

Approved: 3-23-93

Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Chairman, Representative Michael R. O' Neal at 3:30 p.m. on March 9, 1993 in room 313-S of the Statehouse.

All members were present except:

Representative David Adkins - Excused
Representative Tom Bradley - Absent
Representative David Heinemann - Excused

Committee staff present:

Jerry Donaldson, Legislative Research
Jill Wolters, Revisor of Statutes
Cindy Wulfkuhle, Committee Secretary

Conferees appearing before the Committee:

Gary Stotts Secretary, Department of Corrections
Brent Bengtson, Director, Governor's Office of Drug Abuse Programs
Paul Shelby, Office of Judicial Administration
Helen Pedigo, Kansas Sentencing Commission
Judge Richard Walker, Ninth Judicial District
Helen Stephens, Kansas Peace Officers' Association
Ted Heim, President, Kansas Community Corrections Association
Rise Haneberg, Court Service Officer, Johnson County
Cathy Leonhart, Kansas Association of Court Service Officers

Committee minutes from February 25, 26 and March 1 were distributed.

Hearings on HB 2478 were opened regarding the establishment of a criminal justice coordinating council.

Gary Stotts, Secretary, Department of Corrections, appeared before the committee in support of the bill. This bill was introduced at his request and was first offered last session. He stated who the council would be composed of and that it would define and analyze issues and processes in the criminal justice system, identify alternative solutions, and make recommendations for improvements. It would also establish task groups which would do studies that would be beneficial to the Governor and Legislature. The Kansas Sentencing Commission would be a standing task group of the council. He believes that this proposed council would improve the opportunity to overcome problems created by the fragmentation which exists. Stotts stated that he has talked to the Attorney General and he expressed support for the idea but not necessarily all of the details. (Attachment #1)

Chairman O'Neal asked what the urgency was to have this in place by July 1, 1993 if we handle SB 21 the way it came out of the Senate and not do the consolidation right away.

Stotts stated that if consolidation is placed on hold this would have more value in regard to other bills that have been proposed in the Senate that deals with aspects of the consolidation issue. These bills include the people on the proposed council.

Chairman O'Neal questioned why the Sentencing Commission shouldn't continued to be treated as a separate agency.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

Minutes of the House Committee on Judiciary, Room 313-S, Statehouse, at 3:30 p.m. on March 9, 1993.

Stotts responded said that if they were treated separate and another group was created it would want to be an agency by itself. The fiscal implication is an important issue. One of the reasons for proposing the Sentencing Commission be moved into the council is to use their staff for the council without having to create any additional staffing needs.

The Chairman asked why the original Criminal Justice Coordinating Council was no longer in existence.

Stotts stated that it was abolished by the Governor with some other boards and commissions.

The Chairman also questioned if there was a message from the Governor as to why she abolished the Council and requested staff to make a copy available.

Brent Bengtson, Director, Governor's Office of Drug Abuse Programs, appeared before the committee as a proponent of the bill. He stated that a Criminal Justice Coordinating Council with appropriate staffing would ensure consistency and a vehicle for researching, assessing and implementing the criminal justice system. (Attachment #2)

Paul Shelby, Office of Judicial Administration, appeared before the committee and stated that Governor Hayden first established the Criminal Justice Coordinating Council, which was responsible for identifying problems and solutions, and making recommendations for improvement in criminal law. Governor Finney abolished the Council through executive order 91-936 which might state the reason she abolished it. She also established a Criminal Law Advisory Committee through executive order 91-139.

Shelby also had several amendments that the Judicial Administration would like to see. The first would be to add in line 19 after "supreme court" the language "or the chief justice's designee," The second would be to add in line 4 page 2 the word "chief justice" after "governor". The next would be to add the following language on line 35 after "supreme court" to say "the following members appointed by the chief justice: One district judge and one court services officer: and (3)". On line 38 would reduce the members from four to three. (Attachment #3)

Helen Pedigo, Kansas Sentencing Commission, appeared before the committee in opposition to portions of the bill. Under the proposed bill the Commission loses one public representative and one district court judge. They feel that they would possess less authority and the Commissions decisions would be subjected to approval by the council before action could be taken. However, the Commission requested two amendments, the first being the recommendation of renaming the present Sentencing Commission as the Criminal Justice Coordinating Council and adding the Secretary of S.R.S., K.B.I. Director and the Superintendent of the Kansas Highway Patrol. The second proposed amendment would be to expand the Commissions mission statement, goals and duties to enable study and treatment of all criminal justice issues. (Attachment #4)

Judge Richard Walker appeared before the committee in opposition to the bill because of the manner in which the Sentencing Commission is handled. He agrees with the Sentencing Commission on the reasons to oppose this bill. He also stated that 1991 SB 381, was passed by both houses and then vetoed by the Governor because the sentencing guidelines had yet to pass. The Judge believes that this is the model that should be followed. (Attachment #5)

Helen Stephens, Kansas Peace Officers' Association, appeared before the committee in opposition to the bill. She stated that they oppose the makeup of the council because there is no local law enforcement included into the bill. They requested an amendment on page 3, lines 11-16 that would add the following language "assist the Kansas Law Enforcement Training Center in implementing the sentencing guidelines". (Attachment #6)

The Chairman asked if local law enforcement officials were included in SB 381.

Stephens stated that she did not recall.

Representative Garner stated that they were included.

CONTINUATION SHEET

Minutes of the House Committee on Judiciary, Room 313-S, Statehouse, at 3:30 p.m. on March 9, 1993.

Secretary Stotts stated that he has trouble with the appointment of a person or their designee.

Hearings on HB 2478 were closed.

Hearings on SB 21 were opened regarding the consolidation of probation, parole and community corrections services by July 1, 1994.

Ted Heim, President, Kansas Community Corrections Association, appeared before committee in support of the bill. He gave the committee a handout on a study of the Kansas Community Corrections program done in 1990. The study found that as a whole, the community corrections has helped reduce the demand on state prisons, and that the 1990 prison overcrowding problems would have been far worse without the community corrections association. They also found that in almost every way in which costs were analyzed the community corrections programs were successful in keeping felony offenders out of prisons and therefore saving the state money. (Attachment #7)

Rise Haneberg, Court Service Officer, Johnson County, appeared before the committee as a proponent of the bill because it would allow improvement and expansion of services to occur in corrections services and they support the enforcement of the first task force's recommendations. They are opposed to the consolidation of field services under the Department of Corrections even if the date was extended from the July 1, 1994 date. (Attachment #8)

Cathy Leonhart, Kansas Association of Court Service Officers, appeared before the committee in support of the bill. They would like the committee to adopt the bill as amended by the Senate and support the implementation of the recommendations of the first task force. They do oppose the consolidation under the Department of Corrections. (Attachment #9)

Paul Morrison, Johnson County District Attorney, and Nancy Kindling, The League of Women Voters of Kansas, did not appear before the committee but requested their testimony be handed out to the committee and be included in the committee minutes. (Attachments #10 & #11)

The Chairman asked Ted Heim what his reaction would be to the delay of consolidation rather than doing away with it.

Heim stated that we should make a decision one way or another so those involved would know what to expect.

Helen Pedigo, Kansas Sentencing Commission, appeared before the committee and stated that the Commission has not taken a position on this issue. Her testimony was informational in regard to the task force that did the study to consolidate. She stated that consolidation is a good idea but the problem is what department to put it under. (Attachment #12)

The Chairman asked what their position would be on a one year delay instead of striking the consolidation all together.

Pedigo stated that she feels that they have studied this issue enough.

Judge Richard Walker appeared before the committee and stated that the task force has done all they can and there needs to be legislative direction saying either consolidate or not.

Gary Stotts, Secretary, Department of Corrections appeared before the committee neither as a proponent nor opponent. He believes that consolidation represents a good decision and should be implemented within the Department of Corrections. This is not a proposal that was initiated by the Department of Corrections. He stated that he was opposed to delaying the consolidation any longer than July 1, 1994. He made the comment that if the committee decides to consolidate then there would be the need to have a plan on how it is going to be done under a new agency or the Department of Corrections. (Attachment #13)

Representative Everhart asked Secretary Stotts if the committee decided to consolidate and place it under the courts would he oppose it.

CONTINUATION SHEET

Minutes of the House Committee on Judiciary, Room 313-S, Statehouse, at 3:30 p.m. on March 9, 1993.

The Secretary stated that he was not sure that he would oppose it but he would suggest that the committee would want to reconsider the title of the Department of Corrections, it's either corrections or prisons. Corrections implies the whole continuum.

Hearings on SB 21 were closed.

The Committee adjourned at 5:30 p.m. The next Committee meeting is March 10, 1993 at 3:30 p.m. in room 313-S.

GUEST LIST

HOUSE JUDICIARY COMMITTEE

DATE MARCH 9, 1993

[illegible]

Testimony by Secretary Stotts
Kansas Department of Corrections
on HB 2478

House Judiciary Committee
March 9, 1993

I am pleased to be here this afternoon in support of HB 2478, which establishes the Kansas Criminal Justice Coordinating Council. This bill was introduced at my request, and it is a proposal that I first offered last session.

HB 2478 has the following major provisions:

- Establishes the Kansas Criminal Justice Coordinating Council composed of the Chief Justice, Attorney General, Secretary of Corrections, Secretary of Social and Rehabilitation Services, Chairperson of the Kansas Parole Board, Director of the Kansas Bureau of Investigation, and Superintendent of the Kansas Highway Patrol. The Council would select its chairperson and vice-chairperson.
- Provides that the Council will define and analyze issues and processes in the criminal justice system, identify alternative solutions, and make recommendations for improvements; and further provides that the Council will perform criminal justice studies determined beneficial by the Council or requested by the Governor or Legislature.
- Authorizes the Council to establish task groups as necessary in the performance of these analyses and studies; such task groups will include appropriate representation from the various components of the criminal justice system and the public at large.
- Establishes the Kansas Sentencing Commission as a standing task group of the Council. The Sentencing Commission would be composed of seven members appointed by the Governor, four ex officio members, and four non-voting legislative members.
- Authorizes appointment of an executive director in the unclassified service and transfers the existing staff of the Kansas Sentencing Commission to the Council.

I support the creation of a criminal justice council because I believe it will improve our opportunity to overcome some of the problems created by the high degree of fragmentation which exists in the criminal justice system. The council would provide a forum for ongoing coordination and communication among those state government officials who have primary responsibility for implementation of the state's criminal justice policies. Communication among these officials occurs now, but on a sporadic, ad hoc basis. I believe that improvements in both policy and operations would result if a mechanism were in place to encourage discussion and analysis of issues from the perspective of the entire criminal justice system, not just its component parts. There currently is no organizational framework within which to accomplish this.

Under this proposal, the council itself is small and is limited to state government officials. I took this approach not because I wanted to exclude other important segments of the criminal justice system from participation, but because I view this council as a working body whose members can make decisions and commitments on behalf of their respective organizations to pursue and implement recommended actions. Through creation of task groups, representation of other appropriate components of the criminal justice system can be achieved consistent with the topics being addressed.

In summary, I believe that a formal coordinating body would improve communication and cooperation within the criminal justice community and would provide a logical forum for analysis of policy and operational options to improve the overall functioning of the Kansas criminal justice system.

Thank you for the opportunity to share my views with you on HB 2478.

STATE OF KANSAS



Joan Finney, Governor

**GOVERNOR'S OFFICE
OF DRUG ABUSE PROGRAMS**

112 Landon State Office Building
900 Jackson
Topeka, Kansas 66612-1220
(913) 296-2584
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MEMORANDUM

TO: Michael O'Neal, Chairman
House Judiciary Committee

FROM: Brent Bengtson, Director of the Governor's
Office of Drug Abuse Programs

DATE: March 9, 1993

RE: Support of HB2478

Chairman O'Neal and committee members, thank you for your time today to hear a rather short testimony in support of HB2478. I am speaking from the standpoint of a "user" of the coordinated services of the criminal justice system in Kansas.

From my position, I administer the Bureau of Justice Assistance grants. "The purpose of the Drug Control and System Improvement Grant Program is to assist states and units of local government in carrying out specific programs which offer a high probability of improving the functioning of the criminal justice system."

For two years, 5% of this grant i.e. \$462,510 has been set aside to improve the criminal justice records. To expend these monies, 25% local/state match is needed, as well as an approved plan constructed by a Task Force on Improving Criminal Justice Records. If a Criminal Justice Coordinating Council had been in place when I started this project, I believe that Kansas would have been well into implementing plans to improve the criminal justice records that are so crucial to the mandated sentencing law.

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Attachment #2
03-09-93

Memo-Michael O'Neal
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I know my part is but a small portion of the criminal justice system, but I am certain other small, as well as large, participants need a place in which their concerns can be processed and possibly remediated.

I am by no means saying that the criminal justice system does not work together now. However, in its history, there have been attempts made to work more efficiently and they have worked unevenly. Having in place by statute a Criminal Justice Coordinating Council with appropriate support staffing, could ensure a consistent and proactive vehicle for researching, assessing and implementing a coordinated criminal justice system.

Once again, thank you for your time. Are there questions?

HOUSE BILL No. 2478

By Committee on Federal and State Affairs

2-16

8 AN ACT establishing the Kansas criminal justice coordinating council;
9 prescribing membership, staff, organization and duties; authorizing
10 and prescribing duties of standing task groups of the council;
11 abolishing the Kansas sentencing commission and transferring cer-
12 tain personnel; repealing K.S.A. 74-9101 through 74-9105 and
13 K.S.A. 1991 Supp. 74-9101, as amended by section 284 of chapter
14 239 of the 1992 Session Laws of Kansas.

15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. (a) There is hereby established the Kansas criminal
18 justice coordinating council. The council shall consist of the chief
19 justice of the supreme court, attorney general, secretary of correc-
20 tions, secretary of social and rehabilitation services, chairperson of
21 the Kansas parole board, director of the Kansas bureau of investi-
22 gation and superintendent of the Kansas highway patrol.

23 (b) The council shall elect a chairperson and vice-chairperson
24 from among the members of the council.

25 (c) The council shall employ a director who shall attend all meet-
26 ings of the council, be responsible for keeping a record of council
27 meetings, prepare reports of the council and perform such other
28 duties as directed by the council. The director shall be in the un-
29 classified service and shall receive compensation fixed by the council
30 and approved by the governor. The director shall appoint other staff
31 as necessary to carry out the duties of the council, subject to available
32 appropriations. All employees of the council other than the director
33 shall be in the classified service.

34 (d) On July 1, 1993, employees of the Kansas sentencing com-
35 mission created by K.S.A. 74-9101 *et seq.* and amendments thereto
36 shall become employees of the criminal justice coordinating council.
37 Any such officer or employee shall retain all retirement benefits and
38 all rights of civil service which had accrued to or vested in such
39 officer or employee prior to the effective date of this act. The service
40 of each such officer and employee so transferred shall be deemed
41 to have been continuous.

Sec. 2. (a) The criminal justice coordinating council shall:

(1) Define and analyze issues and processes in the criminal justice

or the chief justice's designee,

1 system, identify alternative solutions and make recommendations for
2 improvements; and

3 (2) perform such criminal justice studies or tasks as the council
4 determines beneficial or as may be requested by the governor or
5 legislature.

, chief justice

6 (b) When analyzing criminal justice issues and performing crim-
7 inal justice studies, the council shall form such task groups as nec-
8 essary and shall appoint individuals who appropriately represent law
9 enforcement; the judiciary; the legal profession; the state, local or
10 federal government; the public; or such other professions or groups
11 as determined by the council, to represent the various aspects of
12 the issue being analyzed or studied. A member of the council shall
13 serve as the chairperson of each task group appointed by the council.
14 The council may appoint other members of the council to any task
15 group formed by the council. Individuals appointed by the council
16 to task groups shall receive amounts provided for in subsection (e)
17 of K.S.A. 75-3223 and amendments thereto.

18 (c) The council shall review reports submitted by each task group
19 named by the council and shall submit the report with the council's
20 recommendations pertaining thereto to the governor and legislature
21 for consideration and action.

22 Sec. 3. (a) There is hereby established as a standing task group
23 of the council the sentencing task group. The sentencing task group
24 shall consist of persons serving on July 1, 1993, as members of the
25 Kansas sentencing commission created by K.S.A. 74-9101 *et seq.*
26 and amendments thereto. Each such person shall continue to serve
27 for 60 days after the effective date of this act unless replaced or
28 reappointed by the governor before that time. Thereafter, the sen-
29 tencing task force shall consist of: (1) The following members ap-
30 pointed by the governor, to serve at the pleasure of the governor:
31 ~~One district judge, one public defender, one private defense counsel,~~
32 ~~one county or district attorney, one director of a community cor-~~
33 ~~rections program, one court services officer and one member of the~~
34 ~~general public; and (2) the following members to serve *ex officio*:~~
35 The chief justice of the supreme court, the attorney general, the
36 chairperson of the Kansas parole board and the secretary of correc-
37 tions. At least one member appointed by the governor shall be a
38 member of a racial minority group and not more than ~~four~~ members
39 appointed by the governor shall be of the same political party.

the following members appointed
by the chief justice: One
district judge and one court
services officer; and (3)

or the chief justice's designee,

three

40 (b) In addition to the members provided by subsection (a), four
41 members of the legislature, one appointed by the president of the
42 senate, one appointed by the minority leader of the senate, one
43 appointed by the speaker of the house of representatives and one



State of Kansas
KANSAS SENTENCING COMMISSION

TO: House Judiciary Committee
FROM: Helen J. Pedigo, Acting Executive Director
DATE: March 9, 1993
RE: Criminal Justice Coordinating Council

The Commission is opposed to this bill as it is drafted. Some Commission members objected to the bill because of the make-up of the Commission under the Criminal Justice Coordinating Council. Under the bill, the Commission loses one of its two public representatives and one of its two district court judges. All appointments are made by the Governor, where presently the Chief Justice appoints the district judges and court services members. (See attachment). It is felt that these appointments should be retained by the Judiciary.

Another concern expressed was that, under the Criminal Justice Coordinating Council, the Commission would only be a task force of the Council, and would possess less authority than at present. As a task force of the Council, all Commission decisions would be subject to approval by the Council before action could be taken. This adds a level of bureaucracy, diminishing the autonomy of the Commission. The Commission's decisions at present are subject to the Legislature's approval, which provides any oversight necessary.

As an amendment to expand the scope of the Commission, we would recommend renaming the present Commission as the Criminal Justice Coordinating Council and adding the Secretary of S.R.S., the K.B.I. director, and the Superintendent of the Kansas Highway Patrol. This amendment would retain the present make-up and appointment methods of the Commission already in place. Further, we would recommend expanding the Commission's mission statement, goals and duties to enable study and treatment of all criminal justice issues.

74-9102. Same; composition, voting and nonvoting members; chairperson; terms; compensation. (a) The Kansas sentencing commission shall consist of 13 members, as follows:

(1) The chief justice of the supreme court or the chief justice's designee;

(2) two district court judges appointed by the chief justice of the supreme court;

(3) the attorney general or the attorney general's designee;

(4) one public defender appointed by the governor;

(5) one private defense counsel appointed by the governor;

(6) one county attorney or district attorney appointed by the governor;

(7) the secretary of corrections or the secretary's designee;

(8) the chairperson of the Kansas parole board or such chairperson's designee;

(9) two members of the general public, at least one of whom shall be a member of a racial minority group, appointed by the governor;

(10) a director of a community corrections program appointed by the governor; and

(11) a court services officer appointed by the chief justice of the supreme court. Not more than three members of the commission appointed by the governor shall be of the same political party.

(b) In addition to the members appointed pursuant to subsection (a), four members of the legislature, of which one shall be appointed by the president of the senate, one shall be appointed by the minority leader of the senate, one shall be appointed by the speaker of the house of representatives, and one shall be appointed by the minority leader of the house of representatives, shall serve as ex officio members of the commission. Such ex officio members of the commission shall be nonvoting members.

(c) The governor shall appoint a chairperson. The members of the commission appointed pursuant to subsection (a) shall elect any additional officers from among its members necessary to discharge its duties.

(d) The commission shall meet upon call of its chairperson as necessary to carry out its duties under this act.

(e) Each appointed member of the commission shall be appointed for a term of two years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each member shall continue in office until a successor is appointed and qualifies. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term.

(f) Each member of the commission, including ex officio members appointed pursuant

IONS AND AUTHORITIES

to subsection (b), shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, except that the public members of the commission shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on commission activities.

History: L. 1989, ch. 225, § 2; April 27.

RICHARD B. WALKER

District Court Judge
Harvey County Courthouse
Newton, Kansas 67114

JUDGES OF THE NINTH JUDICIAL DISTRICT
Harvey and McPherson Counties

ADMINISTRATIVE JUDGE
CARL B. ANDERSON, JR.

DISTRICT JUDGES
THEODORE B. ICE, Division I
RICHARD B. WALKER, Division II

TELEPHONE
(316) 264-6868

February 24, 1993

Chairman Mike O'Neal
House Judiciary Committee
Statehouse
Topeka, KS 66612

Re: House Bill 2478

Dear Mr. Chairman:

I am writing to express my concerns about HB 2478. As you are undoubtedly aware, this would statutorily recreate the Kansas Criminal Justice Coordinating Counsel. Section Three of the Bill is my primary concern, because of the manner in which it treats the Kansas Sentencing Commission.

As you know, at the current time there are two district judges on the Sentencing Commission, as well as a court services officer. Additionally, the Chief Justice is allowed to sit personally or have a designee, and he has designated Judge Gary Rulon of the Court of Appeals to sit on the Sentencing Commission. This would all change under Section Three of House Bill 2478. The Bill reduces the number of district judges from two to one, and provides that the single district judge and the single court services officer shall be gubernatorial appointees, to serve at the Governor's pleasure. Additionally, the Chief Justice could sit personally, but there is no authority to appoint a designee.

My concerns are grounded in my belief that the judicial branch should be entitled to make its own appointees to this body, as it does at present. I think credibility with the trial bench is also enhanced by leaving two trial judges instead of one on the commission. Very frankly, the current appointment method has served us well, and we have an excellent mix of persons on the Kansas Sentencing Commission at this time. I would recommend against changing that mechanism.

Additionally, I would support allowing the Chief Justice to appoint a designee. Judge Gary Rulon has worked very long and hard on this issue, and I would hate to think that he or other appellate judges with a specific interest in this area would be barred from serving.

I would appreciate it if you would keep these concerns in mind when the Judiciary Committee considers House Bill 2478. If I can provide any further information on this please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard B. Walker", with a stylized flourish at the end.

Richard B. Walker
District Judge

RBW:rb

As Amended by House Committee

As Amended by Senate Committee

Session of 1991

SENATE BILL No. 381

By Committee on Ways and Means

3-14

AN ACT concerning the Kansas sentencing commission; transferring such commission's powers and duties to the Kansas criminal justice coordinating commission created herein; relating to the members and duties thereof; amending K.S.A. 1990 Supp. 74-9101 and, 74-9102, 74-9103, 74-9104 and 74-9105 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. On the effective date of this act, the Kansas sentencing commission shall be consolidated with and become a part of the Kansas criminal justice coordinating commission. All properties, moneys, appropriations, rights and authorities now vested in the Kansas sentencing commission shall be vested in the Kansas criminal justice coordinating commission. Whenever the Kansas sentencing commission, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to apply to the Kansas criminal justice coordinating commission.

Section 1 Sec. 2. K.S.A. 1990 Supp. 74-9101 is hereby amended to read as follows: 74-9101. (a) There is hereby established the Kansas sentencing criminal justice coordinating commission.

(b) The commission shall develop a sentencing guideline model or grid based on fairness and equity and shall provide a mechanism for linking justice and corrections policies. The sentencing guideline model or grid shall establish rational and consistent sentencing standards which reduce sentence disparity, to include, but not be limited to, racial and regional biases which may exist under current sentencing practices. The guidelines shall specify the circumstances under which imprisonment of an offender is appropriate and a presumed sentence for offenders for whom imprisonment is appropriate, based on each appropriate combination of reasonable offense and offender characteristics. In developing its recommended

sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities. In its report, the commission shall make recommendations regarding whether there is a continued need for and what is the projected role of, if any, the Kansas parole board and whether the policy of allocating good time credits for the purpose of determining an inmate's eligibility for parole or conditional release should be continued. *hold regular quarterly meetings and such other meetings as the executive director of such commission deems advisable. It shall be the duty of the commission to confer, advise and consult with the executive director with respect to the policies governing the implementation, maintenance and monitoring of the sentencing guideline model or grid and all other policies under the jurisdiction of the commission.*

(c) *The sentencing commission shall:*

(1) (b) The commission shall: (1) Develop a sentencing guideline model or grid based on fairness and equity and shall provide a mechanism for linking justice and corrections policies. The sentencing guideline model or grid shall establish rational and consistent sentencing standards, which reduce sentence disparity, to include, but not be limited to, racial and regional biases which may exist under current sentencing practices. The guidelines shall specify the circumstances under which imprisonment of an offender is appropriate and a presumed sentence for offenders for whom imprisonment is appropriate, based on each appropriate combination of reasonable offense and offender characteristics. In developing its recommended sentencing guidelines, the commission shall take into substantial consideration current sentencing and release practices and correctional resources, including but not limited to the capacities of local and state correctional facilities. In its report, the commission shall make recommendations regarding whether there is a continued need for and what is the projected role of, if any, the Kansas parole board and whether the policy of allocating good time credits for the purpose of determining an inmate's eligibility for parole or conditional release should be continued;

(2) if a sentencing guidelines system is enacted: (A) Consult with and advise the legislature with reference to the implementation, management, monitoring, maintenance and operations of the sentencing guideline system;

(2) (B) direct implementation of the sentencing guidelines system;

(2) (C) assist in the process of training judges, county and district

attorneys, court services officers, state parole officers, correctional officers, law enforcement officials and other criminal justice groups. For these purposes, the sentencing commission shall develop an implementation policy and shall construct an implementation manual for use in its training activities;

(4) (D) develop post-implementation monitoring procedures and reporting methods to evaluate guideline sentences. In developing the evaluative criteria, the commission shall take into consideration rational and consistent sentencing standards which reduce sentence disparity to include, but not be limited to, racial and regional biases;

(5) (E) advise and consult with the secretary of the department of corrections and legislative members in developing a mechanism to link guideline sentence practices with correctional resources and policies, including but not limited to the capacities of local and state correctional facilities; and

(6) (F) make recommendations to those responsible for developing a working philosophy of sentencing guideline consistency and rationality;

(7) study and make recommendations concerning the statutory definition of crimes and criminal penalties; and

(8) (3) analyze problems in criminal justice, identify alternative solutions and make recommendations for improvements in criminal law, prosecution, community and correctional placement, programs, release procedures and related matters including study and recommendations concerning the statutory definition of crimes and criminal penalties; and

(4) perform such other criminal justice studies or tasks as may be assigned by the governor or specifically requested by the legislature, department of corrections, the chief justice or the attorney general.

(d) The sentencing commission shall report annually to the legislature. The commission shall inform the legislature of the monitoring results and make such recommendations as it deems advisable for appropriate legislation.

Sec. 23. K.S.A. 1990 Supp. 74-9102 is hereby amended to read as follows: 74-9102. (a) The Kansas sentencing criminal justice coordinating commission shall consist of 13 17 members, as follows:

(1) The chief justice of the supreme court or the chief justice's

nee;

two district court judges appointed by the chief justice of the supreme court;

(3) the attorney general or the attorney general's designee;

(4) one public defender appointed by the governor;

(5) one private defense counsel appointed by the governor;

(6) one county attorney or district attorney appointed by the governor;

(7) the secretary of corrections or the secretary's designee;

(8) the chairperson of the Kansas parole board or such chairperson's designee;

(9) ~~two on and after the effective date of this act, one~~ four members of the general public, at least one three of whom shall be a member of a racial minority group, appointed by the governor;

(10) two members appointed by the governor, one who is a sheriff and one who represents the law enforcement community;

~~(10)~~ (11) a director of a community corrections program appointed by the governor; and

~~(11)~~ (12) a court services officer appointed by the chief justice of the supreme court.

Not more than three five members of the commission appointed by the governor shall be of the same political party and at least three members appointed by the governor pursuant to subsections (a)(9) and (a)(10) shall be members of racial minority groups.

(b) In addition to the members appointed pursuant to subsection (a), four members of the legislature, of which one shall be appointed by the president of the senate, one shall be appointed by the minority leader of the senate, one shall be appointed by the speaker of the house of representatives, and one shall be appointed by the minority leader of the house of representatives, shall serve as ex officio members of the commission. Such ex officio members of the commission shall be nonvoting members.

(c) The governor shall appoint a chairperson. (b) The attorney general shall serve as chairperson. The members of the commission appointed pursuant to subsection (a) shall elect any additional officers from among its members necessary to discharge its duties.

(d) The commission shall meet upon call of its chairperson as necessary to carry out its duties under this act.

(c) The commission shall meet upon call of its chairperson as necessary to carry out its duties under this act.

(e) (d) Each appointed member of the commission shall be appointed for a term of two years and shall continue to serve during that time as long as the member occupies the position which made the member eligible for the appointment. Each appointed member of the commission serving in such capacity on the day preceding the effective date of this act, except for the members appointed pursuant to subsection (b) as it existed prior to the effective date of this act,

~~shall continue to serve in such capacity for an additional term of two years.~~ Each member shall continue in office until a successor is appointed and qualifies. Members shall be eligible for reappointment, and appointment may be made to fill an unexpired term. All members appointed to succeed members appointed to membership on the commission shall be appointed in the like manner as that provided for the original appointment of the member succeeded.

(f) (e) Each member of the commission, including ex officio members appointed pursuant to subsection (b), shall receive compensation, subsistence allowances, mileage and other expenses as provided for in K.S.A. 75-3223, and amendments thereto, except that the public members of the commission shall receive compensation in the amount provided for legislators pursuant to K.S.A. 75-3212, and amendments thereto, for each day or part thereof actually spent on commission activities.

Sec. 4. K.S.A. 1990 Supp. 74-9103 is hereby amended to read as follows: 74-9103. The Kansas sentencing criminal justice coordinating commission shall appoint an executive director and such staff as is necessary to perform such duties as directed by the commission. The executive director and such staff as appointed by the commission serving in such capacity on the day preceding the effective date of this act shall continue to serve in such capacity on and after the effective date of this act. The staff of the commission shall be in the unclassified service under the Kansas civil service act and shall receive compensation fixed by the commission with the approval of the governor. The staff shall receive reimbursement of all actual and necessary expenses incurred in the performance of its official duties.

Sec. 5. K.S.A. 1990 Supp. 74-9104 is hereby amended to read as follows: 74-9104. The Kansas sentencing commission shall submit its interim report and proposed guidelines to the legislature on or before February 1, 1990. A final report and recommended guidelines shall be submitted on the commencement of the 1991 legislative session. The Kansas criminal justice coordinating commission shall report at least annually to the legislature on or before February 1. The commission shall inform the legislature of its recommendations regarding the development and implementation of a sentencing guidelines system; if enacted, the maintenance and monitoring of a sentencing guidelines system; improvements in the criminal justice system pursuant to subsection (b)(3) of K.S.A. 74-9101 and amendments thereto; and studies and tasks as assigned pursuant to subsection (b)(4) of K.S.A. 74-9101 and amendments thereto.

1 Sec. 6. K.S.A. 1990 Supp. 74-9105 is hereby amended to read
2 as follows: 74-9105. In addition to its duties under K.S.A. 1989 1990
3 Supp. 74-9101 and 74-9104 and amendments thereto, the Kansas
4 sentencing criminal justice coordinating commission shall receive,
5 administer and expend any funds available to carry out the purposes
6 of this act.

7 Sec. 37. K.S.A. 1990 Supp. 74-9101 and 74-9102, 74-9103, 74-
8 9104 and 74-9105 are hereby repealed.

9 Sec. 48. This act shall take effect and be in force from and after
10 its publication in the statute book.

Larkin, Lawrence, Love, Lynch, Macy, McClure, McKechnie, Mead, Miller, Minor, Mollenkamp, O'Neal, Parkinson, Patrick, Pottorff, Praeger, Ramirez, Reardon, Reinhardt, Rezac, Rock, Roe, Roper, Roy, Sader, Samuelson, Sawyer, Scott, Sebelius, Shallenburger, Shore, Smith, D., Smith, M., Solbach, Stephens, Teagarden, Thompson, Turnquist, Vancrum, Wagle, Wagnon, Watson, Webb, Weiland, Weimer, Wells, Welshimer, Wempe, White, Whiteman, Wiard, Wisdom.

Nays: Allen, Bryant, Cates, Chronister, Cornfield, Crumbaker, Dawson, Freeman, Fuller, Jennison, King, Kline, Lane, Lloyd, Long, Lowther, Neufeld, Sluiter, Snowbarger, Sprague.

Present but not voting: None.

Absent or not voting: None.

The bill passed, as amended.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER: Your committee on conference on Senate amendments to Sub. for HB 2407. An act concerning vehicle tires; relating to recycling and disposal; prohibiting certain acts and providing penalties for violations; amending K.S.A. 65-3409 and K.S.A. 1990 Supp. 65-3424, 65-3424a, 65-3424b and 65-3424f and repealing the existing sections; also repealing K.S.A. 1990 Supp. 65-3424c, begs leave to submit the following report:

The House accedes to the Senate amendments to the bill;

And your committee on conference further agrees to amend the bill, as printed with Senate committee amendments, as follows:

On page 1, in line 19, after "65-3424h", by inserting "and section 6"; after line 43, by inserting:

"(h) 'Tire retailer' means a person in the business of selling new or used replacement tires at retail.";

On page 2, in line 1, by striking "(h)" and inserting "(i)"; in line 5, by striking "(i)" and inserting "(j)"; in line 8, by striking "(j)" and inserting "(k)"; in line 12, by striking "(k)" and inserting "(l)"; in line 15, by striking "(l)" and inserting "(m)";

On page 5, in line 27, after the period, by inserting "The secretary shall require any private company receiving a grant pursuant to this section to file with the secretary a surety bond, cash bond or other security in an amount and form approved by the secretary and conditioned on the use of the grant in accordance with the plan approved by the secretary.";

On page 6, after line 3, by inserting:

"New Sec. 6. (a) Except as provided by subsection (b), no tire retailer shall refuse to accept waste tires from customers or offer any discount or other monetary inducement to customers to encourage customers to remove their old tires from the tire retailer's premises at the time or point of transfer.

(b) A tire retailer may: (1) Ask customers if they wish to retain their old tires at the time of sale; (2) refuse to accept more tires from a customer than purchased by that customer at the time of sale; or (3) refuse to accept waste tires from a customer purchasing replacement tires for commercial use if the tire retailer does not mount such replacement tires.";

By renumbering the remaining sections accordingly;

On page 7, in line 6, by striking "5" and inserting "6";

And your committee on conference recommends the adoption of this report.

ROSS DOYEN

DON SALLER

LEROY HAYDEN

Conferees on part of Senate.

MAY 2, 1991

1057

KEN GROTEWIEL

JOHN D. MCCLURE

CARL DEAN HOLMES

Conferees on part of House.

On motion of Rep. Grotewiel, the conference committee report on Sub. HB 2407 was adopted.

On roll call, the vote was: Yeas 116; Nays: 9; present but not voting 0; absent or not voting 0.

Yeas: Adam, Allen, Amos, Baker, Barkis, Bealon, Bishop, Blumenthal, Boston, Bowden, Bradford, Brown, Bryant, Campbell, Carmody, Cates, Charlton, Chronister, Corbin, Cornfield, Correll, Cozine, Cribbs, Crumbaker, Dawson, Dean, Dillon, Douville, Edlund, Empson, Ensminger, Everhart, Flottman, Flower, Freeman, Fuller, Garner, Gatlin, Gjerstad, Glasscock, Gomez, Coossen, Graeber, Gregory, Gross, Grotewiel, Hackler, Hamilton, Hamm, Harder, Heinemann, Helgeson, Hendrix, Hensley, Hochhauser, Holmes, Johnson, Jones, Kline, Krehbiel, Lahti, Lane, Larkin, Lawrence, Lloyd, Long, Love, Lowther, Lynch, Macy, McClure, McKechnie, Mead, Miller, Minor, O'Neal, Parkinson, Patrick, Pottorff, Praeger, Ramirez, Reardon, Reinhardt, Rezac, Roe, Roper, Roy, Sader, Samuelson, Sawyer, Scott, Sebelius, Sluiter, Smith, D., Smith, M., Snowbarger, Solbach, Sprague, Stephens, Teagarden, Thompson, Turnquist, Vancrum, Wagle, Wagnon, Watson, Webb, Weiland, Weimer, Wells, Welshimer, Wempe, White, Whiteman, Wisdom.

Nays: Crowell, Hayzlett, Jennison, King, Mollenkamp, Neufeld, Shallenburger, Shore, Wiard.

Present but not voting: None.

Absent or not voting: None.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER: Your committee on conference on House amendments to SB 381, An act concerning the Kansas sentencing commission; transferring such commission's powers and duties to the Kansas criminal justice coordinating commission created herein; relating to the members and duties thereof; amending K.S.A. 1990 Supp. 74-9101, 74-9102, 74-9103, 74-9104 and 74-9105 and repealing the existing sections, begs leave to submit the following report:

The Senate accedes to all of the House amendments to the bill;

And your committee on conference further agrees to amend the bill, as printed with House Committee amendments, as follows:

On page 2, in line 18, after "(1)", by inserting "Continue to develop and make recommendations regarding the sentencing guidelines system recommended by the Kansas sentencing commission in its report to the legislature during the 1991 legislative session;"; also in line 18, by striking "Develop a sentencing guideline"; by striking all in lines 19 through 37;

On page 3, in line 43, by striking all after "appointed" and inserting "as provided in subsection (b).";

On page 4, in line 1, by striking all after "appointed" and inserting "as provided in subsection (b)."; in line 2, by striking all after "appointed"; in line 3, by striking "governor" and inserting "as provided in subsection (b)"; in line 5, by striking all after "(8)"; in line 6, by striking all before the semicolon and inserting "the secretary of social and rehabilitation services or the secretary's designee"; in line 12, by striking "ap-"; in line 13, by striking all before the semicolon and inserting "as provided in subsection (b)"; in line 16, by striking "five" and inserting "three"; in line 29, after "(b)", by inserting "The president of the senate, the minority leader of the senate, the speaker of the house of representatives and the minority leader of the house of

representatives shall jointly appoint the members of the commission as provided in subsections (a)(4), (5), (6) and (11).

(c); in line 31, by striking "subsection" and inserting "subsections"; also in line 31, after "(a)", by inserting "and (b)"; in line 35, by striking "(c)" and inserting "(d)"; in line 37, by striking "(d)" and inserting "(e)";

On page 5, in line 3, by striking "Members" and inserting "Except as otherwise provided in this section, members"; in line 4, by striking "All" and inserting "Except as otherwise provided in this section, all"; in line 7, after the period, by inserting "The terms of appointed members of the commission serving in such capacity on the effective date of this act shall expire on the effective date of this act and successors to such members shall be appointed as provided in this section.";

in line 8, by striking "(e)" and inserting "(f)";

On page 6, in line 10, by striking "statute book" and inserting "Kansas register";

And your committee on conference recommends the adoption of this report.

KATHLEEN SEBELIUS

ROBERT E. KREHBIEL

ELIZABETH BAKER

Conferees on part of House.

WINT WINTER, JR.

JERRY MORAN

RICHARD ROCK

Conferees on part of Senate.

On motion of Rep. Sebelius, the conference committee report on SB 381 was adopted.

On roll call, the vote was: Yeas 72; Nays: 53; present but not voting 0; absent or not voting 0.

Yeas: Adam, Amos, Baker, Barkis, Benlon, Blumenthal, Bowden, Bradford, Brown, Cates, Correll, Cozine, Dillon, Edlund, Everhart, Garner, Gatlin, Gjerstad, Glasscock, Gomez, Goossen, Graeber, Gregory, Gross, Hackler, Hamm, Harder, Heinemann, Hensley, Hochhauser, Holmes, Johnson, Jones, Krehbiel, Lahti, Larkin, Lloyd, Lowther, Lynch, Macy, McKochaio, Miller, Minor, O'Neal, Parkinson, Praeger, Reardon, Reinhardt, Rezac, Rock, Roe, Roper, Roy, Sadler, Sawyer, Sebelius, Solbach, Sprague, Stephens, Teagarden, Thompson, Turquist, Wagon, Watson, Webb, Weiland, Weimer, Welsheimer, Wempe, White, Whiteman, Wiard.

Nays: Allen, Bishop, Boston, Bryant, Campbell, Carmody, Charlton, Chronister, Corbin, Cornfield, Cribbs, Crowell, Crumbaker, Dawson, Dean, Douville, Empson, Easming, Flottman, Flower, Freeman, Fuller, Grotewiel, Hamilton, Hayzlett, Helgeson, Hendrix, Jeanison, King, Kline, Lane, Lawrence, Long, Love, McClure, Mead, Mollenkamp, Neufeld, Patrick, Pottorff, Ramirez, Samuelson, Scott, Shallenburger, Shore, Sluiter, Smith, D., Smith, M., Snowbarger, Vancrum, Wagle, Wells, Wisdom.

Present but not voting: None.

Absent or not voting: None.

On motion of Rep. Whiteman, the House went into Committee of the Whole, with Rep. Wiard in the chair.

COMMITTEE OF THE WHOLE

On motion of Rep. Wiard, Committee of the Whole report, as follows, was adopted:

Recommended that committee reports to SB 73 be adopted; also, on motion of Rep. Bryant be amended on page 26, in line 12, by striking "The" and inserting: "Except as provided in subsection (j), the";

On page 29, in line 5, by striking "subsection" and inserting "section"; and SB 73 be passed as amended.

Committee reports to SB 322 be adopted and the bill be passed as amended.

On motion of Rep. Heinemann HIB 2645 be amended on page 1, in line 27, by striking all after "(b)"; by striking all of lines 28 to 43, inclusive;

On page 2, by striking all of lines 1 to 10, inclusive; in line 11, by striking "(2)" and inserting in lieu thereof "(1)"; also in line 11, after "1" by inserting the following: ", 1991, and on June 1"; also in line 11, preceding the comma by inserting "thereafter"; in line 20, by striking all after "less"; in line 21, by striking "to" and inserting in lieu thereof "the amount of the estimated unencumbered balance in"; also in line 21, preceding the period by inserting the following: "as of June 30 of the current fiscal year"; in line 29, after "1" by inserting the following: ", 1991, and not later than June 1 of"; also in line 29, preceding the comma by inserting "thereafter"; in line 34, preceding the period by inserting the following: "in 1991 and on the July 1 following in each year thereafter"; in line 35, by striking "(3)" and inserting in lieu thereof "(2)";

On page 3, in line 40, by striking "legislature" and inserting in lieu thereof "commissioner of insurance";

On page 4, preceding line 1 by inserting the following:

"Sec. 2. On November 1, 1991, the director of accounts and reports shall transfer \$4,000,000 from the workers compensation fund to the state general fund to reimburse the amount transferred from the state general fund to the workers compensation fund pursuant to section 11(c) of 1991 House Bill No. 2044.";

Also on page 4, in line 1, by striking "2" and inserting in lieu thereof "3"; in line 4, by striking "3" and inserting in lieu thereof "4";

Also, on motion of Rep. Patrick HIB 2645 be amended on page 3, after line 43, by inserting the following subsection to read as follows:

"(b) (1) All contracts to provide any legal services for the commissioner of insurance in the administration of the workers compensation fund shall be entered into pursuant to the provisions of this subsection (b). Such contracts may be to provide such legal services on a statewide basis or within regional or district areas as determined by the commissioner of insurance."

(2) The commissioner of insurance shall convene a negotiating committee to obtain legal services. The negotiating committee shall be composed of the commissioner of insurance, or the commissioner's designee, the secretary of human resources, or the secretary's designee, and an employee of the insurance department designated by the commissioner of insurance. The negotiating committee is authorized to negotiate contracts with one or more qualified parties to provide legal services for the commissioner of insurance in the administration of the workers compensation fund. Each such contract shall be negotiated on the basis of criteria prescribed by the commissioner of insurance and shall be entered into by the commissioner of insurance.

(3) Prior to negotiating for such legal services, the committee shall advertise for proposals, negotiate with individuals and firms submitting proposals and select among those submitting such proposals the party or parties to contract with for the purposes of collection services.

(4) Contracts entered into pursuant to this subsection shall not be subject to the provisions of K.S.A. 75-3739 and amendments thereto."

On page 1, in the title, in line 9, after the semicolon, by inserting "acquisition of legal services for the fund"; and HIB 2645 be passed as amended.

HACKER, President
Lyon County Sheriff
Emporia, Kansas 66801

LARRY MAHAN, President-Elect
Kansas Highway Patrol
Wichita, Kansas 67212

JIM DAILY, Vice-President
Barton County Sheriff
Great Bend, Kansas 67530

ALVIN THIMMEL
Secretary-Treasurer
Kansas Peace Officers' Association
Wichita, Kansas 67201

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Kansas Law Enforcement Training Center
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Winfield, Kansas 67156

BOB ODELL

Cowley County Sheriff
Winfield, Kansas 67156

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Chief of Police

Coffeyville, Kansas 67337

LOWELL PARKER

Greenwood County Sheriff
Eureka, Kansas 67045

TINY WILNERD

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Hosford, Kansas 67349

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INCORPORATED

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COMMITTEE ON JUDICIARY HOUSE BILL 2478

March 9, 1993

Mr. Chairman and Members of the Committee:

I am Helen Stephens, representing the 3,000 members of the Kansas Peace Officers Association.

We are here to endorse the concept, but oppose HB 2478 and request several amendments.

A coordinated, continued effort for criminal justice and law enforcement is needed. We have had these councils or taskforces in the past, but these were or are at the pleasure of the Governor and are usually disbanded when a new Governor takes office. We do appreciate their concern and interest in the criminal justice/law enforcement area, but it does take away from efforts when one taskforce is changed for another. The problem with the present system is continuity -- there is none. With this council in place, we would have continuity and each Governor could bring to this council their agenda or concerns; as could the legislature.

So, why do we oppose the bill? The makeup of the Council. The council is made up of state agencies or state officials; there is no local law enforcement represented. Many of the issues that will be brought to this council by SRS and the Department of Corrections will involve increased duties and/or costs to the local counties or cities; particularly in the areas of juveniles and incarceration of felons. We are familiar with Section 2(b) of the bill which states that when a specific taskforce is formed it shall consist of "individuals who appropriately represent law enforcement; the judiciary; the legal profession; the state, local or federal government ... to represent various aspects of the issue being analyzed". Although this gives local law enforcement some input, it does not give adequate input when that taskforce report is returned to the full council for a determination.

It is our opinion that when only state officials are trying to realign programs, cut budgets, or institute new programs; their main concerns lie with the state and not with the effects on local units of government. Law enforcement has not had an exemption to the tax lid since it was imposed four or five years ago, but yet we have been asked to hold felons longer,

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increase other duties, our paperwork, and our effectiveness. We firmly believe the council and its objectives would be better served by having a county sheriff or a police chief serving as a part of the Judicial Council team.

We, therefore, ask this committee to amend HB 2478 to include a local sheriff and/or a local police chief to the council. The appointment could be made by the Governor or by the Council itself.

Another concern of this bill is on Page 3, Lines 11-16, pertaining to the sentencing task group assisting as necessary in the training of ... law enforcement officials. We would like to have this amended to have this group "assist the Kansas Law Enforcement Training Center in implementing the sentencing guidelines". All training, review, continuing education for Kansas law enforcement is done through the KLETC and we believe the wording of this section would expedite and enhance the effectiveness of the implementation of the guidelines.

We thank you for the opportunity to speak to you today. If you have any questions, I'll be happy to answer them for you.

Summary: Temple Report on the Kansas Community Corrections Act

(This document was prepared by Theodore Heim, Chairman, Shawnee County Community Corrections Advisory Board and Gary Bayens, Director, Shawnee County Community Corrections.)

In late 1985, officials of the Kansas Department of Corrections (DOC) were successful in gaining funds from the Edna McConnell Clark Foundation of New York City to support a comprehensive evaluation of the effectiveness of the Kansas Community Corrections Act (CCA) to be conducted by the Department of Criminal Justice at Temple University. The Director for the evaluation project, M. Kay Harris, spent considerable time in Kansas in the process of the study. The Temple study used a variety of research activities including interviews with participants in Kansas community corrections programs from both state and county levels, a review of historical materials, collection and analysis of data regarding commitments to community corrections programs and other alternatives in Kansas, follow-up studies of reoffending records of individuals in community corrections and prison, and collection and analysis of data relating to costs of alternative correctional programs.

The results of the Temple study were presented in a 148-page report dated September, 1990 and entitled: The Kansas Community Corrections Act: An Assessment of a Public Policy Initiative. The main body of the report is presented in five chapters that deal with an overview of the evaluation, development of community corrections in Kansas, major evaluation questions and the financial scheme of the Act. Additionally, six appendices are utilized to present a chronology of the development of community corrections in Kansas, summaries of county comprehensive plans developed under the Act, comments on methodology and supplemental tables and figures.

The purpose of this report is to summarize the major findings of the comprehensive study conducted by Temple University. The principal audience for this summary is considered to be members of correctional advisory boards and community corrections staff who may not have access to the full report. Since the Temple study only utilized data through 1987, in some cases the authors of this summary have provided more recent figures regarding caseloads and programs to update this information.

Each of the five chapters in the Temple report will be summarized:

Chapter I: Introduction and Overview of the Evaluation

This Chapter credits the officials of the Kansas Department of Corrections with development of a proposal for evaluation of a program begun in 1978 that was admitting approximately 500 clients annually to eight community correctional programs operated throughout the State.

Three major issues to be addressed in the study were identified as:

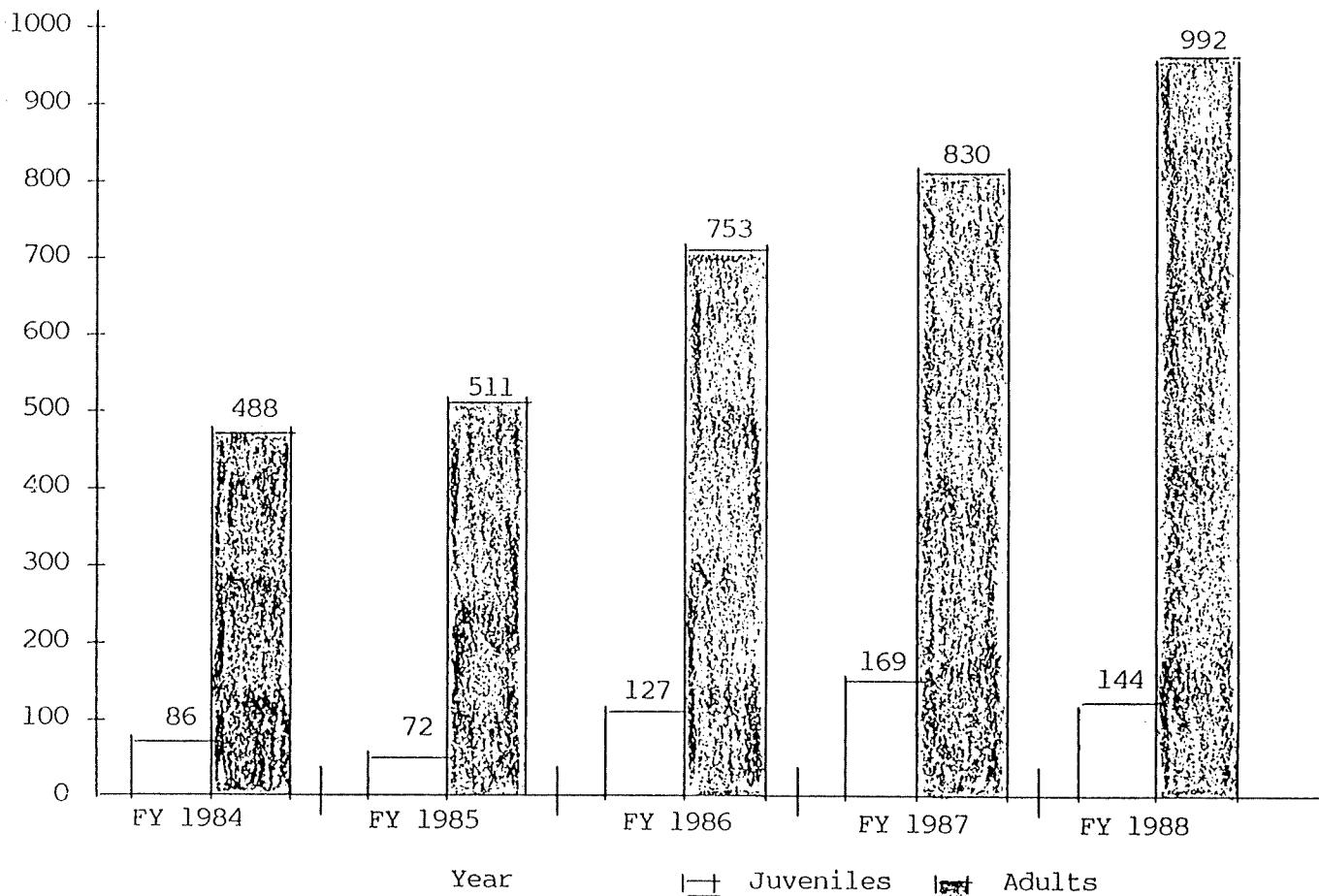
1. To what extent did the Community Corrections program achieve the goal of reaching targeted offenders thereby reducing the number of commitments to state prisons?
2. What were the effects of Community Corrections programs on public safety, as measured by the reoffending rates of offenders assigned to community corrections, probation and prison obtained through follow-up studies?

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3. What were the costs of placing clients in Community Corrections programs as compared with those associated with placing offenders in State prisons?

One chart that appears on page six of the Temple report is included to indicate the increase in volume of total admissions to Community Corrections programs in Kansas that occurred from Fiscal Year 1984 through Fiscal Year 1988.

Total Community Corrections Program Admissions, State of Kansas,
Fiscal years 1984 - 1988



*The number of admissions to community corrections programs has steadily increased since the publication of this report. According to K.D.O.C. program reports, in June, 1991 there were 2,708 clients participating in community corrections programs in Kansas.

Chapter II: Major Features of the Kansas Community Corrections Program

At the outset, this Chapter discusses both the formal goals of Community Corrections in Kansas and those perceived by participants in the development and implementation of the Act. From the viewpoint of participants, the Act was seen as having the

three major goals of alleviating prison overcrowding through reduced commitments, saving money--especially that associated with new prison construction and finding more effective dispositions for certain groups of offenders in the form of sanctions somewhere between probation and imprisonment.

The findings of the study regarding the question of whether community corrections programs are reaching the intended prison-bound population are then presented.

The report explains that profiles were constructed using the characteristics of targeted offenders placed in prison (196 persons) and community corrections (440 persons) and a random sample of 50% of those placed on probation during FY 1984. The study's comparison of offender characteristics leads to the very clear conclusion that offenders in community corrections programs more nearly resemble individuals in prison than those placed on probation and that "...community corrections programs appear to be reaching an appropriate set of clients." (Report, p. 18).

Chapter III: The Background and Context of the Kansas Community Corrections Program

This Chapter attempts to place the development and implementation of the community corrections program in Kansas in historical perspective. Taken with Appendix B to the report which provides a legislative history of the Act from 1977 through 1987, this chapter provides an insightful and comprehensive account of how Kansas reached the decision to pattern its community corrections approach after the State and local partnership developed in Minnesota. Additionally, problems encountered in the administration of the partnership in Kansas such as insufficient financial inducements to counties to participate, excessive initial chargebacks for juvenile offenders, and the negative effect of chargebacks generally on local programs are identified and discussed.

Clearly, from the discussion of the events leading up to the adoption of the Act in 1978, Kansas policy makers considered the adoption of the State and local partnership in community corrections as an alternative to the more expensive option of building a new medium security prison as proposed by then Governor Bennett.

The comprehensive historical treatment would enable the reader to perform an accurate force field analysis of the passage of the Community Corrections Act in which the forces working for and against the adoption of the Act were identified.

Recognizing that the community corrections programs "were not introduced in a vacuum or a static situation," the authors of the report provide charts that highlight trends in regard to volume of crime, district court dispositions and prison population for the period of 1977 to 1987. The reader will find Figure III.1 (p. 42) which shows reported Index crimes increasing to a level of 128,370 in 1981 but declining consistently to a figure of 100,002 in 1985 both interesting and challenging. One challenge results when it is noted that during this period of decline in reported crime, the prison population increased dramatically--from 2,666 in 1981 to 4,538 in 1985. (See Figure III.6, p. 48) Similarly, the report also reflects an increase in the volume of "felony guilty findings" in Kansas district courts--from a bit above 5,000 in 1979 to over 7,000 cases in 1987, a period in which reported crimes in the State were declining. (See Figure III.4, p. 45)

To consider explanations for an increase in prison population while the number of reported crimes declined, the authors of the report identify a number of legislative changes that may have influenced community corrections and prison populations. The

report concluded that changes reflecting a legislative policy of "getting tougher" on offenders such as increasing minimum sentences in 1982 and the adoption of enhanced and mandatory sentences for habitual offenders had significant effect on both prison population and community corrections programs.

Chapter IV: Major Evaluation Questions

Issue 1:

THE EFFECTS OF THE COMMUNITY CORRECTIONS ACT ON STATE PRISON POPULATIONS

One of the major evaluation questions of the Temple study concern the extent to which the Community Corrections Act has helped to reduce demand on state prisons by keeping certain types of nonviolent felony offenders in local programs. A central aim of most comprehensive state Community Corrections Acts (CCAs) is to divert prison-bound offenders into community based programs.

Whether community corrections programs are reaching offenders who otherwise would be prison-bound was addressed in two ways. An extended time series analysis of monthly prison admissions from participating CCA counties was conducted for each of the counties where that was possible. In addition, a comparative analysis of offender profiles in each of the three dispositional groups (probation, community corrections, and prison) was performed.

The idea underlying the time series analysis is that if the CCA is diverting prison-bound offenders into community corrections, the number of targeted prison admissions from involved counties should decline significantly after the initiation of the program.

The second approach involved a comparison of salient characteristics of groups of offenders sentenced variously to prison, probation, and community corrections. The idea was that if CCA programs are drawing their clients from the prison-bound population, CCA clients should resemble prisoners rather more closely than those on probation.

The Temple report notes that there were mixed findings from the time series analysis of the effects of the CCA on prison admissions. In Sedgwick County there was clear evidence of a significant and substantial CCA impact on monthly prison admissions. Also, the impact was statistically significant in Wyandotte County. In Johnson and Shawnee Counties the results were described as inconclusive, indicating no significant diversion.

The results of the comparison analysis showed that CCA programs do appear to draw the majority of clients from a prison-bound population.

As a whole, the findings on the question of whether or not the community corrections act has helped reduce the demand on state prisons, suggest that present prison crowding problems faced by Kansas would have been far worse without the CCA.

Issue 2:

THE EFFECTS OF THE COMMUNITY CORRECTIONS ACT ON PUBLIC SAFETY

The Temple study responded that targeted offenders are found to reoffend at similar rates regardless of whether they are placed in prison or community-based programs.

The significant findings were that almost all of the new criminal behavior identified was comparable in seriousness to the original offenses and therefore offenders who are candidates for incarceration can be placed in the community without worsening their odds of reoffending.

Had it not been for community corrections programs, the total state prison admission would have increased by more than fifteen percent.

Issue 3:

COST ANALYSIS

For purposes of estimating averted prison costs, it was assumed that three-fourths of the FY 1984 admissions to CCA programs would have received prison sentences if the CCA had not been in effect. This amounted to 330 offenders.

The most serious conviction offense of the offenders placed in community corrections in FY 1984 was a Class "D" felony or above ("B" or "C") in just over 70 percent of the cases. For the balance of cases it was an "E" felony, an unclassified felony, or a misdemeanor.

If 330 offenders had been sent to state prison and stayed until they had served the average length of stay for offenders in their felony class, these additional offenders would have required 328,004 prison days of incarceration or almost 900 beds.

The average cost for a community corrections disposition in FY 1984 was about \$2,500 per stay, with client reimbursements whether in ISP or a residential option. The estimates of FY 1984 costs developed for this study were that a one-year prison term cost between \$11,000 and \$14,000, depending on the means of adding prison space to the institutions. Due to the state's minimum-maximum sentencing structure and other factors, there is every reason to believe that these same offenders would have remained in confinement longer had they been sent to prison than had they actually stayed in community corrections programs. An eighteen-month term (served by many Class D and some Class E felons) cost about \$18,000 on average. Thus, the decision to send a community corrections eligible offender to prison when capacity levels have been reached can easily represent as much as a six- or seven-fold difference in case costs (e.g., \$18,000 vs. \$2,500).

Almost every way in which costs were analyzed suggests that community corrections programs are successful in keeping felony offenders away from prisons, thus saving state money.

Payments such as restitution, taxes, etc. are made far more frequently by community corrections clients than prisoners and such contributions from offenders reduce the costs of corrections and crime to taxpayers and victims even more.

Chapter V: The Financial Scheme of the Community Corrections Act

In some ways, this chapter which deals with the complicated formulas by which funds were distributed to counties participating in the CCA and chargebacks assessed to programs sending targeted offenders to prison may be considered only of historical significance. Both the formula designed to provide funds intended to be incentives to counties to participate in the Act and the one developed to provide disincentives

for sending targeted offenders to prison through a chargeback system subsequently were abandoned by the Kansas Legislature as revisions were made in the Community Corrections Act.

The report was critical of the relevance of the complicated formula, based on the Minnesota model, for assessing the need of counties for community corrections funds and suggested that a more appropriate means for allocating funds to local programs could be adopted based on performance and number of targeted clients served. The chargeback scheme for assessing charges to counties for each targeted offender sent to prison that were deducted from the total allocation made to the county was seen as extremely complicated. In practice, it was concluded that the chargeback provision made it difficult for CCA directors and boards to plan programs and budgets in a realistic manner.

Alternative funding mechanisms were considered in the report which concluded with a suggestion that any significant change in the State's use of confinement for targeted offenders may well be achieved only through "...an explicit change in the underlying sentencing philosophy or approach being used in the state." (Report p. 146). It is interesting to note that in the consideration of alternative funding approaches for community correctional programs, the report did not identify or discuss the State assuming direct responsibility for the implementation of these programs as an option.

Testimony to House Judiciary Committee

Prepared by: Risë Haneberg
KACSO Representative
Consolidation Task Force

March 9, 1993

Court Services represents the largest number of employees and the largest number of clients supervised that will be affected by consolidation. It is crucial that the voice of this group be heard.

General Comments:

1) CSO's feel that the original Task Force made good recommendations. Specifically, the recommendations for policy change, i.e. eliminating dual supervision and increasing coordination amongst field services agencies should have been put in place. These improvements could have been tried prior to any consolidation. It is not too late to act on these recommendations.

2) CSO's have been firm in their commitment to change. They do not want the "status quo" and see this as an opportunity for field corrections to grow and enhance services. CSO's do not feel that consolidation under DOC is in the best interest based on numerous points involving organizational concerns, client needs and personnel issues.

Organizational concerns revolve around the fear of being lost in an already huge bureaucracy based on a "central office" model. CSO's feel local autonomy to meet local needs is crucial. "Top-down management" does not allow for staff involvement. There are concerns that DOC will always first be driven by their institutional budget. Field services will get "the leftovers." The history of DOC clearly shows us that this has happened to parole and their lack of services and programming speaks for itself. It is also felt that multiple funding sources is needed to allow local offices to pursue grants and local supplements to meet local needs.

In any agency that CSO's would fall under, style of leadership is a key element. CSO's would desire more leadership and organizational direction than is currently provided. CSO's would like to see an agency with general structure at the state level coordinating with strong leadership at the local level.

Client supervision needs are another area of concern. It is felt that a conflict of interest arises when field services and institutions are under the same umbrella. In particular it is already seen in parole and community corrections that the field officer does not always have the option to pursue the action they deem most appropriate. Particularly, this is seen when technical violations occur. CSO's do not want probation to become a joke. They want teeth behind the orders they are expected to enforce.

Court Services is concerned that consolidation is viewed as a "cost savings plan." The legislature needs to fully understand that if clients who used to be in prison are now going to be in the community, supervision levels need to be "beefed up" in accordance. More staff will be needed and more technology will be needed. This is cheaper than prison, but not free. CSO's envision caseloads growing dramatically with sentencing guidelines; not only as a result of the property felons but also a projected increase in misdemeanors as attorneys bargain to keep their clients off the grid.

When it comes to service delivery, CSO's are proud of the programs they've created. Because of no funding, CSO's have found ways to bring about electronic monitoring and UA testing without purchasing expensive equipment. We network within our community for services and in many situations, hold the client financially responsible. In addition, CSO's are highly successful in collecting court costs, supervision fees, and restitution. We don't want to lose the flexibility to do these things. Many times in big bureaucracies, red tape stifles creativity.

Personnel issues are also at the forefront of all the CSO's minds. Basically, there is a fear that if we go under DOC, DOC staff will always have an advantage when it comes to making key personnel decisions. The pay matrix will be very complex, given community corrections all have their own scales. There is also a concern that the surveys that have been done have not picked up on all the "incidental" costs that are currently covered by the counties.

Juvenile and Domestic Relations CSO's are currently not a part of the planning. It should be pointed out that while on one hand you are consolidating one group; you would be splitting up another. In smaller districts the same CSO provides all functions -- adult, juvenile and domestic services. In order for those left with OJA to function; they will still have to have managers, line staff and support staff to maintain juvenile and domestic services that were previously provided by a single CSO who also did adult caseload work. In particular, these CSO's do not want to be forgotten.

In closing, CSO's have maintained the following position:

- 1) Improved and expanded services needs to occur in field corrections services, especially in light of sentencing guidelines and the potential influx of new clients coming under supervision
- 2) CSO's are not satisfied with the status quo
- 3) CSO's support the enforcement of the first task force's recommendations
- 4) CSO's are against the consolidation of field services under DOC

KANSAS ASSOCIATION OF COURT SERVICES OFFICERS



TESTIMONY FOR HOUSE JUDICIARY COMMITTEE

Prepared By: Cathy Leonhart
Legislative Chair
Kansas Association of Court Services Officers

RE: SB 21 - Consolidation of Probation, Community
Corrections, and Parole

The Kansas Association of Court Services Officers represent the largest number of employees affected by the proposed legislation. There are roughly 322 CSO's across the state supervising 25,000 plus adult and juvenile probationers. We also provide custody investigations, divorce mediation, and pre-trial release supervision in some jurisdictions. Our members have appreciated the amount of study and discussion devoted to the very complicated issue of consolidation.

We support SB 21 as amended. Our membership has not opposed the concept of consolidation. However, we have strongly advocated the need for developing an agency with a specific focus on field services. It has been difficult to separate our support for the concept from the issue of what agency should administrate this consolidated group of employees.

We were very much in favor of the recommendations made by the original Task Force on Consolidation. I have attached with my testimony the summaries of the two sub-committees of that Task Force. I hope you have an opportunity to review the entire report which was submitted in January of last year. They ultimately voted 8-5 in favor of consolidation under a new agency. This was apparently not a universally popular vote and is claimed to be the most costly option. I have no conclusive figures to substantiate that being true or false. A second Task Force was then formed and subsequently voted to consolidate under the Department of Corrections.

The attached summary includes a list of recommended changes that would diminish identified shortcomings in the current system. We believe that the implementation of these recommendations would

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drastically effect the need for consolidation. Four of these have appeared as Senate Bills:

- SB 343 - Development of a field service officer training program.
- SB 344 - Uniform database of offender information.
- SB 345 - Relates to mandated staffing conferences to assure single supervision.
- SB 346 - Creation of option for restitution trustees.

We feel that implementing these changes in the existing system will give a much clearer picture of workloads and system needs.

We are concerned that consolidation has been sold as a sure way to save dollars. We are not convinced that this is accurate and adequate data was difficult to access. The implementation of Sentencing Guidelines is going to put a good number of offenders needing strict supervision back into communities. The actual impact of Sentencing Guidelines on caseloads remains unknown. However, we are concerned that the current state of "limbo" will make it very difficult to accommodate the growing responsibility. Many County Commissions have become very conservative with their support of Court Services. After all, they don't know how long we'll be around. When OJA asked for 29 CSO positions last year, the Governor line item vetoed them. After all, won't consolidation take care of this problem? The point that those were positions lost in previous budget cuts and actually needed for existing caseload management got lost somewhere along the way. OJA hasn't had an administrative specialist assigned specifically to coordinate field services activities for 2 1/2 years. Implementation of guidelines and necessary follow-up is going to demand a good deal of coordination. It's reasonable to expect that less than six months after Guidelines go into effect, we'll be feeling the squeeze of growing caseloads. Communities expect accountability in supervision of offenders and we expect that of ourselves. Putting everything on hold in anticipation of consolidation has not felt like a good plan.

We do not advocate maintaining the status quo. We would welcome leadership and organizational change. Court Services works closely with communities to develop services based on local need. If consolidation should occur, we would hope for an agency with general structure at the state level but strong leadership and some level of autonomy at the local level. The only administrative option currently being considered is the Department of Corrections. The primary concerns of CSO's relating to consolidation under the Department of Corrections are the appearance of a "top-down" management style, fear of being absorbed into a large bureaucracy based on a "Central Office" model, and that DOC will always be run by the institutional budget.

Both Task Forces discussed at length which services currently provided should be included in consolidation. We strongly support the recommendation of both Task Forces that Juvenile, Domestic, and Pre-Trial Supervision should stay with the Court. There is good work beginning with the Corporation for Change and its Family Court Sub-committee. We are anxious to see a plan develop for the Juvenile Justice System that addresses all family issues relating to divorce, custody, children in need of care, and the youthful offender. The CSO's doing this work don't want to be forgotten in the flurry surrounding guidelines and consolidation.

Our position regarding SB 21 is:

- (1) We urge the committee to pass this bill as amended. We support removing the language mandating consolidation.
- (2) We support implementation of recommendations of the first Task Force.
- (3) We oppose consolidation under DOC.
- (4) We would suggest that there does need to be a designated body to oversee implementation of the recommendations. We had previously suggested the Sentencing Commission as a possible alternative - However, we support HB 2478 and would see the Criminal Justice Coordinating Council as the logical group for this responsibility.

CHAPTER 7

SUMMARY

This report reflects the final product of the Task Force on Consolidation of Field Services in Kansas. The group was divided into two work groups; one made recommendations concerning the current system and one studied how consolidation would occur. Many changes have been made through the course of the Task Force's study and as a result of testimony received from public hearings.

On November 5th and 6th both subcommittees reported to the full Task Force. After discussing issues and receiving an overview of the data, the Task Force voted unanimously for consolidation of field services in Kansas. The Task Force voted 7 to 6 in favor of consolidation under the Department of Corrections rather than a new field services agency.

The Task Force decided to adopt both working draft reports and felt the changes to the current system were necessary first steps towards the longer range goal of consolidation. There was a realization that consolidation may be a lengthy process and the changes recommended under the current system should be implemented immediately.

The Task Force then held a series of public hearings on November 19th and 20th in Topeka, Kansas City, Great Bend and Wichita. Testimony at public hearings and written correspondence was received from field services practitioners, judges and a court administrator.

A common consensus among those who testified revealed that:

- A. Changes to the current system were well received and should be implemented without delay.
- B. Many did not agree with the Department of Corrections as the agency for consolidation.
- C. Supervision of juvenile offenders should remain with the court.

On December 9, 1991, the Task Force held its final meeting to discuss input received from public hearings and to finalize other decisions. Public hearings had a great impact on the Task Force's final decisions. The group remained unanimous for consolidation of field services in Kansas. However, they voted 8 to 5 in favor of consolidation under a new field services agency rather than the Department of Corrections. The Task Force heard testimony relating to the creation of a family court or a separate youth authority. The members believe both of these ideas have merit. The Task Force voted unanimously that juvenile issues should be studied further, and during the interim, juvenile offenders should remain with the courts. The recommendations concerning consolidation of field services apply only to adult offenders.

SUMMARY

Although the Task Force voted unanimously for the consolidation of fields services, the members determined that some immediate changes are necessary to improve the current system. The changes prescribed would diminish the shortcomings of the current system and allow the agencies to provide improved services in a more economical manner. Duplication of services, inappropriate client placement, and unnecessarily extended terms of supervision will be curtailed when these changes are implemented. Requiring a workload formula and streamlining the Community Corrections grant process will assist administrators in fiscal planning. Establishing a uniform database, creating a field service training program, and providing standardized forms will result in increased professionalism and efficiency.

The Task Force deliberated over the many issues faced by field services officers. Supervision of offenders is a growing concern for all citizens. Community placement offers the most economical alternative to imprisonment. In order to adequately manage and supervise offenders in the community, field service personnel need to be educated and properly trained. Field service officers must have the services and resources available to reestablish offenders within the communities in which they participate. Regardless of when consolidation of field services occurs, the Task Force feels that it is important to move towards a more uniform system. The changes recommended are necessary now and will be beneficial for any future consolidation effort.

In synopsis, the Task Force recommends the following changes be put into effect Fiscal Year 1993:

- A. Mandated policy favoring single supervision;
- B. Using staffing conferences to appropriately place clients;
- C. Having a means of direct placement into Community Corrections programs;
- D. Development of interagency transfer criteria;
- E. Creation of Chief and Deputy Court Services Officer Specialists positions;
- F. Adoption of a standard risks/needs form;
- G. Creation of a field services training program;
- H. Creation of a Criminal Cost and Restitution Trustee;
- I. Standardized terms of probation;
- J. Changes in the Community Corrections grant process;
- K. Mandated work-load formulas;
- L. Changes in the allocation of resources;
- M. Define mission statements by statute;
- O. Development of a uniform database.

KJC

COMMENTS OF PAUL MORRISON,
JOHNSON COUNTY DISTRICT ATTORNEY,
REGARDING SENATE BILL NO. 21

TO: MEMBERS OF THE SENATE JUDICIARY COMMITTEE

I am here today to express my opposition to the portion of Senate Bill 21 which consolidates probation, parole and community correction services under the Department of Corrections. I say this with an understanding that the field consolidation task force has recommended that the three departments be combined under the Department of Corrections.

During my thirteen years as a prosecutor, I have dealt extensively with all three agencies involved with consolidation. I have had the opportunity through prosecuting hundreds of cases to view the performance of each of these entities and how they both supervise and deal with enforcing conditions of release. My objections, simply put, are that the Department of Corrections is probably the least effective agency to head up consolidation. I say this for the following reasons:

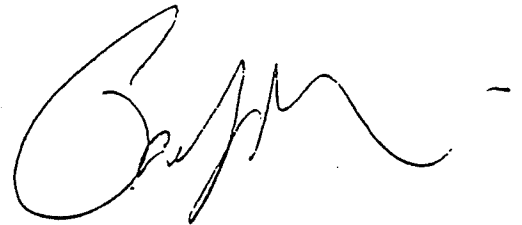
1. The Department of Corrections has consistently shown the poorest record of being able to effectively supervise offenders. When revocations do occur, it is normally after the offender has committed a new crime. Supervision in many cases is almost non-existent. This is particularly troubling when one realizes that state parolees are normally the most dangerous of the three groups of offenders.

2. The Department of Corrections has no real history of commitment to supervising offenders in the community. As we all know, the primary role of the Department of Corrections is to run the State's prison system. It is not and has not been to supervise offenders in the community. Aside from the fact that there is no history of commitment to this objective, I'd seriously doubt if the expertise is there to match that of local probation or community corrections operations. The main concern for me is that these field services will continue to be underfunded under the Department of Corrections just as they have been in the past.

3. I see this is another move towards the loss of local control to Topeka. Hasn't history shown us that consolidation of power in one large bureaucracy has not proven to be effective?

4. Lastly, with sentencing guidelines becoming effective July 1, 1993, I'm concerned about making too many changes too quickly. As I'm sure most of you know, the implementation of sentencing guidelines will be a major change in the criminal justice system. It will be difficult enough getting all parties acclimated to the new system.

In summary, I'm disturbed about the Department of Corrections becoming responsible for all field services. At a minimum, I would suggest that consolidation be given more serious study before the legislature decides. Thank you.

A handwritten signature in black ink, appearing to be "E. J. M." or similar, with a long horizontal stroke extending to the right.

THE LEAGUE OF WOMEN VOTERS OF KANSAS

919 1/2 SOUTH KANSAS AVENUE

TOPEKA, KANSAS 66611

(913) 234-5152

RELATING TO THE CONSOLIDATION OF PROBATION, PAROLE AND COMMUNITY CORRECTIONS

March 9, 1993

To: Chairman and Members of the House Judiciary Committee:

I am Nancy Kindling representing the League of Women Voters of Kansas (LWVK). The LWVK is a nonpartisan political organization. Positions which the League supports are based on decisions of *informed* members.

The LWVK has for a long time supported community corrections as a viable alternative to incarceration. The League was delighted when the Legislature enacted the Community Corrections Act. This act allowed each county with a community corrections program in place to appoint a Community Corrections Advisory Board to make recommendations to the county leading which then led to the adoption of a comprehensive community corrections plan. With the cooperation of the advisory board, the county would develop, implement, operate, and improve community correctional services. The board would assist in developing the programs and services necessary to serve persons in detention and submit proposals for the facilities necessary to carry out these programs and services. Under this Act, the community could best respond to the needs of the offender leading to his/her successful reintegration into the community and utilize community resources in accomplishing the goals of the community corrections programs.

The new sentencing guidelines, when in operation, by all estimates will increase the load placed upon community corrections. The new guidelines call for a consolidation of parole, probation and community corrections services. While the State DOC now evaluates and determines the amount of grants for community corrections in the county programs, the counties have been able to individualized their programs based on need and community priorities. This consolidation appears to abolish the Community Corrections Act. What happens to the ability of the local community to determine the programs and services which best meet the needs of its population? Would the advisory board then shift to the state? How would individual community needs be met in the areas of programs, services, staffing, and facilities?

The Community Corrections Act provides a vehicle for effectively dealing with adult and juvenile offenders. The new sentencing guidelines only deal with the adult criminal. What happens to juvenile programs now included in community corrections programs?

While the League supports "Efficient and economical government, competent personnel, adequate financing and coordination among different agencies", I am not sure that consolidation of these services is the answer and would best serve the needs of the community. The Field Services Task Force which met and reported in January of 1992 recommended the consolidation of field services under a new state agency. A second task force was created in July of 1992 consisting of new members and this time recommended that field services be placed within the DOC. This last task force, as I understand it, did not include any member of counties which had community corrections programs. This task force was split as to exactly where services should be placed. Some felt they should fall within the Department of Corrections, some within the Parole Board, and one most closely associated with community corrections felt it should remain under local authority.

The main argument for consolidation of services, as far as I can tell, is that service providers will be able to use the same equipment (cars, office equipment, etc.) and that this will be more

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effect and save the state money. To my knowledge no fiscal note has been attached to consolidation of services. It would be interesting to see how much saving is anticipated or if the state merely views consolidation as a more effective way of dealing with offenders in the system and a more efficient way of operating the programs.

It is estimated that the new sentencing guidelines will temporarily reduce the overcrowding in prisons but by the mid 90's the DOC will again be in need of more beds. In the past, when institutions have been overcrowded, the budgets for field services has been cut and the money has gone into facilities. This is a real concern to LWVK who believes that alternatives to incarceration are often as effective, are much less expensive, and are more humane.

The New Sentencing Guidelines require that consolidation of field services take place on or before January 1, 1994. I know that the majority of interim committee members are supporting consolidation of services under the Department of Corrections. However, I believe, the committee did feel that the issue should be fully developed during the 1993 Session. Since not all members were in agreement as to the best solution for consolidation, I encourage you to seriously consider leaving the Community Corrections Act in place (at least until it is determined which avenue will best lead to preserving community corrections as an alternative to incarceration) and allow the communities in which programs are placed to utilize their unique resources. The LWVK hopes that attention will be paid to gathering data on how the changes will affect the cost, efficiency, and effectiveness of both adult and juvenile community corrections programs now in place. Until all questions are answered consolidation of services should be placed on hold.



State of Kansas
KANSAS SENTENCING COMMISSION

To: House Judiciary Committee

From: Helen J. Pedigo
Acting Executive Director

Date: March 9, 1993

Re: Senate Bill 21 - Consolidation of Field Services

Thank you for the opportunity to testify before you today regarding the consolidation of field services. This effort has continued for two years and although most believe consolidation is a good idea, the one continuing thread this issue has generated is a lack of consensus as to where field services should be housed administratively.

The 1990 Special Interim Judicial Committee recommended the formation of a task force under the auspices of the Kansas Sentencing Commission to study possible duplication of services as well as the need for cost efficiency. After gathering a great deal of data, and surveying court services, community corrections, and parole staff, and surveying district and magistrate judges, county attorneys, and court administrators, the task force found significant duplication of some services between the three entities. At the same time, other services were available only to those offenders in the custody of a specific agency or only in the metropolitan areas.

A survey of the staff indicated that, over three-quarters felt services were duplicated under the current system. Two-thirds felt consolidating under a new agency would eliminate duplication of services and almost two-thirds of those surveyed indicated they would prefer to work for a new agency rather than the Department of Corrections, Court Services or Community Corrections. Responses from judges, court administrators, and prosecutors tended to favor the current system, but two thirds also indicated that services were duplicated and almost one-half felt a new agency would eliminate duplication of services. It should be noted that no one in this group felt consolidating field services under Department of Correction's organizational structure would eliminate duplication of services.

Although the subcommittees voted for consolidation under a new agency, the first task force chose consolidation under the Department of Corrections, on November 6, 1991, by a seven to six margin. They conducted public hearings across the state on the matter. Because opposition was great, the task force voted again December 9, 1991. The result of this vote was an eight to five decision to consolidate under a new agency. Further recommendations included

limiting the population served to adults, and providing only post conviction services. The task force made other recommendations to alleviate existing problems within the system. These bills provided a plan for moving toward single supervision of clients, through the use of staffing conferences, developing interagency transfer criteria, and adopting a uniform risk and needs analysis form for all three agencies.

Further recommendations included statutory language authorizing direct placement into Community Corrections, creation of a uniform field services training plan, creation of a criminal cost and restitution trustee, and the development of a uniform data base. During this time, consolidation of field services by January 1, 1994, was mandated in the Sentencing Guidelines Conference Committee. Although the previous bills had been slated for study during the interim, the consolidation mandate effectively stopped further study of the other bills.

A second task force was appointed and met for the first time on July 27, 1992 (The members are listed in attachment A). The task force voted August 24, 1992, to consolidate under the Department of Corrections by a six to three margin. Later, one of the members introduced a motion to reconsider their August decision. The vote on the motion was tied when the Chairman voted not to reconsider. The second task force, as the first had done, voted to provide only post conviction services and to provide them only to adults. In addition, this task force recommended amending the implementation date from January 1, to July 1, 1994.

During the past summer, the Governor wrote a letter to the Chairman of the task force (attachment B), indicating she would only approve consolidation under a new agency if there existed clear and convincing evidence that this option was the most economically and functionally efficient way to deliver services. Based upon the Governor's position and the difficulty in resolving the issue, the interim judiciary committee recommended a bill to provide a vehicle for testimony (attachment C). The Senate Judiciary committee struck the language mandating consolidation. The vote of the Senate on February 10, was 34 - 6 in favor of the amended bill's passage.

The Commission has taken no position on this issue. Because the work of the task force has not been completed, no decisions resulting from that work have been submitted to the Sentencing Commission for approval. The task force remains heavily divided on the issue of where consolidation should take place. This is a difficult issue which will affect all field service employees.

Community-based programs require adequate funding, especially with the implementation of Sentencing Guidelines. Attached is a fiscal summary (attachment D) which approximates the funds that are spent now. The court services chart (Chart 2) reflects only the personnel who move from the courts because of consolidation. The total figure (Chart 1) indicates that the State currently pays approximately \$25 million to fund the three separate agencies which would be consolidated under Senate Bill 21. These charts are based upon a one-time snapshot of the present situation to predict personnel and operating costs associated with consolidation. The information was taken primarily from agency budget documents.

Based upon this data, we estimate a maximum one-time cost of \$485,000. This figure represents the cost to buy office equipment and transfer locally owned equipment to the State. In addition, it is estimated that ongoing costs of \$1.2 million must be assessed yearly for rent and operating expenses presently borne by the counties. This amounts to an expenditure of \$1.7 million for the first year of implementation and \$1.2 million per year thereafter. No costs have been projected for additions to the Central Office if consolidation takes place under Department of Corrections, or for a new Central Office if consolidation occurs under a new agency.

A

KANSAS SENTENCING COMMISSION

CONSOLIDATION OF FIELD SERVICES TASK FORCE

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STATE OF KANSAS



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July 22, 1992

The Honorable Richard B. Walker
Harvey County Courthouse
Newton, Kansas 67114

Dear Judge Walker:

I am aware that the Sentencing Commission is beginning its deliberations as to how best to implement consolidation of probation, community corrections and parole services pursuant to Senate Bill 479, the Sentencing Guidelines legislation. While I do not wish to interfere in or preempt your review and consideration of this most important issue, I do think it fair and perhaps helpful to share with you my position at this time.

Based on the information currently available, I support consolidation of these services into a single operational unit. I believe there are efficiencies to be achieved and that better service can be provided for the citizens of Kansas through a consolidated effort.

However, I am also informed that consideration is being given to recommending establishment of a new state agency to administer the operations. It is my position that government in general, and the criminal justice system in particular, should not be further fragmented. I see little to gain from creation of an additional state criminal justice agency.

Page Two

SUBJECT: Consolidation of Court Services

Accordingly, I believe the Commission should know that I am not likely to support establishment of a new state agency without clear and convincing evidence that such option is the most economical and functionally efficient way to deliver these services. Based on the information at this time, I do not believe such evidence can be documented.

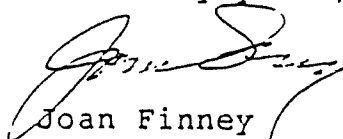
I know that many field services officers feel their profession has not received sufficient recognition and fiscal and policy attention in the past. Even if this is so, I do not believe the best way to deal with the issue is through creation of an additional agency. The better option is to provide for more balanced management and policy development within the existing structure.

It is my hope that the Commission will concentrate its attention on where best to consolidate these governmental services within the confines of the existing structure so as to assure a continuum of functional purpose. I believe this approach offers the best hope for immediate as well as long term efficient and effective planning, policy development and resource allocation.

I would request that the Commission provide its recommendations to me as soon as possible. As you know, the FY 1994 budget process has begun. In order for me to appropriately consider the Commission's recommendation and respond in my budget to the Legislature, I will need the Commission's report by early October.

Thank you for your attention and assistance. Again, I hope you do not misunderstand my purpose in sending this letter. I simply felt that a statement of my position at this time might help focus and expedite your consideration of this issue. Further, I wish you to know that I believe this to be an important issue and one which I intend to address in my budget recommendations for FY 1994.

Sincerely yours,



Joan Finney

JF:MLH:atc

PROPOSAL NO. 12 -- SENTENCING GUIDELINES, TASK FORCE REPORTS, AND PRISON OVERCROWDING

Proposal No. 12 called for the Special Committee on Judiciary to review the progress of state agencies in preparing for the implementation of sentencing guidelines on and after July 1, 1993; to review the progress of task forces on consolidation of probation, parole, and community corrections and on prosecutor plea-bargaining guidelines; and to review recent prison population increases.

BACKGROUND

1992 Sentencing Guidelines Law

The 1992 Legislature enacted S.B.479, which reforms the Kansas criminal sentencing system. The bill establishes a system of determinate sentencing guidelines to replace the indeterminate sentencing system. The bill is intended to result in a more understandable and truthful sentencing system, and to reduce or eliminate race as a factor in the imposition of penalties and the granting of parole. The bill will require an increased emphasis on and funding for community corrections' programs, will affect the current role of district court judges, and will change the Kansas Parole Board's scope of authority. The bill is effective July 1, 1993.

Generally, the effect of the use of sentencing guidelines will be to decrease probation rates and increase prison terms for people convicted of violent crimes, sex crimes, and drug crimes who have a prior criminal history. Sentencing guidelines, on the other hand, will increase the number of people sentenced to community corrections or alternative sanctions who have committed nonviolent or property crimes and who do not have significant prior criminal records.

The following are major provisions of S.B. 479.

1. **Indeterminate to Presumptive Determinate Sentencing.** The bill replaces the indeterminate sentencing system with a presumptive determinate sentencing system. The presumptive determinate sentencing system utilizes two sentencing grids: a nondrug crime grid consisting of ten severity levels and a drug grid consisting of four severity levels. Level 1 on each grid is the most severe. Every crime constituting a felony is assigned a severity level on one of these two grids. Both grids contain nine boxes (A through I) for each severity level reflecting nine categories of criminal history with Box A representing the worst prior criminal history, i.e., three felony crimes committed against persons.
2. **Presumptive Incarceration/Presumptive Probation/Border Boxes.** Both sentencing grids contain certain shaded portions of the grid which represent those crimes coupled with the corresponding criminal history where the presumptive sentence is probation. Alternatively, unshaded boxes represent a presumption of incarceration. S.B. 479 contains a provision creating certain very limited border boxes where a judge is given the option (without any presumption being created) of either sentencing a person to probation or incarceration. These border boxes are created in the nondrug grid, i.e., Level 6, column G and Level 5, columns H and I. The bill also contains a special provision giving the judges the discretion to sentence either to prison or to parole such persons convicted of selling small amounts of marijuana (500 grams or 25 plants) and who have no prior criminal record or a minimal prior record.
3. **Departures -- Mitigating or Aggravating Circumstances.** A sentencing judge may depart from the appropriate grid box and impose a more severe sentence -- not more than double the appropriate sentence in the grid box. A judge likewise may impose a more lenient sentence than contained in the appropriate grid box. A departure from the grid guidelines requires a judge

to set out substantial and compelling reasons for the departure. Any sentence may be reviewed which is a result of partiality, prejudice, oppression, or corrupt motives. The bill contains nonexclusive lists of aggravating and mitigating factors, which include, among other things, gang activity and fiduciary relationships between the defendant and victim as aggravating factors in the nondrug grid.

4. **Application of Guidelines – Limited Retroactivity.** S.B. 479 provides for a phase-in of retroactive application for persons who have committed crimes which have been classified for presumptive probation or in the so-called border boxes.
5. **Good Time.** Under the sentencing system now still in effect, an inmate can reduce his or her sentencing by 50 percent by good behavior. S.B. 479 retains a good time system but permits an inmate to earn reductions of only 20 percent. However, the reduced incarceration time is added to the post-release supervision time.
6. **Post-Release Supervision.** Every person who is convicted of a felony and serves time in prison is subject to a period of post-release supervision. For nondrug crimes, this period is 24 months for Levels 1 through 5, and 12 months for Levels 6 through 10. For drug crimes, this period is 24 months for Levels 1 through 3, and 12 months for Level 4. Persons who have committed sexually violent offenses must serve 60 months plus the amount of good time earned subject to modification (or extension) if the person has not completed the required care and treatment program for sex offenders.
7. **Trigger – Prison Overcrowding.** The bill contains a so-called trigger mechanism whereby a system for preventing prison overcrowding may be implemented. The bill requires the Secretary of Corrections to notify the Kansas Sentencing Commission whenever the overall prison population has been filled to within 90 percent of capacity. The Commission is required to propose modifications in the sentencing grids or make other recommendations to maintain prison population within reasonable management capacity in consultation with the Secretary of Corrections. The proposed modifications must be submitted to the Legislature by February 1 in any year in which the Commission proposes to make the change and shall become effective only if approved by the Legislature and the Governor.
8. **Sentencing Commission.** The Sentencing Commission is continued as a permanent state agency and given expanded duties which include, among others: to monitor the sentencing guidelines; to review proposed criminal law changes to determine the impact on the state's prison population; to study ways to utilize more effectively Corrections' dollars and to determine the cost-effectiveness of incarceration versus community-based alternatives; to review various Corrections' programs; to study ways to reduce prison population; to develop modifications in the sentencing grids when prison population so demands; to review the Kansas Juvenile Offenders Code; to develop caps on field service officers' caseloads so that the guidelines system will not result in a system that places unrealistic demands on these officers, thereby undercutting the effectiveness of prison alternatives; to prepare fiscal impact and correctional resource statements on all newly proposed legislation; and to develop prosecutorial standards and guidelines.
9. **Consolidation of Parole, Probation, and Community Service.** The bill contains a provision which requires that on or before January 1, 1994, probation, parole, and community services be consolidated after review of the recommendations of a task force to be appointed by the Kansas Sentencing Commission.
10. **Miscellaneous Changes.** The bill eliminates a judge's ability to sentence people to prison and then call them back after 120 days. It also repeals a law providing for a mandatory prison sentence for crimes committed with a firearm. Consecutive sentencing continues to be mandatory

for crimes committed by persons involved in release supervision. A sentencing judge may sentence a person convicted of multiple crimes to serve the sentence for each crime on a consecutive basis. The authority of the Secretary of Corrections to furlough prisoners is eliminated.

COMMITTEE ACTIVITIES

Testimony of Conferees

The Committee spent several days hearing conferees and discussing issues relating to these topics. The following is a review of the three main areas of the Committee's focus.

Field Services Consolidation

Conferees on this subject included several representatives of the Kansas Sentencing Commission, the Task Force on Field Services Consolidation, the Kansas Department of Corrections, the Kansas Parole Board, the Office of Judicial Administration, and representatives of court services officers, probation officers, and community corrections programs.

A representative of the Kansas Sentencing Commission reviewed the history of the appointment of the first Field Service Task Force in 1991. The original Task Force issued a report in January, 1992 that recommended the consolidation of probation, parole, and community corrections services under the umbrella of a new state agency. One aspect of the plan included limiting the scope of this new state agency to adult offenders and providing only post-conviction services. Sentencing guideline legislation enacted in 1992 (S.B. 479), as noted earlier, contained a provision for the appointment of a second Task Force on Field Services Consolidation. This was created in July, 1992. This new Task Force, made up of a number of new members, revisited some of the basic recommendations of the first Task Force and made different recommendations. Specifically, a majority of the second Task Force voted to recommend that consolidation be carried out within the Department of Corrections (DOC) rather than to create a new state agency. Members of the second Task Force who appeared before the Committee included a district court judge who served as chairman of both the first and second task forces, the Secretary of Corrections, a member of the Kansas Parole Board, several court services officers, and a probation officer. In addition, several other court services officers and a representative of community corrections appeared. In general, members of the Task Force supported consolidation of field services to be placed within DOC. Several Task Force members expressed reservations about this recommendation and suggested instead that a new state agency be created. The Parole Board member suggested that the consolidated field services should be placed within the Kansas Parole Board. One community corrections representative who said that he spoke on behalf of 40 counties in northwest Kansas said there should be no hurry to implement consolidation, and that the local autonomy of these programs should be retained. He also noted that the 40 counties which he spoke for did not have a representative on the second Task Force.

Prosecutorial Plea Bargaining

The Director of the Kansas Sentencing Commission reported that the Task Force on Prosecutorial Plea Bargaining had met three times and had recommended to the Kansas Sentencing Commission that nothing be done in this area until after the state had 12 to 18 months of experience with sentencing guidelines. The Task Force also recommended that the plea-bargaining guidelines of other states and those recommended by the American Bar Association be reviewed. The Sentencing Commission rejected these recommendations and requested that the Task Force continue its work to develop plea-bargaining guidelines.

A representative of the Kansas County and District Attorneys' Association said that a thorough study was needed to determine whether there were problems with the current plea-bargaining system.

Offender Reintegration

A Work Group on Transition of Inmates into the community was appointed by the Kansas Sentencing Commission and has held several meetings. This Work Group was not scheduled to make recommendations to the Kansas Sentencing Commission until mid-December, 1992.

Prison Overcrowding

The Secretary of Corrections provided the Committee with several updates on prison population trends at two meetings. At the August meeting, the Committee was told the inmate population as of June 30, 1992 was 6,193. The number of Kansas offenders on parole and conditional release as of June 30, 1992 was 5,621. He noted the number of decisions to parole for FY 1992 was lower than corresponding figures for the previous three fiscal years and the prison population grew by 574 persons. At the November meeting, the Committee was told that through the first four months of FY 1993, a decreasing inmate trend had developed again with an inmate population of 6,120 at the end of October. The total inmate population as of October 31, was at 92 percent of capacity. The parole decision rate for FY 1992 was 46 percent of the total decisions whereas during the first quarter of FY 1993 the parole decision rate increased to 54 percent.

CONCLUSIONS AND RECOMMENDATIONS

The Committee believes the issue of consolidation of field services should be brought before the 1993 Legislature for full debate and consideration. Time constraints, and the fact that the Committee wanted to consider the recommendation of four subcommittees of the second Task Force on Consolidation of Field Services which had not made their final recommendations regarding a number of procedural matters concerning consolidation prevented the Committee from drafting a bill on this subject during the interim. The Committee therefore recommends that the Senate Judiciary Committee introduce a bill early in the 1993 Session incorporating all of the recommendations of the second Task Force on Consolidation of Field Services including the one that places the consolidated field services within the Department of Corrections and that this bill be used as a vehicle for full debate of the issues regarding consolidation.

Respectfully submitted,

November 6, 1992

Sen. Jerry Moran, Chairperson
Special Committee on Judiciary

Rep. John Solbach, Vice-Chairperson
Rep. Jim Garner
Rep. Ruby Gilbert
Rep. Clyde Graeber
Rep. Gary Hayzlett
Rep. Al Lane
Rep. Melvin Minor
Rep. Rocky Nichols
Rep. Alex Scott

Sen. Richard Bond
Sen. Ross Doyen
Sen. Paul Feleciano, Jr.
Sen. Frank Gaines
Sen. Richard Rock
Sen. Wint Winter, Jr.

D

Field Services Fiscal Summary

FY 1991 - FY 1992 - FY 1993

The following charts provide a summary of monies spent on field services for the three year period FY 1991 through FY 1993. These numbers were gleaned from a variety of sources, but are primarily taken from agency budget documents. However, there are some unique features about each of the areas that the reader should be aware of when using this data. Chart One provides a summary of all expenses.

Court Services (Chart Two)

These numbers have been adjusted to reflect the number of Court Services Officers and clerical staff that would be available if the current staff were divided between court functions and field services using the split proposed by the Chief Justice. This split roughly divides the Court Services Officer staff in half leaving 164 CSO's with the Courts and sending 158 to the field services agency. Clerical staff splits assume that 43 would remain with the courts and 25 would be transferred to new duties. The same ratio was applied to the FY 1991 staff counts that were in place before the cuts in CSO staff taken during FY 1992. The total operating budget was divided into pro rata shares and an equal share was attributed to each staff member. Staff salaries were done in a similar fashion. Budgeted salary information was adjusted by adding 12 percent fringes, 100 percent received single health insurance coverage, and 25 percent received the family supplement. The total was divided into a CSO pool and a clerical pool, and then

an average salary was computed for each pool. The average salary was then used as a multiplier. This process yielded an estimate of the cost of the field services staffing component.

The operating budgets are county funded and information about them is not readily available at the state level. We asked Chief Court Services Officers to provide estimates of their FY 1991 expenses for all costs which were borne by the counties. In addition, we asked them to provide the number of square feet of office space they occupied that is donated by the county. This donated space was assigned a cost based upon what other state agencies spend to rent space in that area. This donated space was assigned a dollar cost since it is certain that counties will not donate space once they no longer have an obligation to do so. This is a significant cost and amounts to over \$500 thousand per year. These FY 1991 costs were inflated by 3.5 percent per year for FY 1992 and 1993. Full time equivalents (FTE's) reflect the number of positions authorized not the number filled.

We asked the Court Services Officers to provide an inventory of their equipment. The logic is the same as the floor space; these items have been purchased with county monies and probably will not be available if these employees are assigned to a state agency. Thus, we estimate there will be a one time expense of \$485,133 to provide equipment for the 183 employees that are absorbed by the field services agency.

Therefore we expect the first year additional cost to be \$1,709,403 in FY 1993 dollars. This assumes a one time cost of \$485,133 to provide start-up costs and an on-going cost of

\$1,224,270 in FY 1993 dollars. All salary costs are already borne by the state.

Community Corrections (Chart Three)

These costs are relatively straightforward. They are all already funded with state monies. There are two pools of money in the FY 1992 and FY 1993 amounts: state general fund and federal drug grant monies. The drug funds are approximately \$600,000 per year and would have to be replaced by state general fund money if they were no longer available.

There are some local funds provided for special projects, but they are not included in the FY 1992 and 1993 figures since they were not readily available. There are some county funds (\$369,344) in the FY 1991 numbers because that was the year used for the survey of costs. There are some expenditures for juveniles made out of state monies, these will have to be dealt with in some fashion since the new field services agency will not provide any juvenile services. However, no attempts were made to adjust budgets for this amount.

Therefore, FY 1992 and FY 1993 budgets reflect all expenses, juvenile and adult, but do not reflect any county funds. There are some unique issues that will have to be resolved during the transition. Some programs paid for remodeling projects in return for free rent and at least one bought a major portion of the a county wide computer system. These issues all have potential fiscal implications, but will have to be resolved on a case by case basis.

The position count (FTE) reflects positions authorized not filled and also include central office staff assigned to the program.

Parole (Chart Four)

All funds are from state general fund appropriations or from federal grants, no local money is involved. Substantial amounts of grant monies are included in the operating expense category:

FY 1991 \$1,214,956

FY 1992 \$1,215,400

FY 1993 \$1,348,673

Thus, this category should be reviewed with this in mind, any pro rata share of operating expenses should not take the above amounts into consideration.

The positions (FTE) are authorized not filled, and include central office staff assigned to the program.

Chart One
Field Services*

	Salaries	Operating**	Total	FTE***
FY 1991	14,437,050	6,210,733	20,647,783	595
FY 1992	16,590,494	6,303,075	22,893,569	586
FY 1993	18,311,984	6,779,212	25,091,196	615.75

* Adjusted to show pro rata share of court services officers

** Includes drug and alcohol grants for FY 1992 - 1993, and an allowance for rent for court services officers housed in courthouses 1991-1993

*** Authorized

Changes

Funding 1991 to 1992 = +10.9%
 1992 to 1993 = + 9.6%
 1991 to 1993 = +21.6%

Staff 1991 to 1992 = -1.5%
 1992 to 1993 = +5.1%
 1991 to 1993 = +3.5%

Chart Two
Court Services (Adjusted)

	Salaries	Operating*	Total	FTE**
FY 1991	5,252,550	1,245,533	6,498,083	211
FY 1992	4,739,867	1,188,768	5,928,635	183
FY 1993	4,859,313	1,224,270	6,083,583	183

* Operating expense includes an estimate of rent in cases where CSO's are housed in the courthouse.

** Assumes the authorized pro-rate share that would not remain with the court

	Changes
<u>Funding</u>	1991 to 1992 = -8.6%
	1992 to 1993 = +2.7%
	1991 to 1993 = -6.3%
<u>Staff</u>	1991 to 1992 = -13.2%
	1992 to 1993 = 0%
	1991 to 1993 = -13.2%

Chart Three
Community Corrections

	Salaries	Operating	Total*	FTE**
FY 1991	6,130,293	2,773,051	8,903,344	283
FY 1992	8,395,522	2,727,690	11,113,212	288
FY 1993	9,454,683	2,960,615	12,415,298	297.75

* 1992 and 1993 includes drug grant money

** Authorized, includes central office staff

Changes

<u>Funding</u>	1991 to 1992 = +24.9%
	1992 to 1993 = +11.8%
	1991 to 1993 = +39.5%

<u>FTE</u>	1991 to 1992 = +2%
	1992 to 1993 = +3.4%
	1991 to 1993 = +5.3%

Chart Four

Parole

	Salaries	Operating*	Total	FTE**
FY 1991	3,054,207	2,192,149	5,246,356	101
FY 1992	3,455,105	2,386,617	5,841,722	115
FY 1993	3,997,988	2,594,327	6,592,315	135

* Operating expenses include mental health, battered spouse and drug abuse grants for FY 1991, 1992, 1993

** Authorized, includes central office staff assigned to the program

Changes

<u>Funding</u>	1991 to 1992 = +11.4%
	1992 to 1993 = +12.9%
	1991 to 1993 = +25.7%

<u>Staff</u>	1991 to 1992 = +13.9%
	1992 to 1993 = +17.4%
	1991 to 1993 = +33.7%

SENATE BILL No. 343

By Committee on Judiciary

2-16

AN ACT concerning criminal procedure; relating to the development of a field service officers training program.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The department of corrections division of community and field services management shall consult with the office of judicial administration and community corrections programs to establish a program of training for full-time field service officers.

(b) All field service officers hired after January 1, 1994, shall satisfactorily complete a course of preservice training of not less than 40 hours of instruction, approved by the department of corrections.

(c) Beginning January 1, 1994, and the second year after completion of preservice training, all field service officers shall complete annually not less than 40 hours of education or training in subjects relating directly to field service work, approved by the department of corrections.

(d) The department of corrections shall adopt and enforce such rules and regulations as are necessary for the establishment and ongoing responsibilities of such program.

(e) As used in this section, "field service officers" shall include court services officers, community correction officers and parole officers.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

SENATE BILL No. 344

By Committee on Judiciary

AN ACT concerning criminal procedure; relating to the development of a uniform database of offender information.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The judicial administrator of the courts shall confer and consult with the secretary of corrections in order to develop a common, uniform database of offender information by July 1, 1994. After July 1, 1994, the data collected by the courts, community corrections programs and parole programs shall adhere to the requirements of this new database. Data shall be collected on each offender placed pursuant to any community based disposition. This information shall be stored in the Kansas bureau of investigation's central repository. All field service officers shall have access to data contained in the Kansas bureau of investigation's central repository.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Single Supervision
Session of 1993

SENATE BILL No. 345

By Committee on Judiciary

2-16

8 AN ACT concerning criminal procedure; relating to field service
9 agencies.

10

11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. (a) As used in this act:

13 (1) "Conditions" means the list of conditions of probation or pa-
14 role used as a summary of recommended programs and stipulations
15 appropriate for the supervision and management of the client. The
16 conditions shall be written and submitted to the sentencing judge
17 or parole board for review and approval.

18 (2) "Individual supervision plan" means a detailed plan of su-
19 pervision and management developed by the supervising field service
20 officer and the client. This plan will identify the needs and determine
21 the programs, resources and special services necessary to encourage
22 rehabilitation of the client. The plan shall outline a specific course
23 of action geared to fulfill the conditions of probation or parole.

24 (3) "Placement" means the agency recommended for the super-
25 vision and management of the client.

26 (4) "Receiving field service agency" means the agency that will
27 receive the responsibility for a client by means of an interagency
28 transfer.

29 (5) "Sending field service agency" means the agency having re-
30 sponsibility for a client prior to any interagency transfer.

31 (6) "Staffing conference" means a meeting among the represen-
32 tatives of court services and community corrections, and when ap-
33 propriate, a representative of parole.

34 (7) "Field service agencies" shall include court services, com-
35 munity corrections and parole.

36 (b) Field service agencies shall work together to achieve single
37 supervision over clients, thereby promoting efficient use of resources
38 and staff.

39 (c) The judicial administrator of the courts and the secretary of
40 corrections shall develop objective classification criteria for the field
41 service agencies.

42 (1) A single field services agency will supervise and manage each
43 client.

(2) A probation plan or parole plan shall be based upon the use of objective classification criteria in determining the program, or programs, necessary to encourage rehabilitation of the client.

(3) A risk and needs assessment shall be used to determine the appropriate supervision level for the client.

(4) The conditions recommended by members of the staffing conference shall be recorded in a report for review by the district court or parole board.

(5) If joint confirmation is unattainable, each party shall submit recommendations to the sentencing judge or parole board. Final placement and conditions of supervision will be at the discretion of the court or parole board.

(6) Copies of the staffing conference report shall be available as provided by K.S.A. 21-4605, and amendments thereto.

(d) A staffing conference shall be conducted to determine placement of the client, conditions of such placement and the individual supervision plan that can best provide the level of supervision, programs and special services needed to encourage rehabilitation of the client and meet the orders of the court and parole board whenever:

(1) Community placement is recommended in the presentence investigation report as provided in subsection (2) of K.S.A. 21-4603 or subsection (a) of section 238 of chapter 239 of the 1992 Session Laws of Kansas or subsection (1) of K.S.A. 21-4604, and amendments thereto; or

(2) a sentence is modified, as provided by subsections (4), (5) and (6) of K.S.A. 21-4603, and amendments thereto, and the court recommends community placement.

(e) A staffing conference may be conducted to determine placement of the client, conditions of such placement and the individual supervision plan that can best provide the level of supervision, programs and special services needed to encourage rehabilitation of the client and meet the orders of the court and parole board:

(1) In accordance with subsections (i) and (j) of K.S.A. 22-3717, and amendments thereto, or K.S.A. 22-3718, and amendments thereto;

(2) whenever a client is transferred to state parole services as part of an interstate compact agreement; or

(3) whenever modification of the conditions of probation is recommended as provided by K.S.A. 21-4610, and amendments thereto.

(f) Whenever multiple supervision of a client is discovered, the agencies involved shall conduct a staffing conference to develop a comprehensive individual supervision plan based upon objective classification criteria and logistical considerations. The agencies shall

utilize interagency transfer to obtain optimal supervision and maximize the use of programs and resources available to support the client's rehabilitation and meet the orders of the court and parole board.

(g) Whenever a client paroled, on probation, assigned to community corrections or under suspended sentence is recommended for transfer to another judicial district, community corrections service program, or parole region as provided by K.S.A. 21-4613, and amendments thereto, a staffing conference shall be conducted by the receiving field service agencies in cooperation with the sending field service agency.

(h) The members of the staffing conference shall develop a comprehensive individual supervision plan based upon programs and resources available in the receiving jurisdiction.

(i) Transfer of supervision from one field service agency to another shall be recorded. Transfer by mutual consent shall be recorded by written notification to the sentencing court or secretary of corrections.

(j) Unaccepted transfers between court services and community corrections shall be scheduled for court hearing. The result of such hearing shall be recorded by journal entry. The journal entry shall include the date of transfer, sending field service agency, receiving field service agency, sentencing court, any modification of probation or parole conditions and the period of probation or parole.

(k) The secretary of corrections shall retain the authority to refuse transfer of a client to the department of corrections, division of field services.

(l) Each administrative judge shall retain the authority to refuse the transfer of a client to such judge's jurisdiction.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

Restitution Tree

SENATE BILL No. 346

By Committee on Judiciary

2-16

8 AN ACT concerning crimes and criminal procedure; relating to the
9 payment of costs and other amounts assessed by the court; amend-
10 ing K.S.A. 22-3801, 75-6202, 75-6204 and 75-6206 and repealing
11 the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. The purpose of this act is to improve the col-
15 lection of fines, costs, fees, victim restitution and other amounts
16 assessed by the court in criminal cases.

17 New Sec. 2. The court, by rules adopted by the judge or judges
18 of each judicial district, may provide for the establishment of a
19 criminal costs and restitution trustee for the judicial district. The
20 criminal costs and restitution trustee shall be a person licensed to
21 practice law in the state of Kansas and shall be appointed by and
22 serve at the pleasure of the administrative judge of the judicial
23 district.

24 New Sec. 3. The criminal costs and restitution trustee shall have
25 the responsibility for collection of any amounts assessed by the court
26 as fines, costs, fees, victim restitution or other amounts assessed by
27 the court in criminal cases. The criminal costs and restitution trustee
28 shall be obligated to attempt collection of such amounts from those
29 individuals who are on probation, community corrections or parole;
30 who have had their sentence suspended; or who otherwise have
31 unpaid fines, costs, fees, victim restitution and other amounts as-
32 sessed by the court in criminal cases.

33 New Sec. 4. (a) The criminal costs and restitution trustee shall
34 be authorized and empowered to pursue all civil remedies which
35 would be available to judgment creditors.

36 (b) The criminal costs and restitution trustee shall have the fol-
37 lowing additional powers and duties upon approval of the adminis-
38 trative judge and the judges of such district:

39 (1) To issue summonses, subpoenas and subpoenas duces tecum
40 to judgment debtors and other witnesses who possess knowledge or
41 books and records of the debtor's assets to appear in the office of
42 the trustee or before the district court for examination;

43 (2) to administer oaths and take sworn testimony on the record

or by affidavit;

(3) to appoint special process servers as required to carry out the criminal costs and restitution trustee's responsibilities under this section; and

(4) to enter into stipulations, acknowledgments, agreements and journal entries, subject to approval of the court.

New Sec. 5. In each judicial district which adopts a criminal costs and restitution trustee the court costs in all felony, misdemeanor, wildlife and parks and traffic offenses, other than traffic infractions as defined by K.S.A. 8-2118, and amendments thereto, and municipal court cases that are appealed shall be increased by \$25 for each year or any part thereof during which the costs remain due and unpaid. Any time of actual confinement in a state or local correctional facility shall not be included in determining how many \$25 fee assessments are payable. The entirety of such increased fee shall be designated by the court to compensate the criminal costs and restitution trustee for such trustee's services. All sums of any kind collected by the criminal costs and restitution trustee shall be compensated by payment of the designated portion of court costs actually collected in the manner directed by the administrative judge, with approval of the judges of that district, but shall be paid at least quarterly.

Sec. 6. K.S.A. 22-3801 is hereby amended to read as follows: 22-3801. (a) If the defendant in a criminal case is convicted, the court costs shall be taxed against the defendant ~~and~~. *Any fines, costs, fees, victim restitution and other amounts assessed by the court in criminal cases* shall be a judgment against the defendant which may be enforced as judgments for payment of money in civil cases.

(b) Jury fees are not court costs and shall be paid by the county in all criminal cases.

(c) Whenever jury fees are paid by the county in a case in which the defendant was a person who had been committed to an institution under the control of the secretary of corrections and had not been finally discharged or released from the institution, the department of corrections shall reimburse the county for jury fees paid by the county. The reimbursement shall be paid from funds made available by the legislature for that purpose.

(d) The county shall not be reimbursed for the cost of employing a special prosecutor.

Sec. 7. K.S.A. 75-6202 is hereby amended to read as follows: 75-6202. As used in this act:

(a) "Debtor" means any person who:

(1) Owes a debt to the state of Kansas or any state agency; or

(2) owes support to an individual, or an agency of another state, who is receiving assistance in collecting that support under K.S.A. 39-756, and amendments thereto, or under part D of title IV of the federal social security act (42 U.S.C. § 651 *et seq.*), as amended; or

(3) *has unpaid fines, costs, fees, victim restitution and other amounts assessed by the court in criminal cases pursuant to K.S.A. 22-3801, and amendments thereto.*

(b) "Debt" means:

(1) Any liquidated sum due and owing to the state of Kansas or any state agency which has accrued through contract, subrogation, tort, operation of law, or any other legal theory regardless of whether there is an outstanding judgment for that sum; or

(2) any amount of support due and owing an individual, or an agency of another state, who is receiving assistance in collecting that support under K.S.A. 39-756, and amendments thereto, or under part D of title IV of the federal social security act (42 U.S.C. § 651 *et seq.*), as amended, which amount shall be considered a debt due and owing the department of social and rehabilitation services for the purposes of this act; or

(3) *any unpaid fines, costs, fees, victim restitution and other amounts assessed by the court in criminal cases pursuant to K.S.A. 22-3801, and amendments thereto.*

(c) "Refund" means any amount of Kansas income tax refund due to any person as a result of an overpayment of tax, and for this purpose, a refund due to a husband and wife resulting from a joint return shall be considered to be separately owned by each individual in the proportion of each such spouse's contribution to income, as the term "contribution to income" is defined by rules and regulations of the secretary of revenue.

(d) "Net proceeds collected" means gross proceeds collected through final setoff against a debtor's earnings, refund or other payment due from the state or any state agency minus any collection assistance fee charged by the director of accounts and reports of the department of administration.

(e) "State agency" means any state office, officer, department, board, commission, institution, bureau, agency or authority or any division or unit thereof.

(f) "Person" means an individual, proprietorship, partnership, limited partnership, association, trust, estate, business trust, corporation, other entity or a governmental agency, unit or subdivision.

(g) "Director" means the director of accounts and reports of the department of administration.

1 Sec. 8. K.S.A. 75-6204 is hereby amended to read as follows:
 2 75-6204. Subject to the limitations provided in this act, if a debtor
 3 fails to pay to the state of Kansas or any state agency an amount
 4 owed, *or fails to pay fines, costs, fees, victim restitution and other*
 5 *amounts assessed by the court in criminal cases pursuant to K.S.A.*
 6 *22-3801, and amendments thereto*, the director may set off such
 7 amount against any money held for, or any money owed to, such
 8 debtor by the state or any state agency.

9 Sec. 9. K.S.A. 75-6206 is hereby amended to read as follows:
 10 75-6206. (a) A state agency *or district court* which requests the
 11 director to assist in the collection of a debt due to the state agency
 12 *or district court* by the utilization of setoff procedures under this
 13 act or which is required to certify debts under K.S.A. 75-6203, and
 14 amendments thereto, shall certify to the director in writing the
 15 identity of the debtor, the amount of the debt subject to setoff and
 16 other information as the director may require. The director shall
 17 cause such data to be matched to payroll, refund and other pending
 18 payment files to identify those instances where setoff procedures
 19 may be implemented. The director shall then make the following
 20 notification to the debtor in writing, either by personal delivery to
 21 the debtor or by mail. Such notification shall include:

22 (1) A demand for payment of the debt and a brief explanation
 23 of the legal basis of the debt;

24 (2) a statement of the state agency's *or district court's* intention
 25 to set off the debt due against the debtor's earnings, refund or other
 26 payment due to the debtor from the state of Kansas or any state
 27 agency;

28 (3) the right of the debtor to request in writing a hearing to
 29 contest the validity of the claim, if such request is made: (A) Within
 30 15 days of the mailing of the notice, or (B) in cases where notice
 31 was not given by mail, within 15 days of personal delivery to the
 32 debtor;

33 (4) a statement that a hearing may be requested by making a
 34 written request therefor to the director of accounts and reports and
 35 the address of the director; and

36 (5) the fact that failure to request a hearing within the fifteen-
 37 day period will be deemed a waiver of the opportunity to contest
 38 the claim causing final setoff by default.

39 (b) A copy of the notice required by subsection (a) to be sent to
 40 the debtor shall be sent to each state agency involved. Subject to
 41 the provisions of K.S.A. 75-6205, *and amendments thereto*, upon
 42 receipt of the copy of such notice the state agency shall withhold
 43 from the named debtor an amount equal to that claimed as the debt

1 owed, and shall notify immediately the director of accounts and
 2 reports of any payments thereafter received from the named debtor
 3 or of any arrangements thereafter made for payment of the debt.
 4 Until the director of accounts and reports gives notice to a state
 5 agency as to the final determination to proceed or not proceed with
 6 the collection of a debt by setoff, the state agency shall continue to
 7 hold payments subject to setoff.

8 Sec. 10. K.S.A. 22-3801, 75-6202, 75-6204 and 75-6206 are
 9 hereby repealed.

10 Sec. 11. This act shall take effect and be in force from and
 11 its publication in the statute book.

Testimony by Secretary Stotts
Kansas Department of Corrections
on SB 21

House Judiciary Committee
March 9, 1993

I want to thank the committee for this opportunity to share with you my views on the issue of consolidation of field services. My position, in brief, is that consolidation of field services represents a good public policy decision and that, should implementation of consolidation proceed, the Department of Corrections is the most logical organizational choice for the consolidated functions. I would like to emphasize, however, that the proposal is not one which originated with the Department of Corrections.

During the course of extensive discussions which have taken place among affected agencies during the past couple of years, there appears to have been an acknowledgement and even some level of consensus regarding the advantages and benefits of consolidation. However, opinion has been sharply divided as to the best organizational location, with many believing that the advantages of consolidation would be erased if KDOC is designated as the implementing agency.

While I have heard the concerns about placing consolidated field services within KDOC expressed on many occasions, I do not share them. The heart of the concerns seems to me to be this: that the program and resource orientation of the Department of Corrections has been and will continue to be heavily weighed towards correctional facilities, and that consolidated field services in KDOC would not get an appropriate share of attention and funding. It is true that in response to federal court action, state government has in the past several years made very significant investments to expand prison capacity, to improve conditions of confinement, and to improve medical, mental health and program services to inmates. But it is also true that improvements and enhancements have also occurred in field services. Moreover, through enactment of the Sentencing Guidelines Act, state government has adopted a policy that clearly is designed to shift the supervision of more offenders to the community.

Another, related issue raised by those opposed to consolidation within KDOC has to do with the perception that the department is a large, centralized bureaucracy and that consolidation under the department would mean sacrificing local input and partnerships. In my view, any organizational structure--whether the KDOC or a new agency--used to administer consolidated field services will require a greater degree of centralized leadership, direction and accountability than currently exists. Otherwise, I do not see how the objectives and benefits of consolidation can be achieved. However, this does not preclude line staff and local input in decision-making.

The opportunity exists to set into place an integrated continuum of correctional services for the supervision of felony offenders, but that opportunity can only be achieved realistically if a single agency is responsible for providing a coordinated offender management system. By establishing a comprehensive correctional plan for each individual offender--from the time of pre-sentence investigation, through community sanctions and/or incarceration and post-release supervision--better utilization of resources would be possible. Less duplication of treatment, training and education, supervision, and other resources would result if the offenders are managed within one system. If a separate agency is established, further fragmentation in an already fragmented criminal justice system would occur. For these reasons, it is my view that consolidation under a new state agency would have drawbacks offsetting the benefits.

I appreciate the difficulties presented in making a decision on this issue. I do think it will be unfortunate, however, if the impasse which has seemingly been reached over the organizational placement issue results in a lost opportunity to improve the state's approach to field supervision of felony offenders.