CORRECTED	MINIMES
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Approved	2-2-89
ripproved	Date

MINUTES OF THE _SENATE	COMMITTEE ON	JUDICIARY	•
The meeting was called to order by	Senator Wint	Winter, Jr.	at
The meeting was cancer to order an		Chairperson	
10:00 a.m./pxxx on	anuary 31	, 19 <u>89</u> in room <u>514-s</u>	_ of the Capitol.
All members were present except:		ost, Moran, Bond, Feleciano, Ga orris, Oleen, Parrish, Petty an	•

Committee staff present:

Mike Heim, Legislative Research Department Gordon Self, Revisor of Statutes Jane Tharp, Committee Secretary

Conferees appearing before the committee:

Roger V. Endell, Secretary of Corrections
Dave Johnson, Kansas Bureau of Investigation

The chairman presented a bill request concerning modifications to the Kansas Long Arm and Venue Statutes (See Attachment I). Following his explanation, Senator Gaines moved the bill be introduced. Senator Martin seconded the motion. The motion carried.

The chairman announced the subject matter for today is the criminal justice system and prison overcrowding. Senate Bill 49 and Senate Bill 50 were recommended by the Governor's Task Force on Prison Overcrowding, and the bills are set for hearings February 1 and February 2.

Secretary Roger V. Endell presented a brief overview of prison overcrowding and the criminal justice system. He explained his first handout is his letter to the governor as chairperson of the Criminal Justice Coordinating Council. His second handout is the Kansas Department of Corrections Fact Sheet (See Attachments II). He presented three basic recommendations; (1) a bill to make the concept of community corrections statewide, (2) the creation of some form of sentencing commission and (3) construction of a new correctional facility. Secretary Endell stated the profile of inmate population has increased over the years. The average growth rate is 475 people a year. He said we do expect the court to issue an order as early as February on the whole situation. We still need to develop further bed space. In the budget request of the Department of Corrections it was requested the approval for construction of two 752-bed multi-security correctional facilities, each of which would be expandable to 1400 beds. The Governor's budget recommendations to the Legislature include one 752-bed facility, expandable to 1400 beds. Currently, KDOC is proceeding with plans to construct approximately 1500 new minimum and medium security beds, which will allow the Department to comply with population reductions These beds are being constructed at our sites: Hutchinson ordered at KSIR. Correctional Work Facility, Ellsworth Correctional Facility, Norton Correctional Facility and Stockton Correctional Facility.

A committee member inquired what percent of the prisoners actually serve their time? Secretary Endell responded, it appears somewhere between 90% and 95% are released by a parole. Another committee member inquired, what was the whole overcrowding issue before Judge Rogers? The Secretary replied, two people were housed in a forty foot square cell; one man can't move until the other is in his bunk. There are far too many people in multiple cells. We are not meeting the guidelines of the American Correctional Association. Secretary Endell said we are trying to avoid the case going to trial and find a way to determine the solution. The high security prisoner will be housed in the new facility. A committee member inquired if there is another approach to achieving that equilibrium? Setting a cap which the parole board would have to respond? Secretary Endell stated you are asking five people on the parole board to make decisions; the parole board would be made scapegoats. If you go to a structured sentencing situation, I recommend the entire spectrum of sentencing. A committee member said he was getting calls regarding some of

CONTINUATION SHEET

MINUTES	OF THE	SENATI	E COM	MITTEE O	N <u>COMMITTE</u>	EE	,
room _ 514	<u>l−s</u> . State	house. at 💷	L0:00 a	.m./pxnk on	January 31		19_89

of the projects having overrun. Secretary Endell responded, no, that is not true. There is no project that is overrun. A committee member inquired if the governor's recommendations is a compromise when you requested two 750-bed institutions and the governor recommended funds for one 750-bed institution. Are we compromising minimum standard we have to meet or are we politically compromising? Secretary Endell stated as soon as the 800-bed facility is completed, it will be full and will have to start immediately on the second. He said he recommended two small facilities and these could be expanded in the future. In response to a guestion, the Secretary said our most serious need is high security space. A committee member asked about the findings of the private group, Carter Goebel, that inspected prison overcrowding. Secretary Endell responded, they verified what we had already concluded. Our most serious need is high security space. A committee member inquired how much inmate population increased in last ten years with respect to the other states? The Secretary replied less than 3,000 in 1980 and now just under 6,000 and will be back up to that in six months. The growth rate in Kansas was one of the top in the nation. The chairman requested the summary of the Carter Gobel inspection be made available to the committee. Secretary Endell added, we have dramatically more violent people who come into the system now. A committee member inquired if the Legislature does not enact some sentencing guidelines system or enact a cap on prison population, what would be the result ten years from now? The Secretary replied, each and every year a secretary of corrections will be before you asking for a 500 bed facility.

Dave Johnson, Kansas Bureau of Investigation, testified once the entire state is converted to the Incident Based Reporting System, a much better, or at least more accurate, rate of occurrence will be available. A copy of his testimony is attached (See Attachment III).

The meeting adjourned.

Copy of the guest list is attached (See Attachment IV).

GUEST LIST

DATE: 1-31-89 SENATE JUDICIARY COMMITTEE COMMITTEE: ADDRESS' COMPANY/ORGANIZATION (PLEASE PRINT) O pelle MANAGER CUNCORDIA NIENSTEAT oncordia SOVERWINE'S LIABON h, NSI ~

Attachment IV Senate Judiciary 1-31-89 Modifications to the Kansas Long Arm and Venue Statutes

Section 60-308(b)(11) is added.

whether by contract, tariff or otherwise, with a corporation or partnership (either general or limited) residing or doing business in this state under which such corporation or partnership has supplied communication services or equipment (including, without limitation, telephonic communication services) for a business or commercial user where such services are supplied to the user, either partially or wholly, through the use of equipment or facilities of any type located within the State of Kansas.

Section 60-604(5) is added.

(5) in which equipment or facilities for use in the supply of communication services (including, without limitation, telephonic communication services) is located, where the subject of such action relates to communication services supplied or rendered, in whole or in part, using such equipment or facilities.

Attachment I 190 1-31-87

P.5

Section 60-605(1) is amended to read in whole as follows:

(1) in which the plaintiff resides, or it the plaintiff is a corporation, in the county of its registered office or in which it maintains a place of business, or if the plaintiff is a partnership (either general or limited), in the county of the residence of a partner, in the county of the registered office of a corporate partner, or in the county in which the partnership maintains a place of business.

Section 60-605(7) is added.



(7) in which equipment or facilities for use in the supply of communication services (including, without limitation, telephonic communication services) is located where the subject of such action relates to communication services supplied or rendered, in whole or in part, using such equipment or facilities.



DEPARTMENT OF CORRECTIONS

OFFICE OF THE SECRETARY

Landon State Office Building
900 S.W. Jackson—Suite 400-N

Topeka, Kansas 66612-1284

(913) 296-3317

Roger V. Endell Secretary

January 26, 1989

The Honorable Mike Hayden Governor of Kansas Second Floor, Statehouse Topeka, Kansas 66612

Dear Governor Hayden:

am herein transmitting to you a report on the activities to date of the Criminal Justice Coordinating Council, which you treated by executive order on March 21, 1988. Since it was established, the Council has examined numerous issues relating to the criminal justice system and has adopted significant recommentations in support of structured sentencing, community corrections and the construction of a new correctional facility. As mairperson of the Council, I urge your favorable consideration of these recommendations and am, of course, available to discuss them with you at your convenience.

Sincerely

loger V. Endell, Chairperson

Criminal Justice Coordinating Council

RVE:JJ:pb

Inclosure

Senator Paul "Bud" Burke, President Kansas Senate

Representative James Braden, Speaker Kansas House of Representatives

Members, Criminal Justice Coordinating Council

Attachments II Syc 1-31-89

January 1989

BACKGROUND

Charge of the Council

On March 21, 1988 Governor Hayden signed Executive Order No. 88-108 establishing the Coordinating Council for Criminal Justice. In the order, the Governor charged the Council with "...analyzing problems in criminal justice, identifying alternative solutions, and making recommendations for improvements in criminal law, sentencing, prosecution, community and correctional placement, programs, release procedures and related matters."

Membership

Executive Order No. 88-108 provides for a total Council membership of eleven. Direct gubernatorial designees include: the Secretary of Corrections, to serve as Council chairperson; the chairperson of the Kansas Parole Board; the Secretary of Social and Rehabilitation Services; the Governor's chief counsel; and a person to be named by the Governor. The order further instructs the chairperson of the Council to request membership participation by the Attorney General, the Chief Justice of the Supreme Court, and legislative members designated by the President and Minority Leader of the Kansas Senate, and by the Speaker and Minority Leader of the Kansas House of Representatives.

As originally constituted, the membership of the Criminal Justice Coordinating Council included the following individuals:

- · Roger V. Endell, Secretary of Corrections, Chairperson;
- · Elwaine Pomeroy, Chairperson of the Kansas Parole Board;
- Winston Barton, Secretary of Social and Rehabilitation Services
- · John Petersen, Chief Counsel to the Governor;
- Richard Walker, District Court Judge, appointed by Governor Hayden;
- · Robert Stephan, Attorney General;
- · David Prager, Chief Justice of the Supreme Court;
- David Kerr, Member of the Kansas Senate, appointed by the President of the Senate;

January 1989

- Frank Gaines, Member of the Kansas Senate, appointed by the Senate Minority Leader;
- Bob Ott, Member of the Kansas House of Representatives, appointed by the Speaker of the House; and
- Kathleen Sebelius, Member of the Kansas House of Representatives, appointed by the House Minority Leader.

Current membership of the Council is the same, except that Robert H. Miller has succeeded David Prager as Chief Justice of the Kansas Supreme Court, and there is a vacancy in the Council position originally occupied by Representative Ott.

ACTIVITIES OF THE COUNCIL

The Criminal Justice Coordinating Council held its first meeting on May 17, 1988 and, with the exception of November 1988, has met each month since. A brief synopsis of the monthly agendas is presented below. The minutes for each meeting held in 1988 are included as a supplement to this report.

May 17, 1988. The first meeting of the Council was primarily an organizational one. The Council addressed its charge and approaches for meeting it, discussed criminal justice problems and coordination issues, and established its meeting schedule.

June 14, 1988. At the June meeting, the Council received briefing information on inmate populations and the status of capacity expansion projects. Members identified and discussed topics for investigation, including: community corrections; structured sentencing; review of Kansas' criminal statutes; and Department of Corrections initiatives for inmate programs. The Council voted to request of the Judicial Council that it undertake a comprehensive review of all Kansas criminal statutes.

July 12, 1988. Ray Brown, Executive Director of the National Institute of Corrections (NIC), addressed the Council on the functions and services of NIC. Most of the meeting, however, was devoted to presentations made by directors of local community corrections programs, who described their respective program organizations, services and clientele.

January 1989

August 9, 1988. The Council received presentations from Department of Corrections representatives on inmate programs, on the functions and diagnostic procedures of the State Reception and Diagnostic Center, and on capital improvement projects. An official from the Department of Social and Rehabilitation Services also addressed the Council on services available for mental health, sex offender and child abuse treatment. The Council adopted a motion endorsing the establishment of a statutory deadline for expanding the availability of community correction program services statewide.

September 13, 1988. The Council heard a presentation from Bob Goble of Carter-Goble Associates, the consulting firm hired by Morrison-Knudsen to prepare a program statement for new prison facilities in the state. Mr. Goble previewed the findings of three reports prepared by his firm: corrections trends in Kansas, the Midwest and the United States; a review of Kansas' inmate population projections; and, a program statement for a prototype correctional facility. Mr. Forest Swall of the K.U. School of Public Welfare also addressed the Council on his observations regarding Kansas correctional issues.

October 11, 1988. The October meeting was dedicated to consideration of sentencing guidelines. The Director of the Minnesota Sentencing Guidelines Commission and the Commissioner of the Minnesota Department of Corrections both attended the meeting and informed the Council of the Minnesota experience with sentencing guidelines. The Council voted to seek federal funds for the purpose of developing proposed sentencing guidelines for the state.

December 13, 1988. A representative from the Bureau of Justice Assistance reported to the Council on the programs administered by his agency, particularly the structured sentencing program. The Council received reports from the Chief Justice on the status of the criminal statutes review project, and from the Attorney General on the work of his Victims Rights Task Force. The Council also heard presentations on the Newton Victim-Offender Reconciliation Program, on inmate program needs, and on the racial composition of the Kansas inmate population.

January 13, 1989. The Council received briefings on the status of court orders affecting the Department of Corrections, on the Governor's legislative recommendations relating to criminal justice, and on the activities of the

January 1989

Outside Connection organization. The Council endorsed bill drafts to create a sentencing commission and to expand community corrections statewide. It also voted to support the construction of a new correctional facility.

RECOMMENDATIONS

Recommendations adopted by the Criminal Justice Coordinating Council to date, and comments as to the current status of those recommendations, are presented below.

1. The Council adopted a motion requesting that the Judicial Council conduct a comprehensive review of all of the state's criminal statutes.

Status: The review has begun. The Judicial Council's Criminal Law Advisory Committee has divided the criminal statutes into six subject categories, and two-member subcommittees have been assigned to review crimes in each category. The initial review is concentrating on developing recommended revisions to the definition of criminal offenses. After those are agreed upon, the committee will address the issue of consistency in penalties. No firm target date has been set for completion of the study, but the committee hopes to have recommendations for consideration by the 1990 Legislature.

2. The Council endorsed passage of legislation that would expand community correction services statewide.

Status: Senate Bill No. 49 was introduced by the Senate Judiciary Committee on January 18, 1989, and would, if enacted, implement this Council recommendation. The bill requires each county, either alone or in cooperation with other counties, to adopt a plan by January 1, 1990 for providing community corrections services.

The Council adopted a motion calling for the state to seek federal funds for the purpose of developing proposed sentencing guidelines.

Status: The Department of Corrections has explored potential federal funding alternatives, particularly the National Institute of Corrections and the Bureau of Justice Assistance. Except for the possibility of a small technical assistance grant from the National Institute of Corrections, prospects for federal funding support are not good —

January 1989

particularly if legislation is not forthcoming that commits the state to development of sentencing guidelines. Even if such legislation is passed, however, the prospects for federal grant funds are uncertain at best. Funding under the Bureau of Justice Assistance's Structured Sentencing Program, the most logical funding source, is not likely this year unless one of the current participant states withdraws from the program. Moreover, the future of the Structured Sentencing Program itself is in doubt, and it may not be continued. Finally, grant expenditures authorized by the federal Anti-Drug Abuse Act have been broadened to include long-range corrections and sentencing strategies. However, in Kansas these formula grant funds --which are administered by the Governor's Office -- have been directed in the past to anti-drug abuse activities and no change in the state's program emphasis is anticipated.

4. The Council endorsed passage of legislation to create a sentencing commission that would be charged with the development of a sentencing guideline model for the state.

Status: Senate Bill No. 50 was introduced by the Senate Judiciary Committee on January 18, 1989, and would, if enacted, implement this Council recommendation. The bill would create a 13-member commission responsible for developing sentencing guidelines for submission to the 1991 Legislature. The bill requires that the guidelines set standards that will reduce sentencing disparity. In developing the guidelines, the commission is directed to give substantial consideration to existing sentencing and release practices, as well as existing correctional resources.

5. The Council adopted a motion to support the construction of a new correctional facility.

Status: In its budget request, the Department of Corrections requested approval for the construction of two 752-bed multi-security correctional facilities, each of which would be expandable to 1400 beds. The Governor's budget recommendations to the Legislature include one 752-bed facility, expandable to 1400 beds.

January 1989

FUTURE ACTIVITIES

The executive directive establishing the Criminal Justice Coordinating Council does not specify deadlines for development of recommendations, nor does it set a completion date for the Council's work. The Council plans to continue meeting on a regular basis in fulfillment of its charge to analyze criminal justice problems, to identify alternative solutions, and to make recommendations for improvements to the criminal justice system.

Respectfully Submitted,

Roger V. Endell, Chairperson

Criminal Justice Coordinating Council

RVE:JJ:pb

On December 30, 1988, a total of 5,595 people, 5,336 men, and 259 women, were being held in the custody of the Kansas Department of Corrections.

On December 30, 1988, the 16 operational facilities in the Kansas Department of Corrections, had a total operating capacity of 4,262 beds.

KDOC was under Federal Court Order to limit the population of the Kansas State Penitentiary to no more than 1871 inmates by December 31, 1988. The Department was able to comply with that order, but the operating capacity at the Penitentiary is only 1,412.

The population of the Kansas State Reformatory in Hutchinson on December 30, 1988, was 1,701 inmates. KSIR has an operating capacity of 847 inmates. On December 23, 1988, KDOC was ordered by the Federal District Court, to reduce the population at the Reformatory to no more than 1,303 inmates by April 1, 1989.

Currently, KDOC is proceeding with plans to construct approximately 1,500 new minimum and medium security beds, which will allow the Department to comply with population reductions ordered at KSIR. These beds are being constructed at four sites.

- 1) Hutchinson Correctional Work Facility A total of 400 inmates will begin moving in to the HCWF between mid-January and mid-March of 1989.
- 2) Ellsworth Correctional Facility Currently, 300 inmates are being housed, and working, at the ECF. When the facility is complete in July of 1989, it will house an additional 200 inmates.
- 3) Norton Correctional Facility Currently, 240 inmates are living, and working, at NCF. By the time the facility is complete in July of 1989, it will house an additional 260, for a total of 500 inmates.
- 4) Stockton Correctional Facility On Monday, November 28, the first group of 20 inmates arrived at SCF. By the end of January, a total of about 100 inmates will be incarcerated at SCF.

Page 1

S9 C 1-31-89 In addition, KDOC has contracted with a private company, which is providing 200 community custody beds. One Community Residential Center is located in El Dorado, the other at Forbes Field in Topeka. KDOC is currently working with another contractor to provide an additional 200 beds in the Wyandotte/Johnson/Leavenworth County area.

KDOC is also working with officials from Labette and Meade Counties to develop two Community Corrections Conservation Camps, which will help divert up to 400 low security risk offenders per year from incarceration in existing correctional facilities.

The total appropriation for the abovementioned projects, was approximately \$28 million, approved by the 1988 session of the Legislature.

Lawmakers also approved a \$750,000 appropriation, for study, and planning of a new multi-security facility. The study is complete, and the planning had begun.

The study has identified the need for an additional 1400 maximum and medium security beds, to reduce the populations of KSP and KSIR to the operating capacities of those institutions, and keep pace with an anticipated annual population growth of 400 inmates per year.

KDOC is currently under contract with Goessen-Livingston Architects of Wichita, proceeding with three possible optional plans for a multi-security institution.

Option 1 -

Construction of one (1) fully operational 740 bed institution which would be designed and expandable up to 1,400 beds. Total initial capital cost estimated at \$55 million.

Option 2 -

Construction of one (1) fully operational 1,400 bed institution at a total capital cost estimated at \$70 million.

Option 3 -

Construction of two (2) fully operational 750 bed institutions, which would each be designed and expandable up to 1,400 beds. Total initial capital cost estimated at \$107 million dollars. This option would best meet the long term needs of potential future expansion which have been identified by KDOC.

TESTIMONY OF DAVID E. JOHNSON, DIRECTOR KANSAS BUREAU OF INVESTIGATION BEFORE THE SENATE JUDICIARY COMMITTEE TUESDAY, JANUARY 31, 1989 ROOM 514-S STATE CAPITOL

Chairman Winter, Vice-Chairpersons Moran and Yost, members of the Senate Judiciary Committee, I am David E. Johnson, Director of the Kansas Bureau of Investigation.

Data is presented for the ten-year period 1978-87 for reported crime index offenses and arrests. The crime index offenses include: murder, rape, robbery, aggravated assault, burglary, theft and motor vehicle theft. These offenses have been utilized nationally since the 1930's to characterize the status of crime in the United States. These seven crimes were selected due to their severity, frequency of occurrence and likelihood of being reported to law enforcement. Kansas law does include numerous felonies that will not appear in the crime index; however, at the present time this index is the best way to calculate the overall crime rate. Once the entire state is converted to the Incident Based Reporting System a much better, or at least more accurate, rate of occurrence will be available.

Attachment A represents crimes <u>reported</u> to law enforcement with the rate per 1,000 population. To indicate the way in which crime statistics can be manipulated, one need only change the base year of comparison. For the period 1978-87 the crime rate increased 16%, an increase of 16,606 Part I crimes per year. However, utilizing 1981 as a base, the

Attachment III Sg C 1-31-89 rate <u>decreases</u> 6% or 7,654 reported crimes. The rate per 1,000 population graph is based on Bureau of Census population figures. Regardless of comparisons, the number of reported crimes has increased over the past four years. Much of this increase must be attributed to better reporting mechanisms and may not represent a true increase in actual crime. The state's Incident Based Reporting System was developed and implemented during the 1983-84 period and this system will provide a much more comprehensive view of reported crime.

Attachment B illustrates the number of arrests made during 1978-1987. Arrests represent the primary method for entry into the justice system. For the ten-year period, arrests increased 12%; however, as shown previously, arrests matched offenses from 1981-87 decreasing 4.1%. Once again, there has been a steady increase since 1983 which may again be attributed to better reporting processes.

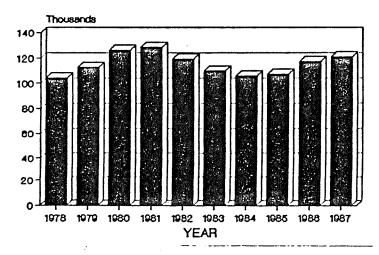
ATTACHMENT A

CRIME INDEX OFFENSES 1978 - 1987

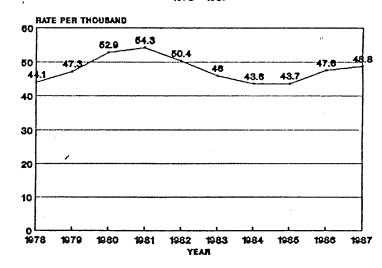
	YEAR	MURDER/ NON-NEG. MANSL.	RAPE	ROBBERY	AGG. ASSAULT/ BATTERY	TOTAL VIOLENT CRIME OFFENSES	BURGLARY	THEFT	MOTOR VEHICLE THEFT	TOTAL PROPERTY CRIME OFFENSES	TOTAL CRIME INDEX OFFENSES	RATE/1000
	1978	131	577	2,177	4,477	7,362	29,357	61,720	5,671	96,748	104,110	44.1
	1979	129	614	2,390	5,039	8,172	30,568	67,480	6,319	104,367	112,539	47.3
	1980	160	741	2,658	5,548	9,107	35,649	74,750	6,371	116,770	125,877	52.9
	1981	149	729	2,605	5,331	8,814	36,656	76,845	6,055	119,556	128,370	54.3
	1982	138	597	2,094	5,252	8,081	32,338	73,366	5,348	111,052	119,133	50.4
	1983	137	627	2,034	5,114	7,912	28,277	68,636	4,871	101,784	109,696	46.0
. •	1984	89	665	1,742	5,642,	8,138	25,505	66,969	5,032	97,506	105,644	43.6
	1985	121	720	1,924	5,924	8,689	26,751	66,194	5,277	98,222	106,911	43.7
		108	816	1,951	6,090	8,965	34,645	67,194	6,259	108,098	117,063	47.6
	1986 1987	. 110	788	2,022	5,897	8,817	37,656	68,260	5,983	111,899	120,716	48.8

CRIME INDEX TREND 1978 - 1987

2



CRIME INDEX OFFENSES, RATE PER THOUSAND 1978 - 1987



ATTACHMENT B

CRIME INDEX ARRESTS 1978 - 1987

YEAR	MURDER/ NON-NEG. MANSL.	RAPR	ROBBERY	AGG. Assault	TOTAL VIOLENT CRIME ARRESTS	BURGLARY	THEFT	HOTOR VEHICLE THEET	TOTAL PROPERTY CRIME ARRESTS	TOTAL CRIME INDEX ARRESTS
1978	136	197	712	1,652	2,697	3,948	9,704	1,331	14,983	17,680
1979	96	193	713	1,720	2,722	3,837	9,862	1,323	15,022	
1980	123	227	719	1,964	3,033	4,301	9,745	1,193	15,239	18,272
1981	136	224	758	1,806	2,924	4,100	10,137	1,057	15,294	18,218
1982	113	180	684	1,889	2,866	3,885	10,790	1,000	15,675	18,541
1983	80	222	532	1,705	2,539	3,344	11,047	806	15,197	17,736
1984	72	237	459	1,774	2,542	3,025	11,609	809	15,443	17,985
1985	92	233	507	1,903	2,735	3,421	13,402	859	17,682	
1986	92	246	419	2,001	2,758	3,514	14,259	900	18,673	21,431
1987	103	231	471	1,926	2,731	3,734	14,409	827	18,970	21,701

