

MINUTES

JOINT COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE OVERSIGHT

November 14 – 15, 2016
Room 112-N—Statehouse

Members Present

Senator Greg Smith, Chairperson
Representative Ramon Gonzalez, Vice-chairperson
Senator Molly Baumgardner
Senator Steve Fitzgerald
Senator Forrest Knox
Senator Jacob LaTurner
Senator Carolyn McGinn
Senator Pat Pettey
Representative Sydney Carlin
Representative Pete DeGraaf
Representative Amanda Grosserode
Representative Jerry Henry
Representative John Rubin (November 15)
Representative Jim Ward

Member Absent

Representative John Rubin (November 14)

Staff Present

Lauren Mendoza, Kansas Legislative Research Department
Mark Savoy, Kansas Legislative Research Department
Robert Gallimore, Kansas Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Natalie Scott, Office of Revisor of Statutes
Jenna Seematter, Office of Revisor of Statutes
Nancy Fontaine, Committee Assistant

Conferees

Joe Norwood, Secretary of Corrections
Keith Bradshaw, Kansas Department of Corrections
Terri Williams, Kansas Department of Corrections
Amy Raymond, Office of Judicial Administration
Randy Bowman, Kansas Department of Corrections
Scott Schultz, Kansas Sentencing Commission

Randy Callstrom, Wyandot Inc.
Kimberly Lynch, Kansas Department for Aging and Disability Services
Chris Mechler, Office of Judicial Administration
Shane Hudson, Kansas Association of Addiction Professionals and Central Kansas
Foundation
Nick Reinecker, Private Citizen
Rick Cagan, National Alliance on Mental Illness

Others Attending

[See Attached List.](#)

Monday, November 14 Morning Session

Welcome

Chairperson Smith convened the Committee meeting at 9:00 a.m. and welcomed members and guests.

Overview of Kansas Department of Corrections Operations

Joe Norwood, the new Secretary of Corrections, introduced himself to the members and discussed his background in corrections.

The Secretary provided an update regarding Kansas Department of Corrections (KDOC) operations, including adult and juvenile population trends and the status of the Justice Reinvestment Initiative. He continued by discussing issues associated with the number of inmates suffering from mental illness and steps taken to respond to their needs ([Attachment 1](#)). Secretary Norwood also updated members on several programs aimed at reducing recidivism that have shown some success.

The KDOC continues to experience high levels of uniformed officer turnover, he said. Some states have dealt with this by increasing salaries or reducing the time required for promotion. The KDOC continues to recruit new staff, but this also results in additional training expenses. A Committee member asked for clarification on the vacancy rate for uniformed staff versus the overall Department vacancy rate. Secretary Norwood said he will provide the information.

The member additionally asked how many sexually violent offenders have completed their prison terms and been referred to Larned State Hospital's Sexual Predator Treatment Program (SPTP). The Secretary said he will provide the information.

The member also asked how many of the furloughed prisoners are coming back into prison. The Secretary stated agency staff will have that information, but recidivism is usually measured over a three-year time period, so that is not yet available; the agency will also be able to look at it after one year.

The member asked the Secretary what areas he would focus on if required to take a budget cut during the next fiscal year. Secretary Norwood responded that most of the costs in the Department are fixed, such as inmate medical care and food services, and the agency would likely have to make reductions in programs that are offered to inmates such as the substance abuse program. This likely would increase recidivism.

The member asked about funding for the mentoring program. The Secretary responded that the mentors are volunteers, but there are costs associated with training and coordination. He said he will provide the specific costs.

A Committee member asked about the average age of the inmate population. Secretary Norwood stated the average age is certainly increasing, which leads to increased health care costs, but he will provide a chart with the actual information.

A Committee member asked when the agency reduced the hiring age for uniformed guards to 18. Secretary Norwood responded this was done just a couple of years ago. The member continued by asking if this has resulted in additional training costs. The Secretary indicated the agency doesn't have specific numbers on this because additional costs are primarily associated with oversight and on-the-job training.

A Committee member asked about the total number of behavioral health staff now that 34 have been added and what their positions are. The Secretary said he will provide the information.

A Committee member asked what portion of the turnover rate is due to retirements. The Secretary responded that it has not been a significant portion, but it is increasing and he believes that will continue to increase. He said he will provide additional information on retirements.

Overview of KDOC Prison Programs and Medical Services Contracts

Keith Bradshaw, Contract Programs and Finance Executive Director, KDOC, provided a briefing on contracted services for medical, dental, and mental health services, as well as food and education services for inmates ([Attachment 2](#)). The agency continues to deal with a large population that has mental health issues, as well as other medical issues, such as hepatitis, resulting in high medical expenses.

The Department contracts for educational services as offenders generally have a lower level of education, and those who participate in vocational education have a greater chance of finding employment after incarceration.

A Committee member asked whether there is an annual adjustment to the food service contracts. Mr. Bradshaw indicated there is a slight adjustment based on the consumer price index.

A Committee member asked what the impact would be on the inmate healthcare contract if Kansas were to expand Medicaid. Mr. Bradshaw said he will provide the information.

Overview of Juvenile Services

Terri Williams, Deputy Secretary for Juvenile Services, KDOC, updated members on Juvenile Services and 2016 SB 367 implementation. Trends continue to be positive, she said, and youths are participating in and completing training programs that are leading to reductions in recidivism ([Attachment 3](#)). Ms. Williams also discussed the closure of Larned Juvenile Correctional Facility as well as the status of activities to address the Council of State Governments' recommendations. Ms. Williams continued by discussing the background of the Juvenile Justice Workgroup and the status of implementing 2016 SB 367. The State is receiving assistance through a partnership with the Crim and Justice Institute (CJI). Ms. Williams responded to questions from Committee members to clarify some discussion points.

Chairperson Smith recessed the meeting at 11:15 a.m. and reconvened the meeting at 1:30 p.m.

Afternoon Session

Discussion of the Implementation of 2016 SB 367

Amy Raymond, Director of Trial Court Programs for the Office of Judicial Administration and Chair of the Judicial Branch SB 367 Implementation Team, discussed the current status of implementation of 2016 SB 367. The primary function of the team is to collaborate with KDOC and to train officers in risk and needs assessments. Team members also are working with CJI to develop a training protocol as required by the bill ([Attachment 4](#)).

Randy Bowman, Director of Community-Based Services for KDOC, appeared on behalf of the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention (KAG) and provided an overview of KAG membership, background, and mission. Mr. Bowman continued with a discussion of KAG responsibilities, particularly as they relate to compliance with the four core protections of the federal Juvenile Justice and Delinquency Prevention Act ([Attachment 5](#)).

A Committee member asked whether the KAG had trend data on disproportionate minority contact in the juvenile system. Mr. Bowman indicated they have data at points in time, but not good trend data.

Overview of Adult Inmate Prison Population Projections

Scott Schultz, Executive Director of the Kansas Sentencing Commission, discussed the Commission's method for determining prison population projections and prison trends and provided a summary of its projections. He continued by briefing the members on the progress of 2013 HB 2170 implementation, followed by proposed legislation for next session based on recommendations from the Sentencing Commission ([Attachment 6](#)).

A Committee member asked to have a line item in future updates indicating the recidivism rate for those released under the furlough program. Mr. Schultz said the agency will include that information in the future.

Chairperson Smith recessed the meeting at 3:04 p.m.

**Tuesday, November 15
Morning Session**

Welcome

Chairperson Smith convened the meeting at 9:00 a.m. and welcomed members and guests.

Discussion of Mental Health Treatment Resources Available to Offenders at the State and Local Levels

Randy Callstrom briefed the members on Rainbow Services Inc. (RSI), which is a collaborative effort of Wyandot, Inc., Johnson County Mental Health Center, Heartland Regional Alcohol and Drug Assessment Center, and the State of Kansas to develop ways to offer alternative services at Rainbow Mental Health Facility. This program has improved service for the involuntary population ([Attachment 7](#)).

A Committee member asked whether it is preferable to enhance Osawatomie or grow this program. Mr. Callstrom responded that it is better to restore the beds at Osawatomie until adequate community resources are in place.

A Committee member asked what the budget for RSI is and where it comes from. Mr. Callstrom stated the RSI budget of a little more than \$3.5 million is based on a grant from the Kansas Department for Aging and Disability Services (KDADS).

Discussion of the Sexual Predator Treatment Program at Larned State Hospital

Lynn Retz, Legislative Division of Post Audit (LPA), reviewed the LPA Performance Audit report *Larned State Hospital: Reviewing the Operations of the Sexual Predator Treatment Program, Part 2* ([Attachments 8 and 9](#)).

A Committee member asked why there is such a disparity in the number of releases between Kansas and Wisconsin when the two similar bills were enacted the same year. Ms. Retz said she believes it is primarily due to the Kansas program not having individualized treatment plans built into the program.

A Committee member asked how many other states were contacted as part of this audit. Ms. Retz responded that the auditors contacted 12 states but only 3 responded.

A Committee member asked why so many states were reluctant to respond. Ms. Retz said she believes it was mainly due to pending federal litigation in Minnesota.

Kim Lynch, Senior Litigation Counsel, KDADS, provided an update on the revised Sexual Predator Treatment Program (SPTP) and some of the enhancements that have been made over the past few years. The Kansas program is now focused more on individualized programs that take into account each person's risks and needs ([Attachment 10](#)).

A Committee member expressed concern about the lack of documentation that was identified in audits. Ms. Lynch indicated KDADS disagreed with that finding and the main thing KDADS staff have done is increase the number of statistics maintained. The Committee member wants to ensure there is a continual checking and no wait for another audit in ten years before learning of a problem.

A Committee member asked, of the approximately 60 who are not participating in the program, how many have intellectual or developmental disabilities. Ms. Lynch said she did not have the information at the time of the meeting but will provide it.

Discussion of 2016 HB 2639

Natalie Scott, Office of Revisor of Statutes, reviewed 2016 HB 2639 concerning licensed crisis recovery centers and provided a copy of the bill ([Attachments 11 and 12](#)).

Lauren Mendoza, Legislative Research Department, provided a summary of the Kansas Judicial Council's study of 2016 HB 2639. The advisory committee studying the bill has not yet reached consensus; however, the final Judicial Council report will be available to the 2017 Legislature ([Attachment 13](#)).

Ms. Lynch discussed KDADS' position on 2016 HB 2639: This bill continues to provide safeguards to those with mental illness or substance abuse issues through use of licensed crisis recovery centers ([Attachment 14](#)).

A Committee member commented that unless KDADS provides funding for these centers in the upcoming budget, this will be an unfunded state mandate on communities.

Discussion of Mental Health Treatment Resources Available to Offenders at the State and Local Levels (continued)

Chris Mechler, Court Services Specialist, Office of Judicial Administration, discussed resources available to people throughout the state through court services. Many have mental health issues and substance abuse issues, and services are not often available at the local level. The Office of Judicial Administration would appreciate any support and funding for mental health services for offenders ([Attachment 15](#)).

Shane Hudson, Kansas Association of Addiction Professionals and Central Kansas Foundation, provided information to the members on the issues relating specifically to substance use treatment and prevention. He expressed some concern about the challenges of implementing the new juvenile law ([Attachment 16](#)).

A Committee member asked whether there is overlap in the people with mental illness and substance abuse issues. Mr. Hudson confirmed that is the case. The member followed up by asking to what extent there is coordination between the groups that treat each. Mr. Hudson responded that there are things going on in the brains of people with these disorders and it is difficult to know which started first. Because of this, they work closely with those in the mental health community to work through those issues.

Nick Reinecker, private citizen, testified regarding 2016 HB 2639. He said he has attended Judicial Council meetings on this bill and is very concerned about due process and individual rights ([Attachment 17](#)).

Rick Cagan, National Alliance on Mental Illness, testified regarding steps that need to be taken to avoid incarceration of those with mental health issues and to decriminalize mental illness. Community-based supports are not adequate, which results in jail being the default solution for those with mental health issues, he said. Mr. Cagan also advocated for crisis intervention teams, which are part of a pre-arrest diversion program ([Attachment 18](#)).

Chairperson Smith recessed the meeting at 11:37 a.m.

Afternoon Session

Committee Comments and Recommendations

Chairperson Smith reconvened the meeting at 1:30 p.m.

Ms. Retz, LPA, provided written information in response to questions from Committee members regarding the criteria other states use for discharging residents from sexual predator treatment programs ([Attachment 19](#)).

Secretary Norwood presented the following information in response to questions from the previous day's briefings ([Attachment 20](#)):

- Uniformed officer vacancy rates: currently 9.88 percent.
- Sex offenders being transferred to Larned: 583 were reviewed by KDOC for the program; 68 were referred to the Attorney General for review, and 16 had filings for civil commitment at Larned State Hospital.
- Program credit releases: The Secretary indicated the program has been in effect for about eight years. During that time, approximately 11,600 inmates have been released early with program credits. He believes the recidivism rate for this population to be about equal to that of other inmates.
- Age demographics of inmate population: Chart provided in attachment.
- Mental health staffing: Chart provided in attachment.
- Number of uniformed officer retirements: For FY 15: 42; FY16: 77; to date in FY 17: 39
- Savings if Medicaid is expanded: Initial estimates are it would result in about a \$1.6 million savings but the federal share gradually decreases to 90 percent by the year 2020. This would reduce the savings to approximately \$1.4 million. Most

inmates would qualify; however, it would apply only to those inmates who are otherwise eligible for Medicaid.

- Juvenile education outcomes: Document provided in attachment.

Secretary Norwood also provided information on the Functional Family Therapy Program as well as a listing of the members of the Kansas Juvenile Justice Oversight Committee.

Comments and Recommendations

The members discussed noting referral of 2016 HB 2639 to the Judicial Council and suggesting that standing committees consider the Judicial Council's recommendations during the next session.

A Committee member expressed concern that schools may be overusing expulsions and suspensions, which, in some cases, needlessly involves youths in the juvenile justice system. The member would like to recommend the standing committees and the Juvenile Justice Oversight Committee look at this issue. Another Committee member stated concern about including this as a formal recommendation because the Committee has not heard any testimony regarding this issue. Staff explained those concerns could be included in the Committee's report without being included as a formal recommendation.

A Committee member stated a desire to include a comment regarding follow-up on the SPTP audit. As follow-up, another member suggested including a recommendation that KDADS come to the standing Judiciary or Corrections and Juvenile Justice Committees to have a more in-depth discussion and that LPA review progress in about a year. There were no objections from other members.

The Chairman asked staff to review those recommendations that would be included in the final report, which were outlined as follows:

- The appropriate standing committees carefully consider the Judicial Council's report on 2016 HB 2639, concerning use of licensed crisis recovery centers for emergency observation and treatment of persons with mental illness, substance use disorders, and co-occurring conditions; at the same time, these committees should consider the testimony provided by a representative of Rainbow Services Inc., which indicated their efforts resulted in cost savings of \$6.1 million in 2015, including \$3.9 million in state hospital bed days, \$2.1 million in emergency room diversions, and \$75,200 in jail diversions;
- The appropriate standing committees continue to receive information from KDADS about its progress in implementing changes recommended by LPA in its audit of the SPTP at Larned State Hospital;
- The Legislative Post Audit Committee approve an additional audit of the SPTP at Larned State Hospital in the next year; and

- The Legislature continue to be aware of and monitor issues concerning adequate staffing at state correctional facilities, including retention and pay, and the prevalence of mental health issues among inmates.

Chairperson Smith called for a vote on the recommendations for the report. The recommendations were adopted unanimously.

Chairperson Smith adjourned the meeting at 2:33 p.m.

Prepared by Nancy Fontaine
Edited by Lauren Mendoza

Approved by Committee on:

December 16, 2016

(Date)