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**Testimony to the House Corrections and Juvenile Justice Committee
Overview of Kansas Law Enforcement Challenges and Needs
January 16, 2024**

Chairman Owens and Committee Members:

The thousands of our associations' member law enforcement professionals thank the Committee for requesting a presentation on the state of Kansas law enforcement and an opportunity to speak about the challenges and needs for us to be effective in serving the people of Kansas. We are privileged to respond to that request.

The media and the public generally categorize crimes under two classes, violent and nonviolent crimes. Violent crimes make up only a small share of the number of crimes, but they clearly carry the most significant impact on the victims. However, many nonviolent crimes can impact victims and society nearly as significantly. If any of you have ever had your home broken into, you know what we are referring to. Or perhaps you have a relative who has been victimized by a fraud scam and lost significant portions of the savings they depend on to survive. Violent crime has shown some signs of levelling off or perhaps declining slightly, but we are still far from dropping back to the level of violent crime rates of just 5 years ago. Today, we see news articles from across the nation of the impact of property crimes on the future of businesses and neighborhoods. Businesses that are closing and abandoning neighborhoods because of shoplifting losses and neighborhoods that no longer feel safe from extreme financial losses from thefts such as the stealing of automobiles and other critical need items.

During the 2023 session, the legislature passed several bills addressing concerns we presented last year. We thank the legislators for listening and responding to these public safety needs.

- Approved funding for the South-Central Kansas mental health facility.
- Established reimbursement for local costs associated with wait times for admission to state programs for mental health commitments and competency evaluations and treatment.
- Passed legislation to make the Juvenile Crisis Intervention Centers a reality.
- Expanded the Deferred Retirement Option Program to local KP&F agencies.
- Enhanced sentencing for manufacturing illegal drugs containing fentanyl. (Now we need to do the same for those distributing those drugs to our youth and neighbors.)
- Clarified that pressing illegal drugs into imitation prescription drugs is an act of illegal distribution.
- Expanded drug treatment options for person convicted of a wider list of crimes.
- Passed modifications to the interference of a law enforcement officer to recognize the higher risk to the public and to officers when fleeing from a lawful detention or arrest.
- Passed stronger laws for felons prohibited from possessing a firearm committing new crimes with a firearm.
- Passed a law to help us better vet law enforcement applicants who have applied to multiple law enforcement agencies.

- Updated the jail statutes that had not been amended for over 100 years.
- Made some adjustments to the Juvenile Offender Act to correct gaps in holding juvenile offenders accountable to complete their treatment programs.
- Clarified the use of tracking devices to determine the location of a person with a protection order is a violation of the order.
- Kept the Scrap Metal Act alive by extending the sunset and clarifying the law relating to stolen catalytic converters.
- Added Kansas Parks and Wildlife law enforcement officers to eligibility to the KP&F retirement system.

With those things in mind, we offer the following insight into the challenges faced by law enforcement and the state of our ability to respond to current public safety issues.

Mental Health Concerns

Behavioral health treatment capacities have a direct impact on many Kansans. The lack of mental health treatment capacity in Kansas, provided by both the government and the private sector, continues to be a concern. While small strides continue to be made to address this problem, we are probably still more than a year out from making meaningful changes in the mental health treatment capacity in the Kansas state hospitals. Regardless of changes in programming, some mental health crises will continue to require a law enforcement response for safety purposes when the mental health issues result in potential violent or destructive behavior. We must find ways for Kansans to have greater access to timely mental health treatment voluntarily to keep those disorders from manifesting into levels requiring emergency response and risks to the public, to those suffering from mental health disorder, and our first responders.

- **Criminal Conduct and Mental Health:** Many people with mental health issues commit crimes. Some of those crimes are very serious and others are minor public disorder crimes. Many times, those crimes are not committed because of mental health issues, but the person committing those crimes clearly has unrelated serious mental health conditions we must deal with if they are incarcerated. Other times the crimes are committed due to the person’s mental health issues. It is the desire of law enforcement to defer those committing minor “victimless” crimes to mental health services and not to the criminal justice system when appropriate. In many of these cases, the person does not meet the “risk to self or others” standard for involuntary commitment. In those cases, the commitment must be either voluntary or through a court order relating to a criminal charge. This effort is impeded by insufficient mental health services both at the community level and within the state hospital system. Waiting lists for admission to state hospitals for persons determined to be a risk to self or others due to a mental health crisis remains an obstacle to timely treatment and consumes law enforcement and emergency room resources.

We still see media reports and hear some legislators talk about people held in jails without criminal charges while on the waiting list for a state hospital bed. That is not accurate. Under Kansas law a person awaiting mental health treatment cannot be held in a jail without a criminal charge. However, it is true that some people would be diverted to mental health treatment and not held in jail on minor criminal charges if there was not a state hospital waiting list.

- **The State Hospital System** is improving but we are far from where we need to be. . .progress is slow. It is too early to tell if the current efforts will eventually address the capacity

demands. We see the addition of a state hospital in south central Kansas as a key element in creating marked improvement, but more remains to be done.

- **Emergency commitment** processes remain problematic as waiting lists for emergency commitments persist. KDADS' utilization of contract beds has proven to be helpful but has failed to produce the additional bed space necessary to meet the demand. Finding emergency mental health treatment for a person in a mental health crisis also suffering a serious physical illness or injury is very difficult to find and is not provided by the state hospitals.

Waiting lists for emergency commitments are getting longer and wait times are not significantly improving. In November 2021, there were 155 people on the waiting list for involuntary admissions to state hospitals with an average wait time of 82 hours at Osawatomie State Hospital and 29 hours at Larned. In November 2023, there were 191 people on the waiting list with an average wait time of 70 hours at Osawatomie State Hospital and 40 hours at Larned. People on a waiting list require significant personnel resources to monitor them while we wait for a bed at a state hospital. These people are often kept in law enforcement offices or hotel rooms, monitored 24/7 by law enforcement officers while we wait for an open bed. While the reimbursement processes for related costs is helpful, the more troubling challenge for public safety is the diversion of personnel resources from other public safety functions.

- **The backlog of competency evaluations and restoration** remains a very large problem. This causes a large increase in offenders in our county jails awaiting trial placing additional burdens on our jails and on county budgets. The waiting lists for admissions to our state hospitals for competency evaluation and treatment are still extremely long. New programs allowing local competency evaluation and treatment, when appropriate, have been implemented but are still not in full utilization. There remains an inadequate number of local mental health professionals with competency training and credentials to perform these services in most jurisdictions.

The quickest way to improve the wait time for competency evaluations and treatment is through mobile evaluation/treatment conducted in county jails. The program has been in place for several years but is used infrequently. In the first 11 months of 2023, an average of 1.45 in jail evaluations were performed per month with an average 37 people on the waiting list each month. About 4% of those waiting for evaluations receive mobile evaluations. An average of 2.7 mobile treatments done were in jails with a monthly average of 148 people on the waiting list each month. That is about 1.8% of the people on the waiting list for treatment. The typical waiting time for in-patient evaluations is about 12-14 months for evaluation and about the same for the treatment waitlist. Not all the defendants awaiting evaluation or treatment are eligible for in jail evaluation or treatment due to the severity of their mental health crisis.

- **Mental health of employees:** Programs to address the mental health of our employees are improving at the agency level. These needs develop from repeated exposure to traumatic events experienced by our first responders. This includes not only law enforcement officers but also our EMS, firefighters, and even our 911 center personnel.
 - We have requested a bill this year that would expand our peer support abilities to include mental health issues that are not necessarily duty related.
 - Many states have strengthened their work comp statutes to recognize duty related PTSD. Kansas has not. In Kansas, work comp PTSD assistance is only allowed if the employee

suffers a physical injury alongside the Traumatic Stress. Many states have removed this restriction, recognizing that traumatic stress is a mental health issue often unrelated to a personal injury. Last year a bill was introduced to change this in Kansas. Unfortunately, it did not get a hearing and remains in committee.

- **Mental Health Training for Law Enforcement:** Kansas law enforcement agencies continue to engage in mental health intervention programs and training in our communities. Most agencies include Crisis Intervention Team training or Mental Health First Aid training for their officers. Several larger agencies have implemented co-responder programs of some type. This training and programming are time demanding on our agencies and staff, creating implementation difficulties especially in small and mid-size agencies. Co-responder programs are also taxing on local mental health resources in most areas of our state.

Law Enforcement Staffing and Training

Training and certification issues are continuing to be addressed. It is important to realize Kansas has been a leader in these areas for many years. The training and certification requirements, including decertification processes, have a long-standing history in Kansas and are exceeded by few, if any, other states.

- The most pressing training need from the legislature this year is to fix the funding shortfalls for the Kansas Law Enforcement Training Center. The funding currently is based on court fees and license tag fees. Those fees do not increase over time and the Training Center is currently operating on the same or less funding than they did 7 years ago. Without a legislative fix, they will be forced to cut training services provided to our agencies at a time training demands are increasing. Passing HB2491 and moving adequate funding for the KLETC budget to the general fund is a legislative solution in progress this year.

- Several agencies across the state are now participating in the [Kansas Law Enforcement Accreditation Program](#). This offers an opportunity for more agencies to be part of a structured process to assure their agency standards are meeting best practices.
- Training demands are high. Each session bills are introduced to add more mandatory training on various topics. Increased training mandates create both logistical and financial challenges for our agencies, especially our small agencies. We need the flexibility to address our most urgent training needs within each agency, not more mandates aimed at specialized training. Keep in mind that half of the law enforcement agencies in Kansas have 5 or fewer officers and 70% have 10 or fewer. It takes 5 full time officers to have one officer on duty 24/7. These are communities that also face very limited financial resources.

Recruitment and Retention Concerns: Just as you are hearing from state agencies, many of our agencies are facing challenges in recruiting and retaining officers and in some cases support staff. Our 911 centers and local jail corrections officers are included in this concern. While vacancy rates vary widely, we typically hear agencies reporting around 15-20 percent vacancy rates.

- **Recruitment of new officers is at critically low levels.** The pool of applicants for law enforcement officers and for local corrections staff is the lowest we have ever seen.
- **Retention of Officers** is an increasing challenge requiring us to look at new incentives for our officers to stay in their profession. Many existing law enforcement officers and corrections staff are feeling the same overload factors as we are seeing in other public sectors, such as teachers and medical staff, resulting in many seeking alternative careers or earlier retirement.

Some of the programs the legislature can help us with retention include:

- **Examining the disparity between KP&F and Regular KPERs** (especially the tier 3 KPERs) for those performing the same law enforcement services is needed.
- **Tier 3 KPERs** is not a good retirement plan and we believe that is harming our recruitment and retention efforts. About 1/3 of the law enforcement officers in Kansas are under regular KPERs, not KP&F. These come from about 2/3 of the law enforcement agencies. All of our non-sworn jail staff and support staff are under regular KPERs. These are areas where we are also fighting staffing shortages.

- **Salary and Benefits.** It is becoming ever more difficult for our law enforcement agencies to compete with the private sector pay scale. Limitations on hiring bonuses and other perks to draw candidates create another inequality in our job offerings. Agencies are bound by local government budgets, rising costs of operations, leaving little for incentives, hiring bonuses, or raises to compete.

Fentanyl Concerns

Fentanyl is a continuing concern in Kansas. Substantially more overdose/poisoning deaths from Fentanyl are being reported in autopsy reports from the larger counties in Kansas. Another issue is this particular drug is being used in abundance by Kansas youth. In some instances, they know what they are buying, however, in most instances, youth believe they are buying what they believe to be pharmaceutical grade Percocet or other pills and not knowing they are imitations that have been laced with Fentanyl. While we can't arrest our way out of this crisis, stronger laws for those distributing these death drugs are an important component of the overall steps to reduce this crisis. Below are some suggestions on how the legislators can help on the fight against fentanyl.

- **Civil Asset Forfeiture.** This year we know we will face an effort to reduce or eliminate the use of civil asset forfeiture in Kansas. If this were to occur, it will remove one of the tools we need to conduct effective investigations and deterrence of drug crimes, most of which now include the threat of fentanyl overdoses. We support most of the changes recommended by the Judicial Council study provided to the legislature.
- **Education.** A statewide education campaign on the dangers of Fentanyl and how to assist parents in identifying the possible use by their children.
- **New Bill Introduction.** Last year the sentencing for the manufacturing of drugs containing fentanyl products was strengthened. This year there will be a bill to strengthen the sentence for SL 1-3 distribution of illegal drugs containing fentanyl products.
- **Rehabilitation Services.** It is often difficult for the system to find drug treatment for offenders identified with an addiction problem and for parents to find timely addiction treatment for their child when needed. There is a desperate need for increased capacity for drug addiction rehabilitation services.

Protecting the Public from Known (Convicted) and Accused Offenders

There are several areas of concern relating to those convicted of crimes and those awaiting trials for criminal charges.

- **The Kansas Juvenile Justice System** overhaul several years ago had slight amendments made during the last session. It is too early to tell if those changes are going to help with the problem of serious repeat juvenile offenders. While the number of those offenders is not

large, they represent a significant number of crimes in our community. We must keep an open mind to changes in the system to better address the problem repeat offenders without jeopardizing the progress made for other juvenile offenders.

- **Firearm** concerns continue. The problem is not with the majority of firearm owners who are responsible law-abiding citizens, but rather with those possessing firearms during criminal actions.
 - We must do more to address offenders committing crimes when possessing firearms while protecting the rights afforded by the constitution.

- **Firearms used during the commission of illegal drug distribution are a continuing concern.** This is an area where far too often innocent bystanders become the unintended victims of the criminal's use of firearms.

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