas Department of Corrections to be in compliance with federal regulation.

Population Growth

The Committee discussed the Secretary of KDOC suggestions for controlling prison population growth which are as follows:

- Increase the amount of good time credit that can be earned and apply it retroactively to the prison portion of the sentence, and provide that good time credits that reduce the prison portion of the sentence not be added to extend the length of the post release supervision period;
- Cut the length of post release supervision for certain offenders or eliminate it completely;
- Cut off admissions to prison if the offender has less than a certain number of days remaining on his/her prison sentence, e.g., 30-60 days;
- Accelerate release from prison eligibility

for release from prison for certain offenders based on severity level or type of offense;

- Review all "old law" inmates subject to proportionality issues for possible early release;
- When DUI offenders are revoked from parole supervision, have them serve their revocation period in the county jail where they were convicted. If DUI offenders are to serve supervision violation penalties in the county jail, district courts rather than the KPB would be more suitable to conduct the revocation hearings; and
- Reexamine the offender registry and the penalties for failing to register.

The Committee voted in favor of recommending examining ways to control offender population growth prior to running out of beds and examining what options are available to the Legislature.

Special Needs or Mentally Ill Inmates

The Committee discussed recommendations of the Secretary of KDOC regarding special needs or mentally ill inmates which included:

- Creating an appropriate therapeutic environment for aggressive or mentally ill inmates;
- Adding two additional housing units (male and female) servicing this high acuity, difficult to treat, inmate population are needed; and
- Accounting for increase in the classification of mentally ill or special needs beds, there has been an increase of 24 percent over the past three years.

The Committee voted in favor of recommending further study of nonfunctioning mentally ill inmates.

Pre-2003 SB 123

The purpose of the 2003 SB 123 is to provide community supervision and drug treatment to offenders with drug abuse problems in order to reserve correctional facility capacity for more serious, violent offenders. The Committee voted in favor of recommending the Parole Board consider pre-2003 SB 123 offenders, and to bring them into compliance with the balance of the current guidelines of 2003 SB 123.

The Committee requested that the Kansas Sentencing Commission respond on how many offenders are affected by this policy recommendation. Helen Pedigo, Executive Director of the Kansas Sentencing Commission, subsequently provided this information. She believes there may be 50 to 80 of these possession offenders, some sentenced at drug severity level 2 or 1 for which the Committee would be looking at for some form of retroactivity with the 2003 SB 123 program.

YLS/CMI and Youth Residential Provider Issues

J. Russell Jennings, Commissioner, Juvenile Justice Authority (JJA), provided the Committee with an update on YLS/CMI and Youth Residential Provider issues. The YLS/CMI is a research based risk/needs assessment. It is the juvenile equivalent of the Level of Service Inventory Revised (LSI-R) used for adult offenders. The YLS/CMI can provide:

- A basis for making decisions – reduces biases – standardization across the state;
- Help to identify targets for change to determine case plan – examines known risk factors – streamlines programming for youth;
- Help to track changes in the youth;
- Economy of resources – identify which youth should be targeted and what they need

to reduce risk; and

- Inspire confidence in public safety.

Four districts have implemented the YLS/CMI with Court Services. Information from the YLS/CMI is incorporated into pre-disposition investigations to help provide standardization and to assist judges in determining:

- Which youth is more likely to reoffend;
- Which youth require more structure/supervision; and
- What criminogenic needs should be addressed to reduce risk and increase public safety.

Commissioner Jennings stated that Community Based Standards (CbS) provide a blueprint of best practices for secure facilities based on national standards and regular collection and review of outcomes tracking performance. CbS is a research based and statistically sound evaluation process for residential providers, and to the state it validates third-party monitoring and evaluation, provider accountability, and functions as an early warning system. Based on this criteria, there will be a residential system study and reorganization to evaluate offender population needs, YLS/CMI data based on risk and needs of youth in YRCIIs, determine the levels of service and programs components, capacity needs, and engage providers in dialogue.

The proposed changes:

- Moving away from a "one size fits all" model to best practices to separate low/moderate/high risk juvenile offenders to prevent contamination of low risk juvenile offenders;
- Require evidence based practices such as Cognitive Based Treatment (CBT) groups to address needs and staff training on "what works";
- Length of stay stabilization be tied to risk level to allow time for behavioral change and stability; and
- Intensity of interventions varies by risk level to ensure that higher risk youth receive more interventions to adequately change the risk of recidivism.

The benefits for youth:

- Prevent contamination of low risk youth;
- Require groups to match the criminogenic needs of the youth, therefore appropriately allocating resources;
- Reduce the instability of placements via adequate initial length; and
- Reduce the risk levels via appropriate intensity.

The benefit for staff is a more streamlined operation. The benefit for society is it is economical while providing for public safety by reducing the known risk of the juvenile offender.

The Committee voted in favor of supporting, encouraging, and recommending collaboration between the Kansas Juvenile Justice Authority (JJA) and the Kansas Supreme Court to implement the use of the Youthful Level of Service/Case Management Inventory (YLS/CMI) at the court services level prior to disposition of juvenile offender cases. The Chairperson of the Joint Committee on Corrections and Juvenile Justice was authorized by the Committee to send the Chief Justice of the Kansas Supreme Court a letter requesting such collaboration.

The Committee discussed supporting JJA in the reorganization of Youth Residential Center II (YRCII) services to provide for multiple levels of service that will strengthen the services provided to youth placed in YRCIIs. The Committee believes the reorganization of the

YRCII service level will reduce the instances of movement of youth from one placement to another, provide for stronger and more intense program opportunities for youth, and will provide for an adequate length of stay to achieve beneficial outcomes. JJA will begin working towards YRCII reorganization by July 1, 2010. JJA will involve stakeholders in the discussion while developing a model for Kansas YRCIIs. JJA will provide periodic updates on its progress to the Committee. Therefore, the Committee voted in favor of supporting and encouraging the JJA to implement a contract condition for all YRCII providers that require participation in the Community Based Standards (CbS) facility evaluation process and acknowledge that there will be a cost associated with it.

Finally, the Committee voted in favor of supporting JJA's move away from the one size fits all approach to move toward what is described as best practices of the three tier system of level of risk in order to contain the problem described and to keep the contact between the juvenile offenders.

Committee Recommendations

The Committee makes the following recommendations:

- Endorse the concept of taking fees for DUI alcohol treatment;
- Introduce House bill (9rs1208) which would change the district court fine allocation to fund the therapeutic communities in prisons;
- Encompass the visions that the Kansas Sentencing Commission proposed and be introduced as a House bill for the 2010 Legislative Sessions, such as:
  - Merge the non-drug and drug sentencing grids into one grid;
  - Reduce or eliminate the number of special sentencing rules for property offenders;
  - Place as many felonies on the grid as possible;
  - Recommend changes to the drug laws;
  - Manufacturing methamphetamine is a level 3 person felony while manufacturing all other drugs would be a level 5 felony;
  - Sale, distribution, and possession with intent to sell or distribute would be based on the quantity of drugs possessed to be sold or actually sold; and
  - Make a first time domestic battery a class B person misdemeanor, a second domestic battery a class A person misdemeanor, and a third or subsequent domestic battery a level 7, person felony.
- Move forward with Specialty Courts for further development;
- Introduce a bill in the House on early release of terminally ill inmates;
- Recommend commendation of the work of Community Corrections and urge that Community Corrections be a high priority of the Legislature; and acknowledge that the prison population will be impacted if funding is not available;
- Introduce a Senate bill that would raise the probation fee to an amount that would cover approximately $300,000 needed to institute risk assessment tools in Court Services;
- Introduce a Senate Bill (9rs1090) that will prevent the transfer to a KDOC facility for offenders who have 10 days or less to be served in the state prison and require the

offender be retained in the county jail;

- Recommend the Public Safety Budget Committee strongly consider approving the $750,000 for the radios for the Kansas Department of Corrections to be in compliance with federal regulation;
- Recommend examining ways to control offender population growth prior to running out of beds and examining what options are available to the Legislature;
- Recommend further study of nonfunctioning mentally ill inmates;
- Recommend the Parole Board consider pre-SB 123 offenders, and to bring them into compliance with the balance of the current guidelines of SB 123;
- Support, encourage, and recommend a collaboration between the Kansas Juvenile Justice Authority (JJA) and the Kansas Supreme Court to implement the use of the Youthful Level of Service/Case Management Inventory (YLS/CMI) at the court services level prior to disposition of juvenile offender cases;
- Support and encourage the JJA to implement a contract condition for all YRCII providers that require participation in the Community Based Standards (CbS) facility evaluation process and acknowledge that there will be a cost associated with it; and
- Support JJA's move away from the one size fits all approach to move toward what is described as best practices of the three tier system of level of risk in order to contain the problem described and to keep the contact between the juvenile offenders.

COSTS OF PROCESSING AN OFFENDER WITH A SENTENCE OF 10 DAYS

Activity	KDOC/ County	Time for Activity	Estimated Cost	
Scheduling admission	KDOC	Captain - 30 minutes	14.90	
Review journal entry and compute sentence	KDOC	Adm Asst - 20 minutes UTM - 20 minutes CCII - 20 minutes	6.09 10.25 8.65	Adm Asst = Administrative Assistant UTM = Unit Team Manager CCII = Corrections Counselor II
Imaging documents	KDOC	Adm Asst - 60 minutes	18.27	
Security processing (finger printing; photo; tatoo inventory; property inventory; shower; give clothing; collect/analyze/enter intelligence and investigation information)	KDOC	COII - 60 minutes CSI - 90 minutes	21.15 35.34	COII = Corrections Officer II CSI = Corrections Supervisor I
Initial intake forms and data entry of demographics	KDOC	Adm Asst - 60 minutes	18.27	
Initial medical and mental health screening	KDOC	Nurse (contract) - 30 minutes	17.11	
Physical (eye exam; weight; general physical; EKG on 40+, etc.)	KDOC	Nurse (contract) - 90 minutes	51.33	
Medical costs (medicine, equipment, diagnostics, etc.)	KDOC		127.25	

Attachment 1

COSTS OF PROCESSING AN OFFENDER WITH A SENTENCE OF 10 DAYS

Activity	KDOC/ County	Time for Activity	Estimated Cost	
Mental health follow up (for the RDU stay; if screening has flags) and crisis follow up during RDU stay; appx. one-third of admissions	KDOC	LMSW - 5 hours	147.50	LMSW = Licensed Master Social Worker
Orientation	KDOC	CCII - 60 minutes	25.96	
NCIC check/review and detainer follow up (phone calls, logging, etc.)	KDOC	CCI (Intake Investig) - 120 minutes	46.15	CCI = Corrections Counselor I
Custody classification	KDOC	CCI - 30 minutes CCII - 30 minutes UTM - 30 minutes	11.54 12.98 15.38	
Release planning	KDOC	Reentry Specialist - 240 minutes	123.08	
Gate money	KDOC		100.00	
Transportation -- most go out on bus	KDOC		65.00	
Bed cost per day (marginal cost of $6.58 per day x 10 days = $65.80)	KDOC		65.80	
Cost sending two officers to transport offender to RDU	County	Average pay = $20 per hour x 2 officers for ranging distances; estimate average of 200 miles round trip and full shift per officer = 16 hours x $40 plus $.55 per mile for 200 miles	750.00	
Total			**$ 1,692.00**	