

Minutes of the Kansas Sentencing Commission Workshop

September 13, 2023

The Honorable W. Lee Fowler, Chair, called the Kansas Sentencing Commission (KSSC) Workshop to order September 13 at 9:02 a.m. in the Kansas Department of Corrections Third Floor Conference Room.

Participants:

Members:

- Honorable W. Lee Fowler, Chair
- Honorable Benjamin J. Sexton, Vice Chair
- Honorable Stephen D. Hill, Kansas Court of Appeals
- Senator David B. Haley
- Representative Dennis "Boog" Highberger
- Representative Stephen Owens
- Senator Carolyn McGinn
- Jonathan Ogletree, Kansas Prisoner Review Board
- Jessica Domme, Kansas Attorney General's Office
- Spence Koehn, Office of Judicial Administration
- Secretary Jefferey Zmuda, Department of Corrections
- Mark Dupree, Wyandotte County District Attorney
- Jessica A. Glendening, Third Judicial District Public Defender's Office
- Pat Colloton, Public Member
- Jermaine Wilson, Public Member
- Dustin Curry, Private Attorney

Guests:

Honorable Karen Arnold-Burger, Chief Judge, Kansas Court of Appeals
Audra Goldsmith, Stepping Up, The Council of State Governments
Megan Davison, The Council of State Governments
Laura Brake, Behavioral Health Services Commission, Kansas Department of Aging and Disability Services
Carolyn Coyne, Behavioral Health Services Commission, Kansas Department of Aging and Disability Services
Tim Hutchinson, Drug Enforcement Administration, St. Louis Division
Cheryl Wah, Drug Enforcement Administration, Kansas City District Office
Director Tony Mattive, Kansas Bureau of Investigation
Meredith Fry, Kansas Legislative Research Department
McKenna Payne, Domo, Inc.
Boris Zipilevich, Domo, Inc.
Jason Thompson, Kansas Office of Revisor of Statutes
Jeff Wagaman, Kearney and Associates
Lindsay Archer, Kansas Legislative Research Department
Kevin Waring, Chief Court Services Officer, 10th Judicial District
Stuart Little, Little Government Relations
Mallory Lutz, Little Government Relations

Gail Antenen, Chief Court Services Officer, 24th Judicial District
Sandra Miller, Court Services Officer, 10th Judicial District
Natalie Nelson, Kansas Legislative Research Department
Christie Koehn, Chief Court Services Officer, 6th Judicial District
Erin Garman, Community Corrections, 12th Judicial District

Staff:

- Scott M. Schultz, Executive Director
- Brenda Harmon, Administrative Services Manager
- John Grube, Director of Research
- Jason Lamprecht, Senior Research Analyst
- Gwyn Harvey, SB 123 Program Consultant
- Trish Beck, Program Auditor
- Grazi Gifford, Administrative Specialist
- Rachel Cole, Data Entry Specialist

Approval of Proposed Agenda

Chair Fowler asked if there were objections or additions to the agenda. The agenda was approved with no modifications.

Approval of August 24, 2023, KSSC Meeting Minutes

Chair Fowler referred to the August 24, 2023, KSSC meeting minutes. Mark Dupree moved to approve the minutes. Pat Colloton seconded the motion. The motion carried, and the minutes were approved.

Bias in the Criminal Justice System

Executive Director Scott Schultz introduced the Honorable Karen Arnold-Burger, Chief Judge, Kansas Court of Appeals. Judge Arnold-Burger presented the *Race in the Criminal Justice System*. She discussed systemic racism, discrimination, or unequal treatment based on membership in a particular ethnic group arising from systems, structures, or expectations established within society or an institution. Judge Arnold-Burger also discussed sentencing reform and the benefits it could bring to the criminal justice system.

Where Behavioral Health Meets the Criminal Justice System – Roundtable Discussion

Executive Director Scott Schultz welcomed and introduced the behavioral health roundtable participants: Dr. Megan Davidson, Behavior Health Program Manager, The Council of State Governments; Audra Goldsmith, Behavior Health Senior Policy Analyst Stepping Up, The Council of State Governments; Laura Brake, Director of Crisis Services, Behavioral Health Services Commission, Kansas Department of Aging and Disability Services; and Carolyn Coyne, Justice Involved Services Coordinator, Behavioral Health Services Commission, Kansas Department of Aging and Disability Services.

Audra Goldsmith and Megan Davidson presented the *Where Behavioral Health Meets the Criminal Justice*. Mrs. Goldsmith spoke about Stepping Up as a national initiative to reduce the number of people with mental illnesses in jail and the factors driving the crisis in the criminal justice system. Mrs. Goldsmith:

1. highlighted the history of the Kansas Stepping Up Technical Assistance Center,
2. the collaboration and partnerships across the state
3. upcoming projects, such as the continued operation and expansion of Stepping Up TA Center, and
4. the planning and implementation of a three-year project focused on launching a juvenile justice model for Stepping Up in Kansas.

How Much is Enough – Exploring Drug Distribution Thresholds in Kansas

Executive Director Scott Schultz introduced Cheryl Wah, Intelligence Group Supervisor, Drug Enforcement Administration (DEA), Kansas City District Office; Timothy Hutchinson, Field Intelligence Manager, Drug Enforcement Administration (DEA), St. Louis Division; and Tony Mattivi, Director of Kansas Bureau of Investigation (KBI).

Timothy Hutchinson and Cheryl Wah presented *Drug Trafficking in the State of Kansas*. Topics discussed were an overview of the DEA St. Louis Division, including mission and priorities, drug trafficking, drug trends in Kansas, Federal Sentencing Guidelines, and ongoing DEA operations and initiatives.

Tony Mattivi, Director of the Kansas Bureau of Investigation, discussed and provided data based on KBI Forensic Science drug submissions. Director Mattivi presented information and explained the fentanyl crisis in Kansas and reported that the Joint Fentanyl Impact Team (JFIT) was created to combat fentanyl in Kansas. JFIT is a collaboration between the KBI, the Kansas Highway Patrol, and Homeland Security Investigations. JFIT aims to identify and disrupt fentanyl trafficking and distribution networks and remove the deadly drug from Kansas' streets. Director Mattivi also described the need to increase public awareness about how lethal fentanyl is and how any street drugs contain this controlled substance.

John Grube, KSSC Director of Research, presented the *Drug Weights and Severity Levels vs. Guidelines Circumvention in Kansas*. Mr. Grube discussed the drug severity level convictions for FY 2022 and the types of departures by drug severity level. Although the FY 2023 data is not fully closed, midyear data demonstrates that sentencing downward departures for drug distribution convictions are significantly high.

KSSC Electronic Journal Entry Demonstration

Executive Director Scott Schultz introduced McKenna Payne, Program Manager - Custom Apps, Domo, Inc. Ms. Payne presented the *Electronic Journal Entry Demonstration*. Ms. Payne discussed the data app platform implementation. Jason Lamprecht, KSSC Senior Research Analyst, and John Grube, KSSC Director of Research, demonstrated the KSSC Electronic Journal Entry features live. KSSC is in the middle of a second pilot study group, which is currently working through practice exercises in the application to provide feedback to Domo developers.

2024 Legislative Proposal Discussion

Chair Fowler and Executive Director Scott Schultz referred to the KSSC's *2024 Legislative Proposals*. They provided an overview of five KSSC 2023 proposed House bills currently in two legislative committees, as shown below. Chair Fowler reviewed the KSSC Legislative Committee's recommendation to continue supporting these bills during the 2024 Legislative Session. The Commission agreed to adopt the proposal and continue supporting the legislation.

HB 2067 House Corrections and Juvenile Justice Committee	Increasing the felony loss thresholds for certain property crimes to match the crime of theft	01/19/2023 - House Referred to Corrections and Juvenile Justice
HB 2072 House Corrections and Juvenile Justice Committee	Reducing the criminal penalties for most severity level 5 drug crimes and increasing the penalties for offenders in criminal history category 5-1	01/19/2023 - House Referred to Corrections and Juvenile Justice
HB 2074 House Judiciary Committee	Allowing courts to prohibit possession of a firearm in a temporary custody order under the Care and Treatment Act for mentally ill persons	01/19/2023 - House Referred to Judiciary
HB 2104 House Corrections and Juvenile Justice Committee	Defining options for early discharge from probation for certain offenders and limiting the maximum term of supervision on probation	01/20/2023 - House Referred to Corrections and Juvenile Justice
HB 2180 House Corrections and Juvenile Justice Committee	Increasing good time and program credit for certain offenders and removing liability protection for wrongful acts committed by the Department of Corrections in making good time and program credit calculations	01/26/2023 - House Referred to Corrections and Juvenile Justice

Adjournment

Mark Dupree moved to adjourn. Pat Colloton seconded the motion. The motion carried.

The meeting adjourned at 4:35 p.m.

The next Sentencing Commission meeting will be Thursday, October 19, 2023.